

PREFERRED AGENCY AGREEMENT

BETWEEN

[Agency Name]

And

**Medica Health Plans
Medica Health Plans of Wisconsin
Medica Insurance Company**

PREFERRED AGENCY AGREEMENT

Between

[Agency Name]

and

Medica Health Plans

Medica Health Plans of Wisconsin

Medica Insurance Company

THIS PREFERRED AGENCY AGREEMENT ("Agreement") is effective as of _____, 20__ (the "Effective Date") between [Agency Name] ("Agency"), and Medica Health Plans, Medica Health Plans of Wisconsin and Medica Insurance Company (collectively referred to as "Medica") for the solicitation of Medicare and individual and family business in the Service Area, as set forth in this Agreement.

Medica and Agency agree as follows:

SECTION 1. DEFINITIONS. For the purposes of this Agreement:

"Agency" means the agency that is a party to this Agreement and that may employ or subcontract with Individual Agents, and that is properly licensed to sell health insurance in the Service Area. Agency is responsible for ensuring each of its Individual Agents is properly licensed to sell health insurance under the laws of the applicable states within the Service Area, and that each Individual Agent complies with all requirements set forth in this Agreement.

"Benefit Contract" means a plan of health care coverage issued by Medica for each Medica government product and each individual and family business product identified in the Appendices to this Agreement, which contains the terms and conditions of a Member's coverage.

"Broker Manual" means Medica's Broker Manual, as revised from time to time, the provisions of which are fully incorporated into and made a part of this Agreement and can be accessed: (a) upon completion of contracting with Medica online at www.medica.com/Broker Portal/Medicare or Individual; or (b) through a password protected URL provided to Agency by Medica.

"CMS" means Centers for Medicare and Medicaid Services.

"Compensation" means the payments due Agency in consideration of performance of the services related to the sale and servicing of a Benefit Contract described in this Agreement. Compensation may also be referred to as "Commissions."

"Contract Year" means the period beginning on the effective date of a Benefit Contract and ending at the termination of the Benefit Contract, and each subsequent period during which that Benefit Contract is in effect.

"Exchange" means a health insurance marketplace (whether federally facilitated, state-based, or state partnership) established under the federal Patient Protection and Affordable Care Act and its regulations.

“Family” means two or more people on one Benefit Contract.

“Individual Agent” means an individual agent or agency that is properly licensed to sell health insurance under applicable state law within the Service Area, who is employed by or contracted with Agency, and who sells and services Medica’s Benefit Contracts in accordance with this Agreement.

“Member” means an individual enrolled in a Benefit Contract.

“Service Area” means the geographic area consisting of the states and counties in which Medica is approved and Agency is licensed to operate.

SECTION 2. STANDARD AGENCY RESPONSIBILITIES.

2.1 General. Agency where applicable will provide the services set forth in this Section related to Benefit Contracts or as otherwise requested by Medica from time to time. The terms and conditions set forth in this Agreement pertaining to an Exchange and qualified health plans are applicable only to the extent that individual and family business Benefit Contracts are sold on an Exchange and included in the Appendices to this Agreement.

2.2 Solicitation and Enrollment.

(a) **Solicitation of Prospective Members.** Agency will use commercially reasonable efforts to solicit business for Medica from prospective Members. Agency will, for purposes of solicitation of prospective Members, obtain from Medica all appropriate marketing and enrollment materials and will ensure such materials are delivered to each prospective Member. Agency must submit for Medica’s approval, before use, all marketing materials and other forms of advertising developed for soliciting prospective Members. Any violation of this requirement will result in disciplinary action by Medica and potential termination of this Agreement in accordance with Section 6.2(c).

(b) **Application Process.** Agency and each Individual Agent will promptly take all actions reasonable and appropriate to assist each prospective Member in the application process, including without limitation if applicable any assistance required to obtain coverage through an Exchange. Such assistance includes without limitation confirming the benefit design selected by the prospective Member, coordinating completion of appropriate forms, and coordinating information required by an Exchange for individual and family business. Agency will accurately and completely record all information required by Medica for enrollment of a prospective Member under a Benefit Contract. No term of a proposal, including premiums, may be altered except upon such terms as are approved in advance and in writing by Medica.

(c) **Disclosure of Compensation, Including Bonus.** Agency is required to disclose to a prospective Member, information about Compensation paid to Agency to the extent required by state or federal law and any requirement or instruction imposed by a government regulatory agency. In addition, if Agency is eligible to receive a broker expense allowance, bonus, or any additional payment in connection with the sale of a Benefit Contract to a prospective Member, Agency is required to disclose in writing to that prospective Member that: (i) Agency may receive additional payment from Medica as a result of the new or continued enrollment of a Member under a Member’s

Benefit Contract; and (ii) an estimate of the amount or percentage of any prospective additional payment that may result from the new or continued enrollment of a Member under a Member's Benefit Contract. Upon Medica's request, Agency will provide Medica with satisfactory evidence of such disclosures. Agency will provide each prospective Member with appropriate cost and coverage comparisons in order that the prospective Member can make informed purchasing decisions.

Proposals to prospective Members purchasing coverage through an Exchange shall comply with all applicable requirements established by the Exchange and with all applicable federal and state laws, regulations, and regulatory agency instructions. If an Exchange's requirements conflict with the provisions of this paragraph, the Exchange's requirements will apply. An Agency assisting a Member or prospective Member with purchasing coverage through the Exchange must comply with all disclosure requirements under applicable state and federal law.

(d) Acceptance for Enrollment. To the extent permitted by and in accordance with applicable law, Medica will have the right to accept or reject any prospective Member submitted for enrollment based on enrollment policies established and revised by Medica from time to time. Individuals purchasing coverage under Medica's individual and family business Benefit Contracts are not subject to underwriting and are guaranteed coverage in accordance with applicable law. In no event will any prospective Member be eligible to receive health services under a Benefit Contract unless and until the prospective Member is accepted in writing by Medica with such effective date as determined by Medica.

(e) Agent of Record Appointment. Agency, prior to enrollment, will obtain and provide to Medica from each Member solicited by Individual Agent written designation as Agent of Record, and such designation is to be made on Medica's approved application for enrollment. Agency will immediately notify Medica in the event that any Member terminates an Individual Agent's appointment as Agent of Record for the Member. No Agent of Record change will be accepted by Medica at any time, other than as provided in the Medica Broker Manual. The Agent of Record may change in accordance with the Broker Manual, including without limitation: (i) upon termination of this Agreement for any reason; or (ii) upon termination of Individual Agent.

(f) Online Broker Portals. Any website used by Agency to assist a Member with selection of a Benefit Contract, including without limitation a qualified health plan on the Exchange, must: (i) be in compliance with Medica policies as provided in the Broker Manual, and applicable state and federal law and regulations; and (ii) meet all standards for the display of information and other data as required by Medica policies and, for qualified health plans, as required by the Exchange.

2.3 Servicing of Members.

(a) Administrative Materials. Agency will provide each Member with, and give an explanation of, the Benefit Contract and all other appropriate administrative forms and materials, as approved in advance by Medica. Agency will provide each Member with: (i) information on how Members may receive answers to questions about coverage; and (ii) the customer service telephone number for Members to use to contact Medica.

(b) Health Promotion Programs. Agency will inform each Member of

Medica's health promotion programs, care coordination programs, and managed health strategies designed to improve quality, ability to function, and maintain independence, while controlling costs.

(c) **Resolution of Service Issues.** Agency will provide all appropriate assistance to Medica and each Member to resolve claims and billing issues or other service issues, including but not limited to collection of amounts due to Medica and administrative or service issues related to an Exchange.

(d) **Records.** Agency will maintain records related to the enrollment of Members for a period of ten (10) years or such longer period as required by law, regulation or regulatory agency instruction. In accordance with the Medicare Regulatory Requirements and the Qualified Health Plans Services Requirements set forth in the Broker Manual, Agency will, upon reasonable notice and demand by Medica, provide Medica with access during regular business hours to any records maintained by Agency, in connection with or relating to Agency's services under this Agreement.

2.4 Retention of Members, Solicitation of Renewals, and Open Enrollment. Agency will use commercially reasonable efforts to solicit and retain Members. For this purpose, Agency will obtain from Medica all appropriate marketing and enrollment materials. All information will be approved in advance by Medica and may not be altered except upon such terms as are approved in writing and in advance by Medica, unless the Broker Manual permits otherwise. Agency will notify Medica of any complaints received by Members and Member communications intended for Medica. Agency will ensure completion and delivery to Medica of all open enrollment forms at least fifteen (15) days prior to the effective date of the renewal.

2.5 Training. Agency will be responsible for completing all initial and ongoing educational training and evaluation arranged by Medica to ensure Agency's and Individual Agent's compliance with Medica's marketing and enrollment policies. Such training and evaluation will include, but are not limited to, open enrollment training, sales call training, routine evaluation of Agency's performance under this Agreement, and such other training and evaluation as may be required by Medica from time to time. Agency will complete required product and sales training prior to enrolling any Members. Agency will be responsible for completing all training required by an Exchange.

2.6 Administrative Requirements. Agency will comply with the provisions of the Broker Manual and all other policies and procedures, including any and all credentialing requirements and quality standards, that may be adopted or revised by Medica from time to time and made available to Agency electronically or provided in writing, and that Medica designates as applicable to Agency's solicitation of business on Medica's behalf.

2.7 Proprietary Marks and Marketing Materials. Agency agrees that Medica is the exclusive owner of all of its service marks, trademarks, logos and any marketing materials or other information that Medica provides to Agency, and that any use of Medica's service marks, trademarks, logos, marketing materials or other information inures solely and exclusively to the benefit of Medica. Agency agrees that it shall not use any Medica service mark, trademark or logo in any advertisement or other material unless Agency first obtains the written permission of Medica. Agency agrees that Agency will submit any materials intended for distribution to Members that are enrolled in or serviced under a Benefit Contract to Medica for Medica's review and written authorization for distribution prior to distribution of any materials to enrolled Members. Agency agrees that any duplication and/or reprinting of Medica prepared marketing materials or other information will not in

any way negate Medica's copyright interest in such materials. Agency agrees that any use of the Medica name or any other Medica trademark, service marks, logos, marketing material or other information on the Internet is strictly prohibited unless Agency first obtains the written permission of Medica. Agency agrees that any use of Medica's service marks, trademarks, logos, marketing material or other information will terminate upon termination or expiration of this Agreement. Notwithstanding the foregoing, Agency may use, display on the Internet, and distribute Medica's service marks, trademarks, logos, marketing material or other information without Medica's prior written permission in accordance with the Broker Manual.

2.8 Confidentiality. Except as otherwise permitted by this Agreement or required by law, Agency shall maintain, and shall require all Individual Agents to maintain, during the term of this Agreement and thereafter, the confidentiality of: (a) all information regarding Members or prospective Members; (b) all information relating to Medica's business operations, internal functioning, plans, strategies, and other similar information; and (c) the terms of this Agreement, including without limitation the amounts paid by Medica under this Agreement (collectively, "Confidential Information"). Agency will use the same degree of care (by instruction, agreement or otherwise) to maintain the confidentiality of such Confidential Information as Agency uses to maintain the confidentiality of its own confidential or proprietary information (and, at a minimum, at least a commercially reasonable degree of care). Upon termination of this Agreement, Agency shall, at the option of Medica, either promptly return or destroy all copies of writings and other materials in its possession or control that contain Confidential Information received from Medica under this Agreement. If Medica directs Agency to destroy Medica's Confidential Information, Agency shall certify, in writing, to Medica that it has destroyed all of Medica's Confidential Information, including any summaries, analyses, notes or memoranda prepared by Agency that contain or reference Medica's Confidential Information.

Breach of the confidentiality obligations set forth in this Section may have no adequate remedy in damages and may cause irreparable damage to Medica. Therefore, Medica will have the right to seek equitable and injunctive relief to stop breach or threatened breach without the need to post a bond or other security, and Agency will take no action to diminish the rights of Medica. Nothing in this Agreement may be construed as limiting Medica's right to any other remedies at law or equity.

2.9 Licensure. Agency will maintain and will ensure that Individual Agents maintain all licenses and appointments that may be necessary for the performance of this Agreement in compliance with all applicable laws and regulations, including but not limited to those laws and regulations applicable to an Exchange. Agency represents that Agency meets, and will continue to meet throughout the term of this Agreement, all requirements under state law, regulations and regulatory agency instructions in the Service Area for the performance of this Agreement. Agency will provide Medica with a copy of Agency's current state licenses applicable to the Service Area within sixty (60) days after issuance and each subsequent renewal and from time to time thereafter immediately upon Medica's request. Agency will notify Medica immediately in the event that Agency's license or authority to solicit business in accordance with this Agreement lapses or is terminated, suspended or restricted in any way, or if Agency is sanctioned, fined, reprimanded or disciplined by any regulatory body in connection with Agency's business activities, including but not limited to a regulatory body overseeing an Exchange, in connection with Agency's business activities.

2.10 Conflict of Interest. During the term of this Agreement, Agency will ensure that Individual Agents providing services to third parties outside of this Agreement abide by the confidentiality requirements set forth in this Agreement.

2.11 Unprofessional Conduct. Agency and its Individual Agents are expected to act professionally at all times. Unprofessional conduct includes, but is not limited to, any conduct, action, or behavior towards Medica employees and/or Members, or prospective Members involving abusive language or physical or verbal intimidation. Moreover, Agency's failure to provide appropriate and timely service to Members or prospective Members, including without limitation complaints related to services provided in connection with an Exchange, will also be considered unprofessional conduct. Failure to comply with any requirement of the Exchange will be considered unprofessional conduct.

In the event that an Individual Agent's or Agency's license to solicit enrollment lapses or is terminated, suspended or restricted in any way, or the Individual Agent or Agency is disciplined by any state or federal regulatory authority, or is reprimanded in connection with performance of the Individual Agent's or Agency's duties as an insurance agent, such Individual Agent's and/or Agency's appointment to solicit business on behalf of Medica will be automatically terminated. Notwithstanding any provision of this Agreement to the contrary, from the date of such termination, such Individual Agent or Agency will have no authority to solicit business for Medica or otherwise to act as an insurance agent on Medica's behalf.

At its sole discretion and in lieu of declaring Agency in default pursuant to Section 2.13 below, Medica may reprimand Agency and/or provide a corrective action plan should Agency where applicable, exhibit unprofessional conduct. Agency's failure to: (a) reasonably cooperate with any corrective action plan, as determined by Medica; or (b) successfully complete the requirements of the corrective action plan, as determined by Medica, will be considered a default under Section 2.13.

2.12 Medicare Certification Requirements and Non-compliant Corrective Action. Agency must comply with this Section 2 and Medicare requirements set forth in this Agreement, including without limitation those set forth in the Broker Manual, to the extent that Agency is providing services under this Agreement for Medica's Medicare business. Agency is contractually obligated to abide by all of the CMS mandated requirements. CMS and other federal agencies can seek civil, criminal, and monetary penalties against Medica and its agents in the case of non-compliance or violation of CMS requirements. Agency will, and will ensure that Individual Agents will become certified to sell and market Medica's Medicare Benefit Contracts by completing a Medica approved and provided certification course prior to selling or marketing Medica's Medicare Benefit Contracts. Agency and Individual Agents must re-certify annually using the Medica approved and provided certification course. Failure to fully comply and become certified/re-certified will result in Agency deemed no longer authorized to sell Medicare Benefit Contracts for Medica, and Compensation will not be paid for those policies sold or in effect during the period of non-compliance. At its sole discretion, Medica may require and enforce a corrective action plan if Agency and Individual Agents are non-compliant with this Section. Failure to comply with the corrective action plan will result in default and subsequent termination of this Agreement.

2.13 Default. The failure of Agency at any time to comply fully with the requirements of this Section 2 will be considered a default under a material term of this Agreement. Suspension or termination of Agency's access to the Exchange will be considered a default under a material term of this Agreement.

SECTION 3. PAYMENT OF AGENCY.

Medica will make payment to Agency for services performed under this Agreement pursuant to Appendix A, Membership Management and Compensation Schedules (and addenda, if any), attached to and made a part of this Agreement. Medica will not be liable for Compensation for any Member under the following circumstances: (i) for any period during or with respect to which neither Agency nor any Individual Agent is designated as Agent of Record for such Member; or (ii) if Agency is in default under any material term of this Agreement. Compensation will be the same for individual and family business Benefit Contracts inside or outside an Exchange, where such Benefit Contracts are otherwise identical.

SECTION 4. RELATIONSHIP BETWEEN PARTIES.

4.1 Independent Contractor. Agency will remain at all times an independent contractor and not an employee of Medica. None of the provisions of this Agreement are intended to create, nor will be deemed or construed to create, any other relationship between the parties. No employee of Agency or Medica will be construed or deemed to be an employee of the other party. Agency will have no authority to bind Medica to any contract except with the advance written authorization of Medica.

4.2 Individual Agents. Agency represents and warrants that it has the authority to contract on behalf of and to bind each Individual Agent. Agency will comply with all of the terms of this Agreement and will ensure that the Individual Agents will comply with all of the terms of this Agreement. Medica may rely on the Individual Agents who have been identified by Agency for purposes of appointment of such individuals or agencies to solicit business on Medica's behalf and who have agreed to comply with this Agreement, as set forth in Appendix B to this Agreement. Agency will ensure that only the Individual Agents who have agreed to comply with this Agreement as set forth in Appendix B will represent Medica, or otherwise perform the duties of an Individual Agent on Medica's behalf. Agency will notify Medica in writing within ten (10) days of any additions to, or deletions of an Individual Agent set forth in Appendix B.

Agency represents and warrants that there are no other agreements, written or otherwise, between Agency and Individual Agents that conflict with the provisions of this Section 4.2. In the event that an Individual Agent's license to solicit enrollment lapses or is terminated, suspended or restricted in a way that makes the Individual Agent unqualified to sell insurance, or the Individual Agent is disciplined by any state or federal regulatory authority, or the Individual Agent's access to the Exchange is suspended or terminated, in connection with performance of the Individual Agent's duties as an insurance agent, such Individual Agent's appointment to solicit business on behalf of Medica will be automatically terminated effective retroactive to the date such action was effective. Notwithstanding any provision of this Agreement to the contrary, from the date of such termination, Agency acknowledges and agrees that such Individual Agent will have no authority to solicit business for Medica or otherwise to act as an insurance agent on Medica's behalf.

4.3 Indemnification and Hold Harmless by Agency. Agency will defend, hold harmless and indemnify Medica against any and all third-party claims, liabilities, damages or judgments, including reasonable attorney's fees, asserted against, imposed upon or incurred by Medica that arise out of breach of this Agreement, negligent acts or omissions, or intentional wrongdoing of Agency, or other persons within Agency's control, in the performance of responsibilities under this Agreement.

4.4 Indemnification and Hold Harmless by Medica. Medica will defend, hold harmless and indemnify Agency against any and all third-party claims, liabilities, damages or judgments, including reasonable attorney's fees, asserted against, imposed upon or incurred by Agency that arise out of breach of this Agreement, negligent acts or omissions, or intentional wrongdoing of Medica employees or other persons within Medica's control, in the performance of this Agreement.

4.5 Liability Insurance. Agency will procure and maintain errors and omissions or professional liability insurance and cybercrime insurance covering Agency with coverage limits reasonably satisfactory to Medica. Upon request by Medica, Agency will provide Medica with written evidence of such insurance coverage within ten (10) days of Medica's request. Agency will notify Medica in writing within thirty (30) days of any material changes in the errors and omissions or professional liability coverage.

SECTION 5. RESOLUTION OF DISPUTES.

The parties hereby agree that as a condition precedent to proceeding with litigation, if any claim, controversy or dispute ("Dispute") arises regarding the terms and conditions of this Agreement, or any attachments to this Agreement, written notice must be supplied by one party to the other outlining the Dispute and the parties will attempt in good faith to resolve any Dispute arising out of or relating to this Agreement, or any attachments to this Agreement, promptly through discussions with each other.

If the Dispute has not been resolved to the satisfaction of a party within fifteen (15) calendar days after providing the other party with notice of the dispute, either party may upon written notice to the other initiate litigation of such Dispute.

SECTION 6. TERM AND TERMINATION.

6.1 Term. The term of this Agreement will commence on the Effective Date and will continue in effect until the Agreement is terminated by either party pursuant to Section 6.2.

6.2 Termination.

(a) **Termination by Mutual Agreement.** This Agreement may be terminated at any time upon the written, mutual agreement of both parties.

(b) **Termination Without Cause.** Either party may terminate this Agreement without cause upon thirty (30) days prior written notice to the other party.

(c) **Termination With Cause by Medica.** This Agreement may be terminated by Medica immediately upon written notice to Agency upon the occurrence of an Event of Default by Agency hereunder. Each of the following constitutes an "Event of Default" by Agency:

- (i) Agency's ability to perform under this Agreement is materially impaired;
- (ii) Medica determines that the health, safety or welfare of Members is in immediate jeopardy if the Agreement is continued;

- (iii) Agency files a voluntary petition in bankruptcy, admits in writing its inability to pay its debts, makes a general assignment for the benefit of creditors, is adjudicated as bankrupt or insolvent, or has an involuntary petition in bankruptcy or similar proceeding commenced against it, that continues undismissed for a period exceeding sixty (60) days;
- (iv) Agency fails to maintain an insurance program as described in Section 4.5;
- (v) Medica reasonably believes that Agency is engaged in fraud or abuse with regard to the provision of services under this Agreement. This reasonable belief may be, but is not required to be, based upon the finding of a state or federal government agency, a state fraud control unit, a court of law, or other legal entity that Agency is or has been engaged in fraud or abuse with regard to services provided under this Agreement or similar services;
- (vi) Agency fails to comply with Medica's privacy practices; or
- (vii) Agency fails to satisfy any other material term, covenant or condition of this Agreement, and fails to cure such breach within thirty (30) days following its receipt of written notice from Medica describing with specificity the nature of the breach.

Without limiting any of the foregoing, grounds for termination with cause include: (i) violating the terms of the Qualified Health Plan Services Requirements, the Medicare Regulatory Requirements, or the Business Associate Requirements; or (ii) suspension or termination of Agency's access to the Exchange, to the extent applicable.

(d) Termination with Cause by Agency. This Agreement may be terminated with cause by Agency upon thirty (30) days prior written notice to Medica. For purposes of this Agreement, a termination will be deemed to be "with cause" if it is based on a default by Medica under any material term of this Agreement.

(e) Automatic Termination. This Agreement will automatically terminate if Agency's license in a jurisdiction where Medica sells insurance is terminated, suspended or restricted for cause, or if Agency surrenders such a license while an investigation by the licensing authority is pending.

(f) Effect of Termination.

- (i) If Medica terminates this Agreement without or with cause pursuant to Section 6.2(b) or 6.2(c), or this Agreement terminates automatically pursuant to Section 6.2(e), Medica will not be liable for any Compensation as of and after the date of such termination.
- (ii) If Agency terminates this Agreement without or with cause pursuant to Section 6.2(b) or 6.2(d), Medica will pay Compensation with respect to a Member as provided in the applicable Compensation Schedule only for that portion of the Member's Contract Year prior to the effective date of the termination of this Agreement; provided, however, that Medica shall not be liable for any Compensation for any period during or with respect to which neither Agency nor an Individual Agent is designated as Agent of Record for such Member.

SECTION 7. MISCELLANEOUS.

7.1 Entire Agreement. This Agreement, including the attached Compensation Schedules and addenda, if any, and the Broker Manual, constitutes the entire agreement between the parties with respect to the subject matter hereof and thereof and supersedes all prior agreements, understandings and representations with respect to such subject matter. No alteration of this Agreement or waiver of its provisions will be valid unless prior approved in writing by Medica. This Agreement supersedes any and all prior written and oral agreements between the parties and any such agreement is null and void as of the Effective Date.

7.2 Amendment. Any Amendment to this Agreement proposed by Medica at least thirty (30) days prior to the effective date of such Amendment will be deemed adopted. Following Medica's proposal of such an Amendment, Agency may elect to terminate this Agreement upon written notice to Medica prior to the effective date of the Amendment. Notwithstanding the foregoing, an amendment to this Agreement for the purpose of complying with a law, regulation, or regulatory agency instruction will be effective upon the effective date of the law, regulation, or regulatory agency instruction.

7.3 Assignment. Agency may not assign any of its rights or delegate any of its obligations under this Agreement, except with the prior written consent of Medica. Agency's assignment of its rights or delegation of its obligations under this Agreement is prohibited without Medica's written consent under this Section, whether the purported assignment or delegation is voluntary or involuntary, by merger, consolidation, dissolution, operation of law, or otherwise. Any purported assignment of Agency's rights or delegation of its obligations in violation of this Section is null and void. Medica may, without the prior consent of Agency, assign its rights and delegate its obligations under this Agreement to any entity which controls Medica, is controlled by Medica, or is under common control with Medica. In the event of an assignment, this Agreement is binding upon and will inure to the benefit of each party's successors and assigns.

7.4 Compliance with Law. Each of the parties will comply with all applicable federal and state laws, regulations and regulatory agency instructions in the performance of its obligations under this Agreement.

7.5 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state of Minnesota.

7.6 Third Party Beneficiaries. The parties acknowledge and agree that this Agreement is made for the benefit of the parties hereto and their permitted successors and assigns, and not for the benefit of any other party. No rights, benefits or privileges under this Agreement will inure to any third party.

7.7 Fitness Certification. Agency represents and certifies that Agency and Individual Agents:

(a) are not excluded from participation in Medicare, Medicaid or Title XX services program under Section 1128 or 1128A of the Social Security Act, and that they have not been convicted of a criminal offense related to involvement in any program established under Medicare, Medicaid, or the Title XX services program. Agency agrees, and agrees to require each Individual Agent providing services under this Agreement through employed or contracted agents, to search monthly, and upon

execution of this Agreement, the HHS Office of Inspector General (“OIG”) List of Excluded Individuals/Entities and System for Award Management (“SAM”) (formerly the General Services Administration Excluded Parties List System) to verify that its employees, officers, directors, agents, subcontractors, and direct or indirect owners: (i) are not debarred, suspended or otherwise excluded from participation in any federally funded government program; (ii) have not been convicted of a criminal offense related to that person’s or entity’s involvement in any federally funded government program; and (iii) have not been sanctioned by the OIG. Agency will report to Medica within five (5) days after learning of any information regarding personnel, including Individual Agents, or entities that have been convicted of a criminal offense related to the involvement in any program established under Medicare, Medicaid, the Title XX services program, or that have been excluded from participation in those programs under Section 1128 or 1128A of the Social Security Act;

(b) have never been convicted of a state or federal felony, including, without limitation, a felony involving dishonesty or breach of trust;

(c) are in compliance with the provisions of the Violent Crime Control and Law Enforcement Act of 1994, codified at 18 U.S.C., section 1033;

(d) have not engaged in any act that is grounds for denial, suspension, or revocation of his or her license in accordance with applicable state statutes in the Service Area. Agency will immediately notify Medica in writing if the foregoing certification is no longer true and correct in all respects; and

(e) will promptly notify Medica if Agency receives notice of investigation or is being investigated by a government agency.

7.8 Business Associate Requirements, Qualified Health Plan Services Requirements, and Medicare Regulatory Requirements. Agency agrees to protect, and Agency agrees to ensure that its Individual Agents protect, the privacy and provide for the security of Member information maintained by Agency pursuant to this Agreement. To that end, Agency acknowledges and agrees that Agency and its Individual Agents will comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, and its implementing regulations (45 CFR Part 160 and Part 164), as may be modified or amended from time to time (“HIPAA”) and other applicable privacy and data security laws with respect to such Member information. To the extent Agency obtains “Protected Health Information,” as defined by HIPAA, Agency agrees to being a Business Associate under HIPAA and, therefore, agrees to comply with the Business Associate Requirements set forth in the Broker Manual.

Agency acknowledges and agrees to comply with all requirements set forth in the Qualified Health Plan Services Requirements to the extent applicable, posted on the individual and family business broker portal at www.medica.com, and to comply with the Medicare Regulatory Requirements, posted on the Medicare broker portal at www.medica.com, both of which are incorporated herein by this reference.

7.9 Survival. The provisions of Sections 1 (DEFINITIONS), 2.3(d) (RECORDS), 2.8 (CONFIDENTIALITY), 3 (PAYMENT OF AGENCY), 4.3 (INDEMNIFICATION AND HOLD HARMLESS BY AGENCY), 4.4 (INDEMNIFICATION AND HOLD HARMLESS BY MEDICA), 4.5 (LIABILITY INSURANCE), 5 (RESOLUTION OF DISPUTES), 6 (TERM AND TERMINATION), AND 7 (MISCELLANEOUS) of this Agreement will survive termination or expiration of this Agreement for any reason.

7.10 Non-Discrimination. Medica does not discriminate on the basis of race, color, national origin, disability, age, sex, gender identity, sexual orientation, or health status in the administration of a Benefit Contract, including enrollment and benefit determinations.

7.11 Counterparts. This Agreement may be signed in counterparts, each of which is deemed an original but all of which together are deemed to be one and the same instrument. A signed copy of this Agreement delivered by facsimile or a scanned attachment to an e-mail are also deemed to have the same legal effect as delivery of an original signed hard copy of this Agreement. For the avoidance of doubt, all parties to this Agreement must sign it in order to be bound by the Agreement.

**MEDICA HEALTH PLANS
MEDICA HEALTH PLANS OF WISCONSIN
MEDICA INSURANCE COMPANY**

[AGENCY NAME]

By: _____

By: _____

Print: Andrew E. Davis

Print: _____

Title: Vice President and General Manager
Center for Healthy Aging

Title: _____

FEIN#: _____

Date Signed: _____

Date Signed: _____

APPENDIX A

MEMBERSHIP MANAGEMENT AND COMPENSATION SCHEDULE

This Membership Management and Compensation Schedule (“**Compensation Schedule**”) supplements and is made part of the Preferred Agency Agreement between Medica Health Plans, Medica Health Plans of Wisconsin and Medica Insurance Company (collectively “Medica”), and Agency (the “Agreement”). Undefined capitalized terms in this Compensation Schedule have the same meaning as defined in the Agreement.

SECTION 1. DEFINITIONS. For purposes of this Compensation Schedule, “**Contract Charges**” means the total premium amount required of and collected from a Member enrolled through Agency in a Benefit Contract pursuant to the Agreement.

SECTION 2. TERMS AND CONDITIONS.

2.1 Agency Compensation. Agency agrees to look solely to Medica for compensation under this Compensation Schedule. Except as set forth in this Compensation Schedule, the Agreement and any addenda to the Agreement may provide otherwise, Compensation shall be calculated as set forth as stated in the following Sections.

2.2 Payment of Compensation. Compensation payable under this Compensation Schedule will be paid in prorated monthly installments calculated according to Medica’s standard method. The portion of Compensation due Agency for the first month of a Member’s first Contract Year will be paid to Agency, no later than ninety (90) days after the effective date of the Member’s enrollment. Compensation for the second and subsequent months will be paid to Agency on a monthly basis no later than sixty (60) days after Medica receives the Member’s monthly Contract Charges and monthly enrollment information from Agency. Agency acknowledges that Medica may at any time implement a new method of calculating or paying Compensation. Medica will provide Agency thirty (30) days’ notice of any such change. Agency may elect to terminate the Agreement upon written notice to Medica prior to the effective date of any such change, in accordance with Section 7.2 of the Agreement.

2.3 Overpayments and Underpayments. Agency will review the amounts of Compensation actually paid to Agency hereunder and reconcile them against Agency’s internal records and will notify Medica upon discovery of any overpayment or underpayment of Compensation. Medica will be entitled to make an appropriate adjustment in Compensation, as provided in this Compensation Schedule, upon discovery of a clerical error. Medica may, pursuant to this provision, collect reimbursement from Agency for any overpayment of Compensation. Medica may in its sole discretion collect from Agency reimbursement for collection agency and legal fees, if any, incurred by Medica to procure reimbursement. Medica also may reduce any current or future Compensation otherwise payable to Agency as Medica deems appropriate to offset amounts overpaid to Agency. Agency will notify Medica of an underpayment within one hundred eighty (180) days after the payment was made in order for Medica to correct such underpayment. Failure by Agency to notify Medica of a discrepancy in compensation within one hundred eighty (180) days after payment will result in Agency forfeiting any and all rights to the adjusted compensation. The requirements of this Section 2.3 will survive termination of the Agreement.

2.4 Amount Payable. No amounts will be payable under this Compensation Schedule in excess of any maximum prescribed by any applicable federal or state law, regulation, or regulatory agency instructions. Upon written notice to Agency, Medica may adjust the level of Compensation as Medica deems necessary in its sole discretion to comply with this Section 2.4.

2.5 Rapid Disenrollment. Medica will audit each of Agency's new policies sold. Any policy cancelled within the first ninety (90) days of the effective date will be considered a rapid disenrollment. Medica will, pursuant to this section and CMS guidelines, collect reimbursement of all applicable Compensation from Agency where applicable, for any rapid disenrollments occurring within the 0 – 90 day time period. Since Agency is solely responsible for paying Compensation to its Individual Agents, Agency is responsible for recovering Compensation it has paid to its Individual Agents for rapid disenrollments.

2.6 Requirement of Completion of Medicare Certification, General Compliance, and Fraud, Waste & Abuse Training. Agency will and will ensure that its Individual Agents comply with applicable laws, regulations and regulatory agency instructions. Agency and its Individual Agents will complete a Medica-approved certification course, general compliance course, and fraud, waste & abuse training. Failure to become Medica Medicare certified, and/or complete the general compliance course, and the fraud, waste & abuse training will result in non-payment of Compensation for those policies sold or in effect while Agency was non-compliant.

SECTION 3. MEDICARE INDIVIDUAL PRODUCT

Membership Management and Compensation Schedule

PMPM Compensation		
Year	With Part D	Without Part D
Initial Year		
Renewal Years		

SECTION 4. IFB COMPENSATION SCHEDULE

Membership Management and Compensation Schedule

Per Subscriber (Policy) Per Month Compensation		
Year		
Initial Year		
Renewal Years		

APPENDIX B
Agent of [Agency Name]

I agree to adhere to, and provide services in accordance with, the terms and conditions of the underlying Preferred Agency Agreement (“Agreement”) between Medica Health Plans, Medica Health Plans of Wisconsin and Medica Insurance Company (collectively referred to as “Medica”), and [Name of Preferred Agency] (“Agency”), to which this Appendix B is attached. I acknowledge that, under Section 3 of the Agreement, in no event am I entitled to payment of Compensation directly from Medica. Upon termination of my employment or contract with Agency, and subject to the terms of the Agreement, all rights to Service Fees resulting from business solicited under the Agreement will remain the property of Agency.

Name of Agent or Agency: _____

By: _____

Its: _____

Signature: _____

Soc. Sec. or FEIN #: _____

Producer License #: _____

Date Signed: _____