

Attachment 10 – Liquidated Damages

Failed Deliverable	Penalty
Readiness Review	MLTC will conduct a formal review of the DBPM's readiness to implement all required services described in this RFP. Should the DBPM fail the review, MLTC may assess damages of \$5,000.00 for each calendar day until such time as MLTC certifies that the DBPM has met all readiness requirements.
Date of Implementation	Should the DBPM fail to begin full operations on the contract start date, and should MLTC determine that the DBPM is responsible for the delay, MLTC may assess damages of \$10,000.00 per calendar day for each day beyond the contract start date that the DBPM fails to begin full operations.
Network Performance Requirement	The DBPM must have a contracted provider network in place and submit the required attestation of network sufficiency ninety (90) calendar days prior to the contract start date. A penalty of \$1,000.00 shall be assessed, at MLTC' discretion, per calendar day for each day that the provider network is not adequate to meet the service needs of the covered populations as described in Section IV.D – Provider Network Requirements and the attestation of network sufficiency has not been received.
Employment of Key Personnel	The DBPM must meet all key personnel requirements specified in Section IV.D – Staffing Requirements. MLTC may assess a penalty of \$1,000.00 per calendar day, per position, for each day after the thirty (30) allowed calendar days that a key position remains unfilled by a qualified person approved by MLTC.
Excessive Reversals on Appeal	If the DBPM exceeds ten percent (10%) of member appeals overturned upon final appeal over a 12-month period (January – December or the first twelve months that the contract is in effect), a penalty of \$25,000.00 may be imposed for every additional overturned appeal. This penalty may also be assessed for each occurrence in which the DBPM does not provide the medical services or requirements set forth in an administrative decision by MLTC or a state fair hearing.
Ongoing and Ad Hoc Reporting	As detailed in Attachment 5 – Reporting Requirements, MLTC may assess a penalty of \$1,000.00 for each calendar day that a report is late, inaccurate, includes less than the required copies, or is not in the approved format.

Attachment 10 – Liquidated Damages

<p>Encounter Data</p>	<p>\$5,000.00 per calendar day for each day after the due date that the monthly encounter data has not been received in the format and per specifications required by MLTC.</p> <p>\$5,000.00 per calendar day for each day encounter data is received after the due date, for failure to correct and resubmit encounter data that was originally returned to the DBPM for correction because submission data was in excess of the 5% error rate threshold, until acceptance of the data.</p> <p>\$5,000.00 per return of re-submission of encounter data that was returned to the DBPM, as submission data was in excess of the 5% error rate threshold, for correction and was rejected for the second time.</p> <p>\$5,000.00 per calendar day for inability to reconcile financial statement of medical expenses paid with the total dollars submitted through encounter data for that quarter within ten percent (10%) for 2017 and five percent (5%) for 2018.</p> <p>\$5,000.00 per occurrence of medical record review by MLTC or its designee where the DBPM or its provider(s) denotes provision of services which were not submitted in the encounter data regardless of whether or not the provider was paid for the service that was documented.</p>
<p>Claims Processing</p>	<p>Ninety percent (90%) of all clean claims must be paid within fifteen (15) business days of the date of receipt. If not met, subject to \$5,000.00 for the each month that a DBPM's claims performance percentages by claim type fall below the performance standard.</p> <p>Ninety-nine percent (99%) of all clean claims must be paid within sixty (60) calendar days of the date of receipt. If not met, subject to \$5,000.00 for the each month that a DBPM's claims performance percentages by claim type fall below the performance standard.</p>
<p>PCD Assignment</p>	<p>\$2,500.00 per calendar day for failure to assign a PCD within one month of the effective date of enrollment until the assignment is made.</p>
<p>Member Services</p>	<p>\$2,500.00 per calendar day for failure to provide member services functions from 7:00 a.m. to 7:00 p.m. central time, Monday through Friday, to address nonemergency issues encountered by members, and 24 hours a day, 7 days a week to address emergency issues encountered by members.</p>
<p>Provider Services</p>	<p>\$2,500.00 per calendar day for failure to furnish provider services functions from 7:00 a.m. to 7:00 p.m. central time, Monday through Friday, to address nonemergency issues encountered by members, and 24 hours a day, 7 days a week to address emergency issues encountered by members and for failure to handle emergent provider issues on a 24 hours a day, 7 days a week basis.</p>

Attachment 10 – Liquidated Damages

Intermediate Sanctions
Per 42 CFR 438.704(b)(1): A maximum of \$25,000.00 for each determination of failure to provide services; misrepresentation or false statements to enrollees, potential enrollees or health care providers; failure to comply with provider incentive plan requirements; marketing violations.
Per 42 CFR 438.704(b)(2): A maximum of \$100,000.00 for each determination of discrimination; misrepresentation or false statements to CMS or the State or any such action or inaction that the State deems a violation that merits a fine consistent with this section.
Per 42 CFR 438.704(b)(3): A maximum of \$15,000.00 for each member the State determines was not enrolled because of a discriminatory practice (subject to the \$100,000.00 overall limit above) or any such action or inaction that the State deems a violation that merits a fine consistent with this section.
Per 42 CFR 438.704(c): A maximum of \$25,000.00 or double the amount of the excess charges, (whichever is greater) for charging premiums or charges in excess of the amounts permitted under the Medicaid program; or any such action or inaction that the State deems a violation that merits a fine consistent with this section. The State must deduct from the penalty the amount of overcharge and return it to the affected enrollee(s).