

FAMILYFIRST PREVENTION SERVICES PROVIDER APPLICATION

Thank you for your interest in applying to become an approved provider of an evidence-based program listed in the North Dakota Title IV-E Prevention Service Plan. The following application must be completed in its entirety and signed by the Director of the Agency or Independent Provider. Any incomplete or unsigned application will be returned.

I. AGENCY/INDEPENDENT PROVIDER INFORMATION

Name			
Mailing Address	City	State	ZIP Code + 4
Telephone Number	Toll-free Number	Fax Number	
Email Address			
Contact Name	Contact Title		
Contact Telephone Number	Contact Email Address		
Physical Address (if different from mailing address)	City	State	ZIP Code + 4
	Agency Tax ID Number		

II. APPROVED FAMILYFIRST PREVENTION SERVICES

Service(s) the Agency/Independent Provider is requesting approval to provide under the Title IV-E Prevention Services Plan: (check all that apply)

- | | |
|---|---|
| ☐ Healthy Families | ☐ Brief Strategic Family Therapy |
| ☐ Parents As Teachers | ☐ Multisystemic Therapy |
| ☐ Nurse Family Partnership | ☐ Functional Family Therapy |
| ☐ Homebuilders | ☐ Parent-Child Interaction Therapy |
| | ☐ Family Check-Up/Everyday Parenting |

III. ATTACHMENTS (REQUIRED)

1. Documents verifying required qualifications, training, certification and/or accreditation of each individual providing the approved FamilyFirst prevention service(s) noted above.
2. A plan outlining the fidelity review process to include facilitation of fidelity reviews, work toward quality improvement, and maintenance of records of the continuous quality improvement practices.
3. Signed FamilyFirst Prevention Services Provider Application and Agreement.

IV. SIGNATURE

I, the undersigned, certify to being the responsible entity for administering the approved FamilyFirst prevention service(s) and represent that all the above information and attachments are true and accurate to the best of my knowledge. I agree to be bound by the terms and conditions relating to the FamilyFirst Prevention Services Agreement.

Signature of Director of Agency or Independent Provider

Date

Office Use Only

Date Received

Response By

Date Program Notified

Notes

Please submit Application to the North Dakota Department of Health and Human Services at
TitleIVEprevention@nd.gov

FAMILYFIRST PREVENTION SERVICES PROVIDER AGREEMENT

Agency/Independent Provider Name:

This Agreement is entered into between the State of North Dakota, acting through the North Dakota Department of Health and Human Services (the Department) and the above-named Agency/Independent Provider (the Provider), and is executed pursuant to the terms and conditions set forth herein. In consideration of the mutual terms and conditions, the parties agree as follows:

The Provider agrees to provide the following service(s):

(Check all that apply)

- | | |
|---|---|
| ☐ Healthy Families | ☐ Brief Strategic Family Therapy |
| ☐ Parents As Teachers | ☐ Multisystemic Therapy |
| ☐ Nurse Family Partnership | ☐ Functional Family Therapy |
| ☐ Homebuilders | ☐ Parent-Child Interaction Therapy |
| | ☐ Family Check-Up/Everyday Parenting |

I. PURPOSE:

The purpose of this Agreement is to provide approved FamilyFirst prevention services to eligible children and their caregivers.

II. PROVIDER RESPONSIBILITIES:

- A. If the Provider is approved to provide Healthy Families, Parents as Teachers, Nurse Family Partnership, Homebuilders, Brief Strategic Family Therapy, Multisystemic Therapy, Functional Family Therapy, Parent-Child Interaction Therapy, or Family Check-Up/Everyday Parenting under the Title IV-E Prevention Services Plan, the Provider agrees to:
- Accept all eligible participants into their approved program unless the Provider is at program capacity. If the program is at capacity, the Provider must send notification to the Department;
 - Follow minimum basic training requirement(s) per discipline of the evidenced-based program/service they will be providing and must have supporting documentation that their staff have competency in the recommended training areas through their degree or continuing education;
 - Develop a plan (treatment/prevention/case) for the child/caregiver that:
 - Is completed within the first 30-days of service and specifies that without effective preventative services, the child is at risk of out-of-home placement,
 - Addresses their identified needs,
 - Includes the identified service(s) being provided,
 - Includes case plan goals and tasks (e.g., prevention strategies) to keep the child safely in the home,
 - Document progress towards the achievement of the case plan goals,
 - Verifies whether the prevention strategies function as intended,
 - Assesses child safety regularly by either using the ND prevention services assessment tool or the assessment tool of the FamilyFirst prevention services being provided,
 - Is reviewed with the parent(s)/caregiver(s) and child if developmentally appropriate, and
 - Is updated at a minimum every six months and specifies that without effective preventative services, the child is at risk of out-of-home placement.
 - Collect and report on the outcomes specified by the Department. Outcomes will be collected monthly prior to reimbursement of the service;

5. Follow the fidelity practices of the FamilyFirst prevention service(s) being provided;
6. Provide the Department, upon request, documentation and access to the Provider and participant records as part of conducting state/federal audits, and, if found out of compliance, the Department may request the Provider submit a plan to remedy the noted audit concerns;
7. Comply with all state and federal laws and regulations pertaining to use, disclosure, maintenance, retention, and safeguarding of confidential information regarding participants, including the Health Insurance Portability and Accountability Act (HIPAA) at 45 CFR Part 160 and Part 164; and the federal privacy law for Substance Use Disorder patient records, 42 USC § 290dd-2, and its implementing regulations, 42 CFR Part 2, and other such laws and regulations as may apply. Additionally, provider assumes responsibility for obtaining any Authorization to Disclose Information forms that may be necessary to meet coordination requirements and data reporting per this Agreement;
8. The reimbursable rate, which is pre-determined by the Department for each FamilyFirst prevention service;
9. If applicable, register as a vendor to receive payment from state. See OMB website for more information: <https://www.nd.gov/omb/vendor/vendor-payments>;
10. Maintain records related to the participant for whom payment was made for service(s) rendered by the Provider for a period of seven years from the end of the fiscal year in which the service(s) were completed;
11. Ensure all funding sources are exhausted before utilizing the Title IV-E funds as payer of last resort; and
12. Notify the Department within five business days when a participant's eligibility status has changed, the service(s) has ended by closing the service in the portal, and/or if the participant turns age 18 while receiving FamilyFirst prevention service(s).

III. DEPARTMENT RESPONSIBILITIES:

The Department agrees to reimburse the approved Provider for the approved FamilyFirst prevention service(s) provided to eligible children and their caregiver(s) at a rate not to exceed the Department's approved identified Title IV-E reimbursable rate for that service.

IV. TERM OF AGREEMENT:

This Agreement shall be effective upon the date of the final signature and remain in effect for two years, unless terminated by either party upon a 30-days' written notice to the other party or funding has been depleted. Any amendment to this Agreement must be in writing and signed by both parties.

V. TERMINATION:

A. Early Termination in the Public Interest

The Department is entering into this Agreement for the purpose of carrying out the public policy of the state of North Dakota, as determined by its Governor, Legislative Assembly, and Courts. If this Agreement ceases to further the public policy of the state of North Dakota, the Department, in its sole discretion, by written notice to the Provider, may terminate this Agreement in whole or in part.

B. Termination for Lack of Funding or Authority

The Department may terminate the whole or any part of this Agreement, effective upon delivery of written notice to the Provider or on any later date stated in the notice, under any of the following conditions:

1. If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.
2. If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.
3. If any license, permit, or certificate required by law or rule, or by the terms of this Agreement, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Agreement under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

C. Termination for Cause

The Department may terminate this Agreement effective upon delivery of written notice to the Provider, or any later date stated in the notice:

1. If the Provider fails to provide services required by this Agreement within the time specified or any extension agreed to by the Department; or
2. If the Provider fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms.

The rights and remedies of the Department provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

VI. ASSIGNMENT AND SUBCONTRACTS:

Neither party may assign or otherwise transfer or delegate to any person other than that party's staff, any right or duty set forth in this Agreement without the other party's express written consent. However, the Provider may enter into subcontracts provided that any subcontract acknowledges the binding nature of this Agreement and incorporates this Agreement, including any attachments. The Provider does not have authority to contract for or incur obligations on behalf of the Department.

VII. NOTICE:

All notices or other communications required under this Agreement must be given by email, registered, or certified mail, and are complete on the date mailed when addressed to the parties at the following addresses:

Children and Family Services Division
600 East Boulevard Ave, Dept. 325
Bismarck, ND 58505-0250

Notice provided under this provision does not meet the notice requirements for monetary claims against the Department found at N.D.C.C. § 32-12.2-04.

VIII. APPLICABLE LAW AND VENUE:

This Agreement is governed by and construed in accordance with the laws of the state of North Dakota. Any action to enforce this Agreement must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

IX. SPOILIATION - NOTICE OF POTENTIAL CLAIMS:

The Provider shall promptly notify the Department of all potential claims that arise or result from this Agreement. The Provider shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to the Department the opportunity to review and inspect the evidence, including the scene of an accident.

X. INDEMNITY:

Provider agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers, and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Provider to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Any attorney appointed to represent the State must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under North Dakota Century Code § 54-12-08. The Provider also agrees to reimburse the State for all costs, expenses, and attorneys' fees incurred if the State prevails in an action against the Provider in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this Agreement.

XI. INSURANCE:

Provider shall secure and keep in force during the term of this Agreement, and the Provider shall require all subcontractors, prior to commencement of an agreement between the Provider and the subcontractor, to secure and keep in force during the term of this Agreement, from insurance companies, government self-insurance pools, or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with a minimum liability limit of \$2,000,000 per occurrence.
2. Workers' compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this Agreement.

The insurance coverages listed above must meet the following additional requirements:

1. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Provider. The amount of any deductible or self-retention is subject to approval by the Department.
2. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the Department. The policies shall be in form and terms approved by the Department.
3. The duty to defend, indemnify, and hold harmless the Department under this Agreement shall not be limited by the insurance required in this Agreement.
4. The state of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy on a primary and noncontributory basis, including any excess policies (to the extent applicable), as additional insured. The Department shall have all the benefits, rights, and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this Agreement or by the contractual indemnity obligations of the Provider.
5. A "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the Department.
6. The Provider shall furnish a certificate of insurance to the undersigned Department representative prior to commencement of this Agreement. All endorsements shall be provided as soon as practicable.
7. Failure to provide insurance as required in this Agreement is a material breach of contract entitling State to terminate this Agreement immediately.
8. The Provider shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. The Provider shall provide on an ongoing basis, current certificates of insurance during the term of the Agreement. A renewal certificate will be provided 10 days prior to coverage expiration. An updated, current certificate of insurance shall be provided in the event of any change to a policy.

XII. ALTERNATIVE DISPUTE RESOLUTION - JURY TRIAL:

The Department does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties may enforce their rights and remedies in judicial proceedings. The Department does not waive any right to a jury trial.

XIII. CONFIDENTIALITY:

The Provider agrees not to use or disclose any information it receives from the Department under this Agreement that the Department has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Agreement or as authorized in advance by the Department. The Department agrees not to disclose any information it receives from the Provider that the Provider has previously identified as confidential and that the Department determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. § 44-04-18. The duty of the Department and the Provider to maintain confidentiality of information under this section continues beyond the term of this Agreement, or any extensions or renewals of it.

XIV. COMPLIANCE WITH PUBLIC RECORDS LAW:

The Provider understands that, except for disclosures prohibited in this Agreement, the Department must disclose to the public upon request any records it receives from the Provider. The Provider further understands that any records that are obtained or generated by the Provider under this Agreement, except for records that are confidential under this Agreement, may, under certain circumstances, be open to the public upon request under the North Dakota open records law. The Provider agrees to contact the Department immediately upon receiving a request for information under the open records law and to comply with the Department's instructions on how to respond to the request.

The Department, the Attorney General of the state of North Dakota, the Risk Management Division of the Office of Management and Budget, and the federal government and their duly authorized representatives, may have access to the books, documents, papers, and records of the Provider, which are directly pertinent to this Agreement for the

purpose of making audit, examination, excerpts, and transcripts.

XV. INDEPENDENT ENTITY:

The Provider is an independent entity under this Agreement. The Provider, its employees, agents, or representatives are not employees of the Department for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workforce Safety and Insurance Act. No part of this Agreement may be construed to represent the creation of an employer/employee relationship between the Department and the Provider. The Provider retains sole and absolute discretion in the manner and means of carrying out the Provider's activities and responsibilities under this Agreement, except to the extent specified in this Agreement.

XVI. NONDISCRIMINATION AND COMPLIANCE WITH LAWS:

The Provider agrees to comply with all applicable laws, rules, regulations, and policies, including those relating to nondiscrimination, accessibility, and civil rights. The Provider agrees to file all required reports, make required payroll deductions, and pay all taxes and premiums owed, including sales and use taxes and unemployment compensation, and workers' compensation premiums, in a timely fashion. The Provider shall have and keep current at all times during the term of this Agreement all licenses and permits required by law. The Provider's failure to comply with this section may be deemed a material breach by the Provider entitling the Department to terminate in accordance with the Termination for Cause section of this Agreement.

XVII. STATE AUDIT:

The Provider shall provide to the Department, the North Dakota State Auditor, or the Auditors designee upon request a written copy of all records, regardless of physical form, including records evidencing the accounting practices and procedures employed by the provider which are relevant to this Agreement and necessary to conduct a state government audit. However, the Provider shall have the right to redact any and all information that includes, in whole or in part any proprietary information, trade secret information, confidential information, privileged information, or information that is not relevant to this Agreement and the like. The Provider will maintain all such records for at least three (3) years following completion of this Agreement.

XVIII. ASSURANCES:

This Agreement will be construed according to the laws of the state of North Dakota. In connection with furnishing supplies or performing work under this Agreement, persons who contract with or receive funds to provide services to the Department are obligated and agree to comply with all local, state, and federal laws, regulations, and executive orders related to the performance of this Agreement, including the following: Fair Labor Standards Act, Equal Pay Act of 1963, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the North Dakota Human Rights Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act of 1970, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Drug-Free Workplace Act of 1988, the Americans with Disabilities Act of 1990, Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1992, and the Pro-Children Act of 1994.

By signing this Agreement, the Provider certifies that neither the Provider nor its principals are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions with the state or federal government by any department or agency of the state or federal government.

XIX. MERGER AND MODIFICATION:

This Agreement constitutes the entire Agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this Agreement. No alteration, amendment, or modification of this Agreement is effective unless it is reduced to writing, signed by the parties, and attached to the Agreement.

State of North Dakota North Dakota Department of Health and Human Services
Signature
Printed Name
Title
Date

Agency/Independent Provider Name
Signature of Director of Agency or Independent Provider
Printed Name
Title
Date