

## **Exhibit A**

### **Protocol for Requesting Risk Pool Funding**

Fiscal Year 2015-2016

The establishment of a statewide risk pool program, administered by the Department, serves to manage and share the financial risks associated with the Community-Based Care (CBC) model for child welfare services in Florida. Should factors outside of a Lead Agency's control (e.g., shifts in the number of children in care, increase in the number of very difficult populations, or a change in the characteristics of the children and families served) cause costs to rise, potentially impeding the Lead Agency's ability to provide ongoing quality services for all children and families served, section 409.990(7), F.S., provides qualified Lead Agencies with access to petition for relief from the risk pool, so as to avoid lead agency failure.

Per section 409.990(7), F.S., *The department, in consultation with the Florida Coalition for Children, Inc., shall develop and implement a community-based care risk pool initiative to mitigate the financial risk to eligible lead agencies.* The criteria contained within this protocol is intended to meet the intent of the statute to create a risk pool program designed to protect the financial interests of the State and spread the risks and accountabilities of the system of care amongst qualified entities.

#### **Overview**

The specific steps for requesting risk pool funding, and the process for review and development of recommendations by the appointed Peer Review Committee are described within. Potential funding resolutions include, but are not limited to:

- Identifying new funds,
- Realignment of fund sources, or
- Funding from the Risk Pool.

This risk pool protocol requires a CBC lead agency to submit a **Notice of Intent** (Exhibit A) prior to submitting a **Risk Pool Funding Application** (Exhibit B). This Notice of Intent allows the Risk Pool Peer Review Committee to make a preliminary assessment of the possible need for technical assistance and/or preventive intervention in conjunction with or as an alternative to risk pool funding.

The following Exhibits shall be used through the Risk Pool process.

Exhibits:

- Exhibit A: Notice of Intent template
- Exhibit B: Risk Pool Funding Application
- Exhibit C: Section 409.990(7), F.S.
- Exhibit D: CBC Service Contract template: "Shared Risk for Service Utilization," Section I, paragraph 1.4.3
- Exhibit E: "Progressive Intervention and Program Improvement", incorporated by reference into lead agency contract.

## Section 1: Prerequisites to Submission of Risk Pool Funding Application

- 1.1 The Lead Agency and its Regional Leadership are expected to address fiscal and performance issues at the local level on an ongoing basis in accordance with CBC Services Contract provisions relating to “Shared Risk for Service Utilization” (Exhibit D), CBC “Progressive Intervention and Program Improvement” (Exhibit E) and “Administrative and System Cost Reduction Plan” (Attachment I, Exhibit D of the CBC Contract document) (if applicable). Documentation of activities and outcomes (or anticipated outcomes for activities in-progress) associated with these contract provisions provide the basis for the submission of the Notice of Intent and the Risk Pool Funding Application.
- 1.2 A Notice of Intent should be forwarded by the Lead Agency to the Regional Managing Director, Family and Community Services Director, and the Department CBC Contract Manager, upon determination that a Risk Pool Funding Application is possible. The Notice of Intent must include, but is not limited to:
  - (a) Problem definition: Describes the funding or performance issue(s) and circumstances that prompted action at the local level. (When and how was the problem identified and communicated to Department Regional Leadership?)
  - (b) Efforts Attempted: What steps have been taken to address the problem(s), and what is the outcome (or projected outcome) of these actions, including any technical assistance sought or provided?
  - (c) Potential Impacts: What is the anticipated result if the problem is not remedied by steps already completed or in progress?

Following the submission of a Notice of Intent, the Lead Agency and Region leadership teams will continue to collaborate and evaluate the potential shortfall and steps taken to address the problem.
- 1.3 Upon receipt of a Notice of Intent, the Regional Managing Director will review, fully evaluate and implement applicable provisions of Exhibit E, “Progressive Intervention and Performance Improvement” to provide the recommended technical assistance or related support as determined. The Notice of Intent will enable the Regional Managing Director to assess the options for possible resolution or intervention to mitigate the shortfall.
- 1.4 Prior to the submission of a Risk Pool Funding Application, the Lead Agency, in cooperation with the Region, should assess and document their analyses and conclusions developed in accordance with the CBC Contract provisions governing “Shared Risk for Service Utilization” (Exhibit D) and, if applicable, “Progressive Intervention and Performance Improvement” (Exhibit E).
- 1.5 Following a regional determination that the Lead Agency is a qualified candidate for risk pool funding based on the review of the Lead Agencies’ Notice of Intent, the Regional Managing Director shall notice the Lead Agency of its candidacy to submit a Risk Pool

Funding Application (Exhibit B), no more than forty-five (45) calendar days from the date of the receipt of the Notice of Intent.

1.5.1 The application must address:

- (a) Problem definition or reason for applying.
- (b) Data-driven analysis to support the request.
- (c) When and how was the problem identified and communicated to the Department?
- (d) What steps have been taken to address the problem at the local level, and what has been the outcome of these actions?
- (e) What is the anticipated outcome if the problem is not remedied?
- (f) What steps have been taken to address the “Shared Risk for Service Utilization” provisions of the CBC Service contract? (Exhibit D) (Please describe completely and attach supporting documentation.)

1.5.2 Relevant exhibits should be provided to justify access to the risk pool. The exhibits should be pertinent to the issue presented by the Lead Agency and should explain the increased expenses and the reasons they are increasing, including:

- (a) A spreadsheet comparing current and projected spending to actual resources by fund source, including lead agency personnel and administrative costs.
- (b) A report indicating trends of children entering and exiting the child welfare services system, for (at a minimum) the previous year through the current fiscal year-to-date.
- (c) A report documenting any changes in fees, rates, etc. for direct care services under contract with the lead agency.
- (d) Documentation of demonstrable changes in the mix of the caseload.
- (e) A report indicating actions taken to address underlying problems and projected shortfalls, including any technical assistance sought and/or provided.

1.5.3 Following completion of the steps in item 1.5.-1.5.2 above, the Regional Family and Community Services Director and the Department CBC Contract Manager will:

- (a) Review the Risk Pool Funding Application and supporting documentation in detail.
- (b) Request any additional information required from the Lead Agency.

- (c) Validate the data in the application and supporting documentation through review of applicable FSFN and/or FLAIR reports, and the Lead Agency's financial management system.
- (d) Obtain the signature of the Regional Managing Director indicating concurrence or non-concurrence, including a statement of rationale for non-concurrence.

1.5.4 Actions prescribed in item 1.5.3 shall be completed within fifteen (15) business days following the receipt of all information in items 1.5.1. -1.5.2 above.

## **Section 2: Submission of Risk Pool Funding Application**

2.1 Completed applications should be forwarded electronically by the Regional Managing Director, on behalf of the Lead Agency, to the Assistant Secretary for Child Welfare, Deputy Secretary, Assistant Secretary for Operations, and the Florida Coalition for Children Fiscal Committee. This step will be accomplished within two (2) business day of signature of the Regional Managing Director.

The Assistant Secretary for Child Welfare will:

- (a) Review the application in coordination with the Assistant Secretary for Operations; the Offices of Revenue Management, Budget Services, and Fiscal Accountability; and a Chief Financial Officer from a non-affiliated Lead Agency in order to assess the validity of the application and initiate a root cause analysis as to causal factors for the request of the risk pool funding application.
  - i. If the application is approved to proceed, the Assistant Secretary for Child Welfare will forward copies of the application to members of the Peer Review Committee established pursuant to paragraph 2.2 below within five (5) business days.
  - ii. If the application is determined to need more information or supporting documentation, the Assistant Secretary for Child Welfare will send the application back to the Regional Managing Director who will forward the application to the Lead Agency Chief Executive Officer / Executive Director for additional information within 30 calendar days of receipt of the application. The Assistant Secretary for Operations and the Department Contract Manager shall be copied on the communication to the Regional Managing Director.
- (b) Once all information is received, the Assistant Secretary for Child Welfare will schedule a Peer Review Committee meeting within 30 calendar days to begin planning for activities identified in 2.3 below. This meeting will serve to ensure a full array of members as identified in 2.2 below.

2.2 The review of all Risk Pool Funding Applications will be governed by a peer review process and subject to the approval of the Secretary of the Department of Children and Families. The Peer Review Committee will be selected and facilitated by the Assistant

Secretary for Child Welfare (or his or her designee) and will include, but not be limited to the following members (or their designees):

- (a) Assistant Secretary for Administration;
- (b) Assistant Secretary for Operations;
- (c) Regional Managing Director from an area outside the region of the Lead Agency;
- (d) Two (2) Executive Directors (ED) or Chief Executive Officers (CEO) from Lead Agencies not within the region of the Lead Agency applying for funding; and
- (e) One (1) Chief Financial Officer from a Lead Agency other than the Lead Agencies represented by the two (2) EDs or CEOs or the Lead Agency applying for funding.

2.3 The Peer Review Committee will:

- (a) Review, analyze, and discuss the application.
- (b) Conduct an on-site, fact-finding visit to confirm input from the applying Lead Agency.
- (c) Determine if continued on-site technical assistance is appropriate. In these cases, the Peer Review Committee will serve as the coordinating entity for the provision of technical assistance.
- (d) Make a final recommendation to the Secretary within 60 days of the committee's first meeting, regarding approval or disapproval of the application.  
Recommendations for approval will include:
  - i. The source of additional funding, such as:
    - 1. A swap of core funding from a restricted to a less restricted funding source to include service coordination with sister agencies.
    - 2. Funding shortfall resolution within the Department (the Department will handle internally and no further action is required by the Lead Agency).
    - 3. Access to the risk pool.
  - ii. Amount of funding and mix of funds to be made available.
  - iii. Limitations or requirements on use of additional funding that are linked to correction of factors that caused the shortfall.
  - iv. Any follow-up actions or additional documentation needed from the Lead Agency or Region.
  - v. Report on technical assistance activities completed and remaining, and/or recommendations for future technical assistance.

- 2.3.1 For actions approved by the Secretary, the Department's Budget Office will prepare supporting documentation and forms for internal action to include the required notice to be provided to the Legislative Budget Commission Chair per s. 216.181(6)(a), F.S.
- 2.4 Notices of Intent and/or Risk Pool Funding Applications may be submitted at any time.
- 2.5 Applications must be based on Lead Agency cost/expenditure data and all other supporting documentation. Department personnel, upon request, may review additional records related to this Application for potential funding resolutions.

## Notice of Intent

The Lead Agency should complete all items and submit electronically from the CBC Chief Executive Officer/Executive Director to the Department's Regional Managing Director, Regional Family and Community Services Director, and Department CBC Contract Manager. No hard copies, please.

Lead Agency Name:

Region

Address:

Contract #

Lead Agency Contact:

Phone#

Contact Manager:

Phone#

---

### Section I - Reason for Potential Risk Pool Funding Request

Please **check the reasons(s)** for the potential request under the appropriate criterion below (Items 1-5).

- ☐ 1. Significant changes in the number or composition of clients eligible to receive services.  
Describe in detail the previous year through current fiscal year-to-date's service trend data.
- ☐ 2. Significant changes in the services that are eligible for reimbursement.
- ☐ 3. Significant changes in the mix of available funds.
- ☐ 4. Continuity of care in the event of lead agency failure, discontinuance of services, or financial misconduct.
- ☐ 5. Other reason(s) not included in Items 1-4.
- a.
- b.
- c.
- d.

**Section II - Relevant and Verifiable Service Trends and Changes that have Occurred Upon which this Request is Based**

- (1) From the statements in Section I, briefly describe what the problem definition is.
- (2) Discuss briefly the data-driven analysis relevant to the problem.
- (3) When and how was the problem initially identified and communicated to the Regional Managing Director?
- (4) What steps have been initiated to address the problem at the local level? Include any technical assistance sought or provided.
- (5) Provide any additional information that is relevant to understanding the current circumstances.

---

Lead Agency CEO/ED Name and Signature

---

Date



## Risk Pool Funding Application

**Please complete all items and submit electronically to the Regional Managing Director. Upon review and concurrence of the Risk Pool Request, the Regional Managing Director will submit the application and all supporting documentation to the Assistant Secretary for Child Welfare and copy the Deputy Secretary for the Department, Assistant Secretary for Operations, the Lead Agency Chief Executive Officer/Executive Director, Regional Family and Community Services Director, Department CBC Contract Manager and the Florida Coalition for Children Fiscal Committee. No hard copies, please.**

Lead Agency Name:

Region

Address:

Contract #

Lead Agency Contact:

Phone#

Department CBC Contract Manager:

Phone#

---

### Section I - Reason for Risk Pool Funding Request

Please provide a detailed description of the reasons(s) for this request under the appropriate criterion below (Items 1-5).

- 1) Significant changes in the number or composition of clients eligible to receive services. Describe in detail the previous year through current fiscal year-to-date's service trend data.
- 2) Significant changes in the services that are eligible for reimbursement.
- 3) Significant changes in the mix of available funds.
- 4) Continuity of care in the event of lead agency failure, discontinuance of services, or financial misconduct.
- 5) Other reason(s) not included in Items 1-4.

## **Section II - Details of the Relevant and Verifiable Service Trends and Changes that have Occurred Upon which this Request is Based**

- 1) From the statements in Section I, reiterate what the problem definition is and the reason for applying to the shared risk pool.
- 2) State how and why the underlying circumstances that resulted in this need are beyond the control of Lead Agency management. Justify the determination that the current operating shortfall cannot be reasonably expected to be effectively managed by the lead agency.
- 3) Describe and discuss the data-driven analysis to support this request. Include all relevant sources of data with the sources, dates and time periods covered by the data clearly identified. (Send/attach electronic version whenever possible.) Incomplete data analysis will delay the application review process.
- 4) When and how was the problem initially identified and communicated to the Regional Managing Director? (Attach documentation)
- 5) What steps were taken to address the problem at the local level? (Attach documentation as appropriate. Quantify any level or percentage of risk that has been effectively managed or absorbed by the Lead Agency.)
- 6) What is the anticipated outcome if the problem is not remedied?
- 7) Provide any additional information that is relevant to applying for Risk Pool funding, such as recent fiscal monitoring reports and audit, records from meetings of Board of Directors, etc.

- ☐ Concur
- ☐ \*Do Not Concur

\_\_\_\_\_  
Regional Managing Director Name and Signature

\_\_\_\_\_  
Date

**\*Rationale (This item must be completed if “Do Not Concur” is checked.):**

---

### **Section III – Confirmation of Budget Request**

- 1) Confirm the dollar amount being requested: \$
- 2) Confirm that funds will be expended by the end of the current fiscal year: ☐ Yes ☐ No
- 3) How do you propose to use these funds to address or correct the underlying cause of the shortfall?

---

CBC Contract Manager Name and Signature

---

Date

**List and attach the spending plan and/or expenditure projection analyses and all other additional supporting documentation that is relevant to this request. (List attachments here.)**

**Section 409.990(7), Florida Statutes**

- (a) The department, in consultation with the Florida Coalition for Children, Inc., shall develop and implement a community-based care risk pool initiative to mitigate the financial risk to eligible lead agencies. This initiative must include:
1. A risk pool application and protocol developed by the department which outlines submission criteria, including, but not limited to, financial and program management, descriptive data requirements, and timeframes for submission of applications. Requests for funding from risk pool applicants must be based on relevant and verifiable service trends and changes that have occurred during the current fiscal year. The application must confirm that expenditure of approved risk pool funds by the lead agency will be completed within the current fiscal year.
  2. A risk pool peer review committee, appointed by the Secretary and consisting of department staff and representatives from at least three non-applicant lead agencies, which reviews and assesses all risk pool applications. Upon completion of each application review, the peer review committee shall report its findings and recommendations to the Secretary, providing, at a minimum, the following information:
    - a. Justification for the specific funding amount required by the risk pool applicant based on the current years' service trend data, including validation that the applicant's financial need was caused by circumstances beyond the control of the lead agency management;
    - b. Verification that the proposed use of risk pool funds meets at least one of the purposes specified in paragraph (c);
    - c. Evidence of technical assistance provided in an effort to avoid the need to access the risk pool and recommendations for technical assistance to the lead agency to ensure that risk pool funds are expended effectively and that the agency's need for future risk pool funding is diminished.
- (b) Upon approval by the Secretary of a risk pool application, the department may request funds from the risk pool in accordance with s. 216.181(6)(a).
- (c) The purposes for which the community-based care risk pool shall be used include:
1. Significant changes in the number or composition of clients eligible to receive services.
  2. Significant changes in the services that are eligible for reimbursement.
  3. Continuity of care in the event of failure, discontinuance of service, or financial misconduct by a lead agency.
  4. Significant changes in the mix of available funds.
- (d) The department may also request in its annual legislative budget request, and the Governor may recommend, that the funding necessary to effect paragraph (c) be appropriated to the department. In addition, the department may request the allocation of funds from the community-based care risk pool in accordance with s. 216.181(6)(a). Funds from the pool may be used to match available federal dollars.
1. Such funds shall constitute partial security for contract performance by lead agencies and shall be used to offset the need for a performance bond.
  2. The department may separately require a bond to mitigate the financial consequences of potential acts of malfeasance or misfeasance or criminal violations by the service provider.

**CBC Contract Template Excerpt 1.4.3  
“Shared Risk for Service Utilization”**

Because Lead Agencies are required to provide appropriate child welfare services to all eligible children and families, the Department recognizes a responsibility for ensuring that contract utilization does not exceed projected levels due to the failure to adequately manage child protection activities under the direct jurisdiction and control of the Department. Specifically, the Department agrees to review increases in the number of children and families referred for in-home services and the number of children referred from child protection investigations directly to out-of-home services as follows:

- a. Review. At a minimum, this review will include: (1) the total number of reports with verified and not substantiated findings from at least the last two preceding fiscal years; (2) the total number of referrals from child protective investigations to in-home services as a percentage of the total number of reports with verified and not substantiated findings; and (3) the total number of referrals from child protective investigations for out-of-home services as a percentage of the total number of reports with verified and not substantiated findings.
- b. Capacity. The review will also examine the extent to which capacity has been built and expanded within the community to prevent in-home and out-of-home service referrals.
- c. Determination. Upon examination of the data outlined in the review process, along with any other relevant information, the Department will render a determination as to whether or not the Lead Agency has experienced an increase in service utilization that is either: (1) a function of the Department's managed child protection performance; (2) a function of some other external factor (e.g., media event, judicial actions, drug epidemic); or, (3) a function of Lead Agency-managed service performance.
- d. Potential Actions. In those instances where service utilization for in-home and/or out-of-home care is a result of the Department's managed child protection performance, the Department will pursue accessing available resources in an effort to reimburse, either partially or in whole, the anticipated additional cost for serving clients over the anticipated projection. In those instances where increased service utilization is a function of Lead Agency management, the Lead Agency is expected to assume responsibility for accommodating the additional service capacity. In those instances where increased service utilization is a function of some other external factor, and results in a verified increase in the cost of providing services under the process set forth in section 1.4.3.a. of this Contract, and if no additional funds are appropriated by the Legislature pursuant to section 409.991, F.S., to offset that increase in cost, the Department and the Lead Agency agree to seek additional funding via the shared risk pool, if available, pursuant to section 409.990, F.S., or through any other available avenue of resources, including the Florida Legislature.
- e. Shared Risk. If any of the events enumerated below occur, and such occurrence causes an increase in the cost associated with the Lead Agency's delivery of services, the Lead Agency and the Department may seek additional funds through the risk pool, if appropriate, or through any other available avenue of resources, including the Florida Legislature:
  - I. Requirements imposed by an applicable court order or settlement related to pending or future lawsuits against the Department that affect services provided under this Contract;
  - II. Changes in law or policy that cause a change in the delivery of services;
  - III. A significant increase in the service needs;
  - IV. Any increase in the number of children in care (based on June 30, 2006) number of children served; or,
  - V. A natural disaster or other catastrophic event.

- f. Capability and Willingness to Serve. If funding is not available to address the occurrence of events enumerated in section 1.4.3.e. of this Contract, the Department will work with the Lead Agency to adjust contract terms or performance expectations to meet the funding availability. However, both parties acknowledge that no solution to address increased costs or any provision of this Contract shall result in a negative impact on the provision of services to children, compromise child safety, or otherwise negate the Lead Agency's capability and willingness to serve all children referred to it from the protective investigation and court systems, regardless of the level of funding allocated to the Lead Agency, provided all related funding is transferred as mandated in section 409.990(2)(c), F.S.

**Community-Based Care  
Progressive Intervention and Program Improvement**  
Effective 5/10/2011

Download at:

[http://www.dcf.state.fl.us/programs/cbc/docs/2011\\_12/CBC%20Progressive%20Intervention%20and%20Program%20Improvement%20-%2005-10.pdf](http://www.dcf.state.fl.us/programs/cbc/docs/2011_12/CBC%20Progressive%20Intervention%20and%20Program%20Improvement%20-%2005-10.pdf)

---

- 1) Stage I: In the event the provider is significantly below target on any performance measure, there are serious fiscal concerns, or if Quality Management review findings identify other serious systemic concerns, as determined by the Regional Managing Director. The Regional Managing Director must require action to correct performance deficiencies within a prescribed amount of time.

Corrective action plans may include but are not limited to monthly reporting to the Regional Managing Director on resolution of issues; assignment of a team to provide temporary technical assistance; or the assignment of an independent fiscal monitor.

- 2) Stage II: Regardless of what corrective action the Regional Managing Director uses, as outlined in 1) above, in the event of a failure to demonstrate satisfactory progress on a corrective action plan within the prescribed time the Regional Managing Director may convene a Management Peer Review Team (MPRT), if deemed appropriate under the specific circumstances. This team shall:
  - a) Consist of a minimum of (1) one senior management representative of two Lead Agencies not under review, both acceptable to the Regional Managing Director and to the Lead Agency under review; (2) a Department Senior Manager from the Circuit of the Lead Agency under review, and one appointee; and (3) two representatives from the community served by the Lead Agency and acceptable to the Regional Managing Director and the Lead Agency under review. None of the MPRT members shall have any conflict of interest with the Lead Agency under review. The Department Senior Manager appointed from the Circuit of the Lead Agency under review shall be chairman of the MPRT.
  - b) Conduct joint assessment and planning between the provider and the MPRT to determine the cause of the unacceptable performance and the actions needed to bring the provider's performance to an acceptable level and a timetable with measurable milestones for attaining an acceptable level of performance. The results of the planning process shall be included in a MPRT report to the RD/CA, who shall have final authority to approve, modify or require changes to the MPRT Plan.
  - c) The MPRT will continue to meet with the provider as needed during Plan implementation and will render advice and assistance during that time. Subject to the approval of the RD/CA, the MPRT may amend the Plan from time-to-time if an amendment will contribute to the provider's ability to reach an acceptable level of performance as quickly as possible.
- 3) Stage III. Following all Stage II interventions (if any), if the provider fails to demonstrate satisfactory progress on the MPRT Plan, the RD/CA, with input from the Community Alliance, may recommend one or more of the following actions:
  - a) Implementation of a penalty phase to identify specific contract funds to be redirected at the discretion of the Department for performance improvement; 2

- b) Recommendation to the Board of Directors to replace one or more of the Executive Management Team;
  - c) Receivership in accordance with s. 409.994, F.S.;
  - d) Re-procurement of service(s) in underperforming programmatic or geographic areas; or
  - e) Re-procurement of the entire provider contract.
- 4) Independent of any of the aforementioned corrective actions, the Department may decline to extend or renew the contract. Nothing herein shall limit the Department's right under any other provision of the contract to require any corrective action, impose reasonable penalties or terminate the contract with or without cause.
- 5) During the final six months of any contract term, the Regional Managing Director may unilaterally prescribe a corrective action plan and set the date for accomplishment under Stage I. The Regional Managing Director may proceed directly to Stage III proceedings if the Regional Managing Director determines that the provider has failed to demonstrate satisfactory progress on the corrective action plan.
- 6) If the Department determines that the need to resolve serious fiscal or programmatic concerns does not permit completion of any Stage I or Stage II activities, the Department may seek receivership under s. 409.1675, F.S., or may take other appropriate actions, at any time.