

L. mac



Lori A. Shibanette  
Commissioner

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF THE COMMISSIONER

129 PLEASANT STREET, CONCORD, NH 03301-3857  
603-271-9200 1-800-852-3345 Ext. 9200  
Fax: 603-271-4912 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

May 29, 2020

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**INFORMATIONAL ITEM**

Pursuant to RSA 4:45, RSA 21-P:43, and Section 4 of Executive Order 2020-04 as extended by Executive Orders 2020-05, 2020-08, and 2020-09, Governor Sununu has authorized the Department of Health and Human Services, Office of the Commissioner, to enter into a **Retroactive, Sole Source** contract with ClearChoiceMD, LLC. (VC#TBD), New London, NH in the amount of \$500,000 to provide COVID-19 testing and antibody-based testing to residents who are uninsured or underinsured with the option to renew for up to one (1) additional year, effective retroactive to May 18, 2020, through December 31, 2020. 100% General Funds.

Funds are available in the following account for State Fiscal Years 2020 and 2021, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

**05-95-95-950010-56760000 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS  
DEPT OF, HHS: COMMISSIONER'S OFFICE, OFFICE OF THE COMMISSIONER, OFFICE OF  
BUSINESS OPERATIONS**

State Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
2020	103-502664	Contracts for Oper Svc	95010999	\$500,000
2021	103-502664	Contracts for Oper Svc	95010999	\$0
			<b>Total</b>	<b>\$500,000</b>

**EXPLANATION**

This item is **Retroactive** and **Sole Source** because the Department needs to quickly provide COVID-19 virus testing and antibody-based testing to uninsured and underinsured residents throughout New Hampshire. This Agreement expands testing throughout New Hampshire to allow the State to effectively respond to the COVID-19 Pandemic. Antibody-based tests are now available through commercial laboratories for the detection of antibodies against COVID-19. To understand the spread of COVID-19 as well as the causes and immunity factors of the disease, it is essential that antibody testing be available to the general population.

Approximately 81,000 residents of New Hampshire are uninsured, many of whom need COVID-19 testing. Many residents are also underinsured and do not have coverage to receive testing from their current insurance carrier. The exact number of uninsured or underinsured

residents of New Hampshire served from May 18, 2020, to December 31, 2020, will depend on the trajectory of the COVID-19 pandemic.

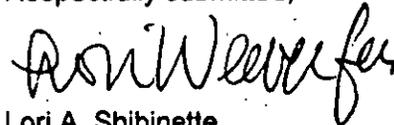
Through this Agreement, the Contractor provides COVID-19 tests and antibody tests to uninsured or underinsured individuals. The Contractor coordinates specimen collection, processing, coordination with a reference laboratory for testing, and communication with the uninsured or underinsured individual concerning both positive and negative test results. Based on the test result, the Contractor makes recommendations for further treatment. The Contractor will continue to monitor the proper usage of antibody-based tests in accordance with the current recommendations for their use by professional organizations and societies, the Centers for Disease Control and Prevention, and other scientific recommendations, including the understanding that it may take approximately two (2) weeks after infection for antibodies to be detectable in a sample. The Contractor is providing these services at its eight (8) walk-in centers and one (1) temporary testing location across the State.

As referenced in the Agreement the parties have the option to extend the agreement for up one (1) additional year, contingent upon satisfactory delivery of services, available funding, agreement of the parties and appropriate State approval.

Area served: Statewide

Source of Funds: 100% General Funds

Respectfully submitted,



Lori A. Shibanette  
Commissioner

**AGREEMENT BETWEEN**  
**THE STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF HEALTH AND HUMAN SERVICES,**  
**DIVISION OF PUBLIC HEALTH SERVICES**

**AND**

**CLEARCHOICEMD, LLC**

This Agreement is entered into by and between the State of New Hampshire, Department of Health and Human Services ("DHHS"), Division of Public Health Services ("DPHS"), and ClearChoiceMD MSO, LLC, having their principal office in New Hampshire at 74 Pleasant Street, Suite 204, New London, NH 03257 ("the Contractor" or "ClearChoiceMD"), (hereafter collectively referred to as "Parties").

WHEREAS, consistent with the Governor's Executive Order 2020-04, as extended by 2020-05 and 2020-08, DPHS is working to respond to the growing outbreak of COVID-19;

WHEREAS, approximately 81,000 residents of New Hampshire are uninsured, many of whom may need medical services to treat the signs and symptoms of COVID-19;

WHEREAS, many residents of New Hampshire are underinsured and do not have coverage to receive testing from their current insurance carrier;

WHEREAS, to expand testing throughout New Hampshire to respond to the public health crisis and allow uninsured or underinsured individuals access to such testing;

WHEREAS, Antibody-based tests are now available through commercial laboratories for the detection of antibodies against SARS-CoV-2;

WHEREAS, to understand the spread of COVID-19 as well as the causes and immunity factors of the disease, antibody testing needs to be available to the general population;

WHEREAS, ClearChoiceMD, the owner and operator of walk-in care centers in New Hampshire and in Vermont near the border with New Hampshire, has agreed to provide testing at the nine (9) locations listed below plus up to two temporary locations (one of which is currently designated below, with one more that may be added upon agreement of DPHS and ClearChoiceMD without re-execution of this Agreement):

ALTON, 24 Homestead Place, Alton, NH 03809, (603) 822-4713;  
BELMONT, 96 Daniel Webster Hwy, Belmont, NH 03220, (603) 267-0656;  
BRATTLEBORO, 1154 Putney Road, Brattleboro, VT 05301, (802) 490-2100;  
EPPING, 1 Beehive Drive, Epping, NH 03042, (603) 734-9202;  
GOFFSTOWN, 558 Mast Road, Goffstown, NH 03045, (603) 232-1790;  
HOOKSETT, 7 Cinemagic Way, Hooksett, NH 03106, (603) 782-5112;  
LEBANON, 410 Miracle Mile, Lebanon, NH 03766, (603) 276-3261;  
PORTSMOUTH, 750 Lafayette Road, Portsmouth, NH 03801, (603) 427-8539;

TILTON, 75 Laconia Road, Tilton, NH 03276, (603) 729-0050; and  
LINCOLN-WOODSTOCK TEMPORARY TESTING LOCATION, 194 Pollard Road,  
Lincoln, NH 03251.

WHEREAS, ClearChoiceMD has the capacity to offer testing services to uninsured or underinsured individuals at a discounted rate paid for by the Department of Health and Human Services; and

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree:

1. ClearChoiceMD shall provide services to be provided for the uninsured and underinsured population:

A. The Contractor shall order and provide a SARS-CoV-2 (virus that causes COVID-19) PCR and antibody test to the uninsured and underinsured. The Contractor shall coordinate the visit, specimen collection, processing, coordination with a reference laboratory for testing, and communication with the uninsured or underinsured individual concerning the test result and recommendations for further treatment based on the test result.

B. The Contractor shall ensure that the individual is uninsured or underinsured before billing the state for the services provided to these individuals.

C. The Contractor shall continue to monitor the proper usage of antibody-based tests in accordance with the current recommendations for their use by professional organizations and societies, the Centers for Disease Control and Prevention, and other scientific recommendations, including the understanding that presence of antibodies may take approximately 2 weeks after infection for antibodies to be detectable.

D. The Contractor shall order tests and shall become acquainted with the test characteristics of the various antibody tests, noting the possibility of false-negative results (especially from use too early following symptoms) and false-positive results (especially from cross-reactivity to commonly circulating coronaviruses) in their ordering, interpretation, and recommendations made to patients based on the test results.

E. The Contractor shall ensure timely communication of both positive and negative test results to patients along with clinical recommendations based on these results.

F. ClearChoiceMD providers shall ensure timely communication of both positive and negative test results to patients along with clinical recommendations based on these results. The Contractor shall commence the services on execution of this Agreement.

2. Payment for Services:

A. For the medical visit and collection of sample, DPHS shall pay the Contractor \$100.00 for each uninsured or underinsured patient.

B. For the SARS-CoV-2 virus testing provided under this Agreement by the Contractor's reference laboratory, the laboratory conducting the test shall bill under the Quest's UPP Program. There shall be no charge to DPHS or the patient for the virus testing services.

C. The Contractor, before testing, shall confirm that the patient does not have insurance before billing the DPHS. If the Contractor knows that the insurance does not cover the PCR or antibody test, respectively, the Contractor may bill DPHS for the test performed on that patient. If a patient does have insurance and the Contractor bills the patient's insurance but it is determined that the test is not covered, the Contractor may bill DPHS for that patient's test.

D. DPHS reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

E. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to [DPHSContractBilling@dhhs.nh.gov](mailto:DPHSContractBilling@dhhs.nh.gov), or invoices may be mailed to:

Financial Manager  
Department of Health and Human Services  
129 Pleasant Street  
Concord, NH 03301

F. Invoices shall be submitted to DPHS by the tenth day of the month for all services provided in the previous month:

G. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice for the services rendered as described in Section 1 subsequent to approval of the submitted invoice and if sufficient funds are available.

3. Price Limitation:

A. The total to be paid or reimbursed under this Agreement from DPHS to the Contractor shall not exceed \$500,000.00.

B. Notwithstanding any provision of this Agreement to the contrary, all obligations of DPHS hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the scope of service.

4. Effective Date and Duration: This Agreement shall be effective when signed by both parties and upon the date of Governor approval. The Term of this Agreement shall terminate on December 31, 2020, unless sooner terminated or extended in accordance with the terms of this Agreement. The parties may extend this Agreement for up to one (1) year, subject to the continued availability of funds, satisfactory Contractor performance, and approval of the Governor.

5. Indemnification: Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be

claimed to arise out of) the acts or omissions of the Contractor, or subcontractors, including but not limited to negligent, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this Agreement.

6. Confidentiality: Any and all confidential information obtained or received by the Contractor shall be kept confidential and shall not be disclosed to anyone for any reason. "Confidential Information" means all information owned, managed, created, or received from the Individuals, DPH, any other agency of the State, or any medical provider, that is protected by Federal or State information security, privacy or confidentiality laws or rules. Confidential Information includes, but is not limited to, Derivative Data, protected health information (PHI), personally identifiable information (PII), federal tax information (FTI), Social Security Administration information (SSA) and criminal justice information services (CJIS) and any other sensitive confidential information provided under the Agreement. This covenant shall survive the termination of the Agreement.

7. Assignment: The Contractor shall not assign any interest in this Agreement without prior written notice, which shall be provided to DPH at least fifteen (15) days prior to the assignment, and a written consent of DPH. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

8. Modification: No modification of this Agreement shall be binding upon the other Party unless made in writing and agreed upon by both Parties to this Agreement. Either Party may terminate this Agreement for any reason or for no reason upon thirty (30) days written notice to the other Party.

9. Severability: In the event that any provision of this Agreement shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement shall not be affected and shall remain in full force and effect.

10. Jurisdiction: This Agreement shall be governed by, interpreted and enforced under the laws of the State of New Hampshire without making reference to its conflicts of laws or choice of laws provisions. The Parties consent to a state court located in the State of New Hampshire as having the sole jurisdiction of any and all controversies that may arise under this Agreement.

11. Insurance:

11.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force,

commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

11.2 All policies shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

11.3 The Contractor shall furnish to the Department, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Department, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

12. **Workers' Compensation:**

12.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("Workers' Compensation").

12.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Department, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

13. **Entire Agreement:** This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below, NH Department of Health and Human Services

5/18/2020

Date

Lori Shibinette

Name: Lori A. Shibinette

Title: Commissioner

ClearChoiceMD, LLC

5/18/20

Date

Marcus Hamper MD

Name: Marcus Hamper MD  
Title: CEO

The Agreement, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

05/19/2020

Date

Takhmina Rakhmatova

Name:

Title:

(/online/Home/)  Back to Home (/online)

## Business Information

### Business Details

---

Business Name: CLEARCHOICEMD MSO, LLC	Business ID: 696298
Business Type: Domestic Limited Liability Company	Business Status: Good Standing
Management Style: Manager Managed	
Business Creation Date: 08/19/2013	Name in State of Formation: Not Available
Date of Formation in Jurisdiction: 08/19/2013	
Principal Office Address: 74 Pleasant Street Ste 204, New London, NH, 03257, USA	Mailing Address: NONE
Citizenship / State of Formation: Domestic/New Hampshire	
	Last Annual Report Year: 2020
	Next Report Year: 2021
Duration: Perpetual	
Business Email: ap@ccmdcenters.com	Phone #: 603-667-0262
Notification Email: NONE	Fiscal Year End Date: NONE

---

### Principal Purpose

---

S.No	NAICS Code	NAICS Subcode
1	OTHER / provision of urgent care services and free-standing emergency room services	

Page 1 of 1, records 1 to 1 of 1

CERTIFICATE OF AUTHORITY

I, Tracy Hampers, hereby certify that:  
(Name of the elected Officer of the Corporation/LLC; cannot be contract signatory)

1. I am a duly elected Clerk/Secretary/Officer of ClearChoice MD, LLC  
(Corporation/LLC Name)

2. The following is a true copy of a vote taken at a meeting of the Board of Directors/shareholders, duly called and held on May 7<sup>th</sup>, 2020, at which a quorum of the Directors/shareholders were present and voting.  
(Date)

VOTED: That Marcus J. Hampers (may list more than one person)  
(Name and Title of Contract Signatory)

is duly authorized on behalf of ClearChoice MD LLC to enter into contracts or agreements with the State  
(Name of Corporation/ LLC)

of New Hampshire and any of its agencies or departments and further is authorized to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, which may in his/her judgment be desirable or necessary to effect the purpose of this vote.

3. I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date of the contract/contract amendment to which this certificate is attached. This authority remains valid for thirty (30) days from the date of this Certificate of Authority. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

Dated: May 8<sup>th</sup>, 2020

Tracy Hampers  
Signature of Elected Officer  
Name: Tracy Hampers  
Title: Director of Operations

## CERTIFICATE OF AUTHORITY

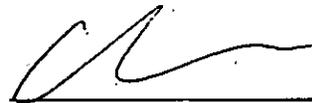
I, Marcus J Hampers, MD of ClearChoiceMD, LLC, a Limited Liability Company under RSA 304-C, do hereby certify that:

1. I am the CEO and managing member of ClearChoiceMD, LLC:

This Limited Liability Company may enter into any and all contracts, amendments, renewals, revisions or modifications thereto, with the State of New Hampshire, acting through its Department of Health and Human Services.

I certify that I am the Chief Executive Officer of ClearChoiceMD, LLC and am authorized on behalf of this company to enter into said contracts with the State, and to execute any and all documents, agreements, and other instruments, and any amendments, revisions, or modifications thereto, as he may deem necessary, desirable or appropriate.

2. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person listed above currently occupies the position indicated and that they have full authority to bind the LLC and that this authorization shall remain valid for thirty (30) days from the date of this certificate.



---

Name: Marcus Hampers, MD  
Title: Chief Executive Officer  
Company Name: ClearChoiceMD, LLC

