



EXECUTIVE DOCUMENT SUMMARY

State Form 41221 (R10/4-06)

Instructions for completing the EDS and the Contract process.

- 1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments / renewals, attach original contract.
5. Attach additional pages if necessary.

1. EDS Number: A281-7-PRM-16-041
2. Date prepared: 10/21/2016

3. CONTRACTS & LEASES

Professional/Personal Services [X] Contract for procured Services
Grant [] Maintenance
Lease [] License Agreement
Attorney [] Amendment#
MOU [] Renewal #
QPA [] Other [X] ADDENDUM

FISCAL INFORMATION

4. Account Number: 48340-10000.539135
5. Account Name: INDIANA PROMOTION FUND
6. Total amount this action: \$24,930.00
7. New contract total: 24,930.00
8. Revenue generated this action: \$0.00
9. Revenue generated total contract: \$0.00
10. New total amount for each fiscal year:

TIME PERIOD COVERED IN THIS EDS

11. From (month, day, year): 10/14/2016
12. To (month, day, year): 4/14/2017
13. Method of source selection: [X] Negotiated
[] Bid/Quotation [] Emergency [] Special Procurement
[] RFP# [] Other (specify)

35. Will the attached document involve data processing or telecommunications systems(s)? Yes: IOT or Delegate has signed off on contract

36. Statutory Authority (Cite applicable Indiana or Federal Codes): 5-28-14

37. Description of work and justification for spending money. (Please give a brief description of the scope of work included in this agreement.)
The IEDC, as employer, desires to find new and proven ways to improve health outcomes while reducing the cost of its self-funded health program. The Contractor shall provide a targeted obesity intervention program that accomplishes both of these goals.

38. Justification of vendor selection and determination of price reasonableness:
By improving the health of employees, health cost decrease. This was reviewed thoroughly

39. If this contract is submitted late, please explain why: (Required if more than 30 days late.)

40. Agency fiscal officer or representative approval: [Signature]
41. Date Approved

AGENCY INFORMATION
14. Name of agency: Economic Development Corp
15. Requisition Number: 0000006312
16. Address: 1N Economic Development Corp Central Office
1 N CAPITOL AVE STE 700 INDIANAPOLIS, IN 46204-2040

AGENCY CONTACT INFORMATION
17. Name: Joyce Weidner
18. Telephone #: 317.234.8003
19. E-mail address: JoWeidner@iedc.IN.gov

COURIER INFORMATION
20. Name: Jackie Addison
21. Telephone #: 317-234-8741
22. E-mail address: iacaddison@iedc.in.gov

VENDOR INFORMATION
23 Vendor ID # 0000342508
24. Name: ON TARGET HEALTH LLC
25. Telephone #: N/A
26. Address: 5865 W 71ST STE E-302 INDIANAPOLIS, IN 46220
27. E-mail address: tim.craft@on-target-health.com

28. Is the vendor registered with the Secretary of State? (Out of State Corporations, must be registered) [X] Yes [] No
29. Primary Vendor: M/WBE/IN-Veteran Minority: [] Yes [X] No
Women: [] Yes [X] No
IN-Veteran: [] Yes [X] No
30. Primary Vendor Percentages 100.0 %

31. Sub Vendor: M/WBE/IN-Veteran Minority: [] Yes [X] No
Women: [] Yes [X] No
IN-Veteran: [] Yes [X] No
32. If yes, list the %:
Minority: %
Women: %
IN- Veteran: %

33. Is there Renewal Language in the document? [X] Yes [] No
34. Is there a "Termination for Convenience" clause in the document? [X] Yes [] No

44. Attorney General's Office approval
45. Date Approved

42. Budget agency approval TB
43. Date Approved 10/26/16

46. Agency representative receiving from AG
47. Date Approved



ADDENDUM

This Addendum is entered into by and between the **INDIANA ECONOMIC DEVELOPMENT CORPORATION** (the “**IEDC**”) and the entity designated as “Contractor” below.

The purpose of this Addendum is to modify, delete, or amend certain terms and conditions set forth in the attached Form Contract prepared by the Contractor (the “**Form Contract**”). This Addendum and the Form Contract are incorporated into each other and, when read together, shall constitute one integrated document (this “**Agreement**”). Any inconsistency, conflict, or ambiguity between this Addendum and the Form Contract shall be resolved by giving precedence and effect to this Addendum.

Contractor Name: On Target Health, LLC

Title of Form Contract: Services Agreement

1. FORM CONTRACT/DUTIES OF CONTRACTOR.

The Contractor shall perform the duties as identified in the Form Contract and as provided in its proposal (“Exhibit 1”).

2. TERM.

- (A) This Agreement may be renewed under the same terms and conditions, subject to the approval of the parties and the State Budget Director. The term of the renewed Agreement may not be longer than the term of the original Agreement. All renewals and extensions must be in writing and signed by all parties.
- (B) Any provisions which, by their nature, are intended to apply after termination of this Agreement shall survive termination of this Agreement, including provisions for payment of amounts owed for work performed under this Agreement, disclaimer of warranty, limitation of liability, and intellectual property clauses.

3. CONSIDERATION.

- (A) All services performed by the Contractor under this Agreement must be authorized by the IEDC and consistent with the description set forth in the Form Contract and Exhibit 1.
- (B) All work and/or services provided by the Contractor under this Agreement must be performed to the IEDC’s reasonable satisfaction, which satisfaction shall be determined at the discretion of the IEDC, and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. The IEDC shall not be required to pay for work found to be unsatisfactory, inconsistent with this Agreement, or performed in violation of federal, state, or local laws.

By mutual agreement of the parties, the following terms and conditions are deleted from the Form Contract:

- (A) Any provision requiring the IEDC to provide insurance.

- (B) Any provision requiring the IEDC to provide indemnity.
- (C) Any provision providing that this Agreement be construed in accordance with laws other than those of the State of Indiana.
- (D) Any provision providing that suit be brought in any state other than Indiana.
- (E) Any provision providing for resolution of contract disputes.
- (F) Any provision requiring the IEDC to pay any taxes.
- (G) Any provision requiring the IEDC to pay penalties, liquidated damages, interest or attorney's fees.
- (H) Any provision modifying the applicable Indiana statute of limitations.
- (I) Any provision relating to the time within which a claim must be made.
- (J) Any provision requiring payment of consideration in advance unless authorized by an exception listed in Indiana Code § 4-13-2-20.
- (K) Any provision limiting disclosure of the contract in violation of the Access to Public Records Act, Indiana Code §5-14-3.
- (L) Any provision requiring payment in less than thirty-five (35) days.
- (M) Any provision providing for automatic renewal of this Agreement. Any provision giving the Form Contract precedence over this Addendum.

4. PAYMENTS.

- (A) The Contractor shall submit invoices to the IEDC at processing@iedc.in.gov.
- (B) All payment obligations shall be made in arrears in accordance with Indiana law and state fiscal policies and procedures, and as required by Indiana Code § 4-13-2-14.8. Notwithstanding any other law, rule, or custom, a person or company whom has a contract with the State of Indiana or submits invoices to the state for payment shall authorize, in writing, the direct deposit by electronic funds transfer of all payments by the state to the person or company. The written authorization must designate a financial institution and an account number to which all payments are to be credited. Any exception to this requirement must be approved by the IEDC and the State of Indiana. For forms and additional information, see the Auditor of State's website at www.in.gov/auditor/forms.
- (C) No travel and other expenditures made by the Contractor will be reimbursed by the IEDC. Allowable expenditures made by the Contractor for travel will be reimbursed at the current rate paid by the IEDC and in accordance with the State Travel Policies and Guidelines as specified in the current Financial Management Circular, available at <http://www.in.gov/idoa/2459.htm>. All expenses must be approved by the IEDC in writing in advance. Out-of-state travel requests must be reviewed by the IEDC for availability of funds and for appropriateness per Financial Management Circular guidelines.

5. CONFIDENTIALITY OF INFORMATION.

- (A) The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected data. Therefore, the Contractor promises and assures that data, material, and information disclosed to the Contractor by

the IEDC for the purpose of this Agreement, and specifically identified as confidential information will not be disclosed to others or discussed with other parties without the prior written consent of the IEDC.

- (B) The parties acknowledge that the services to be performed by the Contractor for the IEDC under this Agreement may require or allow access to data, materials, and information containing Social Security numbers or other personal information maintained by the IEDC in its computer system or other record. In addition to the covenant made above in this Paragraph 5, and pursuant to 10 IAC 5-3-1(4), the Contractor and the IEDC agree to comply with the provisions of Indiana Code § 4-1-10 and Indiana Code § 4-1-11. If any Social Security number(s) or personal information (as defined in Indiana Code § 4-1-11-3) is/are disclosed by the Contractor, the Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system, in addition to any other claims and expenses for which it is liable under the terms of this Agreement.

6. USE OF THE IEDC NAME.

The IEDC has not granted any rights to use its name, trademark, intellectual property, or logos. The Contractor agrees that it will not use the name or intellectual property, including to IEDC trademarks or logos, in any manner, including commercial advertising or as a business reference without the prior written consent of the IEDC. For any purposes outside those contemplated by this Agreement, and for which the IEDC's participation will be referenced, the IEDC shall have the right of review and approval of the use, disclosure, and the finished product prior to its publication. All such requests shall be made in writing and delivered to the IEDC for approval at its sole discretion.

7. GOVERNING LAW.

- (A) This Agreement shall be construed in accordance with, and governed by, the laws of the State of Indiana without regard to principles of choice of law, and suit, if any, must be brought in the State of Indiana. The venue for any court action shall be the circuit or superior court of Marion County, Indiana or the United States District Court for the Southern District of Indiana. The Contractor hereby consents to the personal jurisdiction of Indiana state and federal courts.
- (B) If any section, paragraph, term, condition, or provision of this Agreement is found, by a court of competent jurisdiction, to be invalid or unenforceable, or if any paragraph, term, condition, or provision is found to violate or contravene the laws of the State of Indiana, then the section, paragraph, term, condition, or provision so found will be deemed severed from this Agreement, but all other sections, paragraphs, terms, conditions, and provisions will remain in full force and effect.
- (C) The Contractor understands that this Agreement is a public record subject to request pursuant to Indiana Code § 5-14-3 and its exemptions. Use by the public of the information contained in this Agreement shall not be considered an act of the IEDC or the State.

8. FUNDING CANCELLATION.

When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, this Agreement shall be cancelled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

9. PROGRESS REPORTS.

The Contractor shall submit written progress reports to the IEDC upon request. The progress reports shall serve the purpose of assuring the IEDC that work is progressing in a timely manner, and that completion can be reasonably assured on the scheduled date. The Contractor shall submit progress reports to the IEDC at reports@iedc.in.gov.

10. ACCESS TO RECORDS & AUDITS.

- (A) The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Agreement. The Contractor shall make such materials available at his/her respective office at all reasonable times during this Agreement period, and for three (3) years from the date of final payment under this Agreement, for inspection by the IEDC or by any other authorized representative of state government. Copies thereof shall be furnished at no cost to the IEDC or by any other authorized representative of state government if requested.
- (B) The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Agreement. Any such audit shall be conducted in accordance with Indiana Code § 5-11-1 *et seq.* and any audit guidelines specified by the IEDC.

11. THE CONTRACTOR'S SERVICES.

- (A) The Contractor recognizes that the services to be performed under this Agreement are vital to the IEDC and must be continued without interruption and that, upon the expiration of this Agreement, a successor, either the IEDC or another contractor, may continue them. The Contractor agrees to use its best efforts and cooperation to effect an orderly and efficient transition to a successor to provide the services contemplated hereby. This Agreement shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written modification thereof.
- (B) The Contractor shall not commence any additional services or change the scope of services unless and until authorized in writing by the IEDC. No claim for additional compensation or any material change to the budget shall be made. This Agreement may only be amended, supplemented or modified by a written document executed in the same manner as this Agreement.

- (C) The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. The Contractor represents that it has or shall obtain at its own expense all personnel, materials, and equipment required to perform the services under this Agreement. All of the work performed hereunder shall be performed by the Contractor or under its supervision. The Contractor warrants that all personnel assigned to perform the services or other consultants or subcontractors engaged by the Contractor to perform the services are fully qualified and authorized to perform such services under the state and local laws. If the IEDC becomes dissatisfied with the work product of, or the working relationship with, any individuals assigned to work under this Agreement, the IEDC may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.
- (D) The IEDC shall, at all reasonable times, have the right to inspect the work, services or performance of the Contractor. The Contractor shall furnish all reasonable aid and assistance required by the IEDC for proper examination of the work or services. Such inspection shall not relieve the Contractor of any obligation to perform said services in accordance with the law or this Agreement.

12. OWNERSHIP OF DOCUMENTS & MATERIALS.

- (A) Upon the expiration or termination of this Agreement, the Contractor, at the IEDC's request, will transfer to the IEDC all the materials in Contractor's possession prepared for the IEDC or provided to the Contractor by the IEDC for the services rendered under this Agreement.
- (B) All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the Contractor prior to execution of this Agreement, but specifically developed under this Agreement shall be considered "work for hire," and the Contractor shall transfer any ownership claim to the IEDC, and all such materials will be the property of the IEDC. The Contractor agrees to execute any and all documents necessary to assign and transfer to the IEDC all intellectual property and other rights in materials and information created for the IEDC pursuant to this Agreement.
- (C) Use of these materials, other than related to Agreement performance by the Contractor, without the prior written consent of the IEDC, is prohibited. The Contractor shall take such action as is necessary under law to preserve the IEDC's rights in and to the work product or intellectual property while such property is within the control and/or custody of the Contractor. During the performance of this Agreement, the Contractor shall be responsible for any loss of or damage to these materials developed for or supplied by the IEDC and used to develop or assist in the services provided while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the IEDC full, immediate, and unrestricted access to the work product during the term of this Agreement.

13. COMPLIANCE WITH LAWS.

- (A) The Contractor agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of regulations thereunder after execution of this Agreement shall be reviewed by the IEDC and the Contractor to determine whether the provisions of this Agreement require formal modification.
- (B) The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State of Indiana, as set forth in Indiana Code § 4-2-6, Indiana Code § 4-2-7, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the website of the Indiana Inspector General at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the IEDC may, in its sole discretion, terminate this Agreement immediately upon notice to Contractor. In addition, the Contractor may be subject to penalties under Indiana Code § 4-2-6, Indiana Code § 4-2-7, Indiana Code § 35-44.1-1-4 and under any other applicable laws.
- (C) The Contractor certifies by entering into this Agreement that neither it nor its principal(s) is presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana or the IEDC. Further, the Contractor agrees that any payments in arrears and currently due to the State of Indiana or to the IEDC may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Agreement suspended until the Contractor is current in its payments and has submitted proof of such payment to the IEDC.
- (D) The Contractor warrants that it has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana, or pending, and agrees that it will immediately notify the IEDC of any such actions. During the term of such actions, the Contractor agrees that the IEDC may delay, withhold, or deny work under any supplement, amendment, change order, or other contractual device issued pursuant to this Agreement.
- (E) If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the IEDC or the State of Indiana or its agencies, and the IEDC decides to delay, withhold, or deny work to Contractor, Contractor may request that it be allowed to continue, or receive work, without delay.
- (F) Any payments that the IEDC may delay, withhold, deny, or apply under this Paragraph 13 shall not be subject to penalty or interest under Indiana Code § 5-17-5.
- (G) The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations applicable in connection with the services provided under this Agreement. Failure to do so is a material breach of this Agreement and grounds for immediate termination of this Agreement and denial of further

work with the IEDC. The IEDC shall not be required to reimburse the Contractor for any services performed when Contractor or its employees or subcontractors were not or are not in compliance with such applicable standards, laws, rules or regulations. If licensure, certification or accreditation expires or is revoked, Contractor shall notify the IEDC immediately, and the IEDC, at its option, may immediately terminate this Agreement.

- (H) The Contractor affirms that, if it is an entity described in Title 23 of the Indiana Code, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

14. COMPLIANCE WITH TELEPHONE SOLICITATIONS ACT.

As required by Indiana Code § 5-22-3-7:

- (A) The Contractor and any principals of the Contractor certify that:
- (1) The Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (a) Indiana Code § 24-4.7 [Telephone Solicitation of Consumers];
 - (b) Indiana Code § 24-5-12 [Telephone Solicitations]; or
 - (c) Indiana Code § 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if Indiana Code § 24-4.7 is preempted by federal law; and
 - (2) The Contractor will not violate the terms of Indiana Code § 24-4.7 for the duration of this Agreement, even if Indiana Code § 24-4.7 is preempted by federal law.
- (B) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor:
- (1) Except for de minimis and nonsystematic violations, has not violated the terms of Indiana Code § 24-4.7 in the previous three hundred sixty-five (365) days, even if Indiana Code § 24-4.7 is preempted by federal law; and
 - (2) Will not violate the terms of Indiana Code § 24-4.7 for the duration of this Agreement, even if Indiana Code § 24-4.7 is preempted by federal law.

15. DRUG-FREE WORKPLACE CERTIFICATION.

As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the IEDC within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of

Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Agreement and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Agreement is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

- (A) Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- (B) Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- (C) Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- (D) Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- (E) Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- (F) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

16. NONDISCRIMINATION.

Pursuant to Indiana Code § 22-9-1-10 and the Civil Rights Act of 1964, the Age Discrimination in Employment Act and the Americans with Disabilities Act, the Contractor and its subcontractors, if any, shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions, or privileges of employment or any

matter directly or indirectly related to employment, because of the employee or applicant's race, color, religion, sex, age disability, national origin or ancestry or status as a veteran, or any other characteristic protected by federal, state, or local law. Breach of this covenant may be regarded as a material breach of this Agreement. Acceptance of this Agreement also signifies compliance with applicable federal and state laws and regulations prohibiting the aforementioned discrimination in the provision of services.

17. [Reserved.]

[Reserved.]

18. KEY PERSONS & BACKGROUND CHECKS.

(A) KEY PERSON(S):

(1) This Agreement will be performed under the direction of Tim Craft (the "**Principal**"). In the event the Principal is unable or unwilling to continue providing the services under this Agreement, the IEDC may suspend or terminate this Agreement.

(2) Nothing in this Paragraph 18 shall be construed to prevent the Contractor from using the services of others to perform its duties as defined in Paragraph 1 of this Agreement, as well as any services ancillary to those duties, including secretarial, clerical, and common labor duties. The Contractor shall, at all times, remain responsible for the performance of all necessary duties, whether performed by the Principal, employees, subcontractors, or others.

(C) BACKGROUND CHECKS:

The Key Person(s) understand(s) that it may be necessary for the IEDC to conduct an investigation of the Contractor's background, which investigation may be comprehensive. If the IEDC determines it is in the best interest of the IEDC to conduct a background check, the Contractor agrees to, at the IEDC's request, provide any necessary information and authorization to conduct the applicable background check(s). The Contractor agrees that the IEDC may conduct such checks at any time during the term of this Agreement. The Contractor agrees it shall release the IEDC from any liability in connection with conducting the background checks. If the IEDC, in its sole discretion, is dissatisfied with the results of the background check(s), the IEDC may terminate this Agreement.

19. INDEMNIFICATION.

The Contractor shall indemnify, defend, and hold harmless the IEDC and the State of Indiana and their respective agents, officers, employees and representatives from all third party claims and suits for loss or damage to property, including the loss of use thereof, and injuries to or death of

persons, including without limitation any officers, agents, employees, and representatives of the Contractor or its subcontractor(s), and from all judgments recovered there from and for expenses in defending any such claims or suits, including court costs, attorneys' fees, and for any other expenses caused by an act or omission of the Contractor and/or subcontractor(s), agents, officers, or employees in connection with performance of this Agreement. The IEDC shall not provide such indemnification to Contractor.

20. DEBARMENT & SUSPENSION.

- (A) The Contractor certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency, branch of government, or by any department, agency, or political subdivision of the State of Indiana. The term "principal" for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management of supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.
- (B) The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Agreement and shall be solely responsible for any recoupment, penalties, or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the IEDC if any subcontractor becomes debarred or suspended, and shall, at the IEDC's request, take all steps required by the IEDC to terminate its contractual relationship with the subcontractor for work to be performed under this Agreement.

21. ATTORNEYS' FEES & INTEREST.

The IEDC will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, attorneys' fees, court costs, or litigation expenses, except as required by Indiana law, in part, Indiana Code § 5-17-5, Indiana Code § 34-54-8, Indiana Code § 34-13-1, and Indiana Code § 34-52-2-3. Notwithstanding the provisions contained in Indiana Code § 5-17-5, the parties stipulate and agree that any liability resulting from the IEDC's failure to make prompt payment shall be based solely on the amount of funding originating from the State of Indiana and shall not be based on funding from federal or other sources.

22. MISCELLANEOUS.

- (A) No right conferred on either party under this Agreement shall be deemed waived and no breach of this Agreement excused, unless such waiver or excuse is in writing and signed by the party claimed to have waived such right. Neither the IEDC's review, approval, or acceptance of, nor payment for the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the Contractor shall be and remain liable to the IEDC in accordance with applicable law for all damages to the IEDC

caused by the Contractor's negligent performance of any of the services furnished under this Agreement.

- (B) This Agreement constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Agreement will be valid provisions of this Agreement. This Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by all necessary parties.
- (C) This Agreement may be executed through an original or electronically, and in duplicates or through counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same Agreement.
- (D) Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property arising out of the acts or omissions of the agents, employees or subcontractors of the other party.
- (E) Nothing in this Agreement shall be construed to confer any rights or remedies on any third party not a signatory to this Agreement, including, the employees or sub-contractors of the Contractor.
- (F) If the IEDC determines that it would be in the IEDC's best interest to hire an employee of the Contractor, the Contractor will release the selected employee from any non-compete agreements that may be in effect. This release will be at no cost to the IEDC or to the employee.
- (G) The IEDC is exempt from state, federal, and local taxes. The IEDC will not be responsible for any taxes levied on the Contractor as a result of this Agreement.
- (H) This Agreement was reviewed and/or revised by legal counsel for the IEDC and the Contractor, and no presumption or rule that ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this Agreement.

23. [Reserved.]

[Reserved.]

24. AUTHORITY TO BIND CONTRACTOR.

Notwithstanding anything in this Agreement to the contrary, the signatory for the Contractor represents that he/she has been duly authorized to execute contracts on behalf of the Contractor

and has obtained all necessary or applicable approvals from the home office of the Contractor to make this Agreement fully binding upon the Contractor when his/her signature is affixed and is not subject to home office acceptance hereto when accepted by the IEDC.

25. INFORMATION TECHNOLOGY ACCESSIBILITY STANDARDS.

If the Contractor provides any information technology-related products or services to the IEDC, the Contractor shall comply with all Indiana Office of Technology (IOT) standards, policies, and guidelines, which are available online at <http://iot.in.gov/architecture/>. The Contractor specifically agrees that all hardware, software, and services provided to or purchased by the IEDC shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d) and Indiana Code § 4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The IEDC may terminate this Agreement for default if the Contractor fails to cure a breach of this provision within a reasonable time.

26. [Reserved.]

[Reserved.]

27. ORDER OF PRECEDENCE; INCORPORATION BY REFERENCE.

Any inconsistency or ambiguity in this Agreement shall be resolved by giving precedence in the following order: (1) this Agreement; (2) the Form Contract and its Exhibits; and (3) Exhibit 1.

28. NON-COLLUSION & ACCEPTANCE.

The undersigned attests, subject to the penalties for perjury, that the undersigned is the properly authorized representative, agent, member, or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent, or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face hereof.

Signatures on Following Page -- Remainder of Page Intentionally Left Blank

In Witness Whereof, the Contractor and the IEDC have, through duly authorized representatives, entered into this Agreement. The parties, having read and understand the foregoing terms of this Agreement, do by their respective signatures dated below hereby agree to the terms thereof.

On Target Health LLC

Todd Foushee

Signature

Todd Foushee, CHIEF BUSINESS OFFICER

Printed Name and Position/Title

Date:

10/21/16

INDIANA ECONOMIC DEVELOPMENT CORPORATION

Victor P. Smith, Secretary of Commerce

(Digital Signature Stamp Below)

STATE BUDGET AGENCY

Brian E. Bailey
Director

Date:

In Witness Whereof, the Contractor and the IEDC have, through duly authorized representatives, entered into this Agreement. The parties, having read and understand the foregoing terms of this Agreement, do by their respective signatures dated below hereby agree to the terms thereof.

On Target Health LLC

Signature

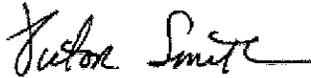
Printed Name and Position/Title

Date: _____

INDIANA ECONOMIC DEVELOPMENT CORPORATION

Victor P. Smith, Secretary of Commerce

(Digital Signature Stamp Below)



Digitally signed by Victor P. Smith
DN: cn=Victor P. Smith,
o=Secretary of Commerce,
ou=IEDC,
email=vsmith@iedc.in.gov, c=US
Date: 2016.10.20 14:22:27 -04'00'

STATE BUDGET AGENCY

Brian E. Bailey (for)

Brian E. Bailey
Director

Date: 10/26/16

SERVICES AGREEMENT

THIS AGREEMENT is made effective and entered into on this 14th day of October 2016 (the "Effective Date") by and between the Indiana Economic Development Corporation ("Company"), and On Target Health, LLC, an Indiana limited liability company ("On Target Health").

WITNESSETH:

Whereas, On Target Health offers an innovative and proven set of services designed to improve workforce health and, as part of those services, employs non-practitioner obesity management coaches ("Coaches");

Whereas, it is the desire of Company and On Target Health to contract for Coaches to provide obesity management services to Company's employees; and,

Whereas, On Target Health and Company hope that this limited engagement will return desirable workforce health improvements and lead to additional opportunities in the future to improve the health of the State's workforce.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows.

1. Recitals Approved. The above recitals are true and correct and are made a part hereof.

2. Services Provided.

- a. On Target Health shall provide qualified Coaches to render obesity management services to Company's employees (the "Employees") at the locations set forth on Exhibit A (the "Facilities"), incorporated herein in the manner provided in the Plan of Services (as defined herein).
- b. All persons that are provided services by Coaches pursuant to the terms hereof are Employees of the Company. Employees of the State of Indiana may also be invited to participate by the Company.
- c. On Target Health and its Coaches shall coordinate and communicate with (i) the Company regarding the Plan of Services; and (ii) the Employee's healthcare providers provided such communication is requested or approved by the Employee or otherwise allowed under the Privacy Laws (as defined herein). On Target Health and Company acknowledge and agree that the implementation of the obesity management program per the Plan of Services is the responsibility of On Target Health and that such implementation is based upon the independent

judgment of On Target Health and its Coaches. All coaching sessions shall be scheduled in compliance with the Plan of Services.

3. Facilities/Area.

- a. Services shall be provided at the Facilities or any other locations as agreed to by both parties. On Target Health shall (i) notify Company in advance of the space needed by On Target Health to implement the Plan of Services for all new Facilities or facilities where On Target Health begins to provide services to Company's Employees after the date of this Agreement; and (ii) coordinate with Company as to any needs for additional space or changes to the space being used by On Target Health. Furthermore, the Company and On Target Health shall mutually agree to the location of the BodPod to ensure the patient's expectation regarding their privacy and experience is realized or On Target Health, in its sole discretion, may offer the Company the use of a mobile/offsite BodPod. Any costs associated to establish or modify proper facilities are the responsibility of the Company; however, no such costs shall be incurred without the prior written consent of the Company.
- b. The Company and On Target Health acknowledge and agree that if agreed to on Exhibit C (i) the Company may allow Employees of another employer to access Company's Facilities; or, (ii) the Employees of the Company may access another employer's facilities to obtain access to the Plan of Services.

4. Compensation.

- a. The Company shall pay On Target Health the sum set forth on Exhibit B pursuant to the payments terms also set forth on Exhibit B for the services rendered to Company and its Employees or their eligible dependents (the "Purchase Price").
- b. The Company shall further pay to On Target Health (i) any additional charges or expenses that are outside of the Plan of Services as set forth in this Agreement; and (ii) any costs of equipment that are not otherwise included in the Purchase Price as set forth in this Agreement.

5. Plan of Services. On Target Health shall provide the following services to the Company and its Employees (collectively, the "Plan of Services"):

- a. Consult with Company's Employees upon authorization or recommendation of a medical provider or Employee self-selection.
- b. Conduct one BodPod body composition screening on up to the number of Employees set forth on Exhibit A with the goal being to attract eligible Company

Employees for one body composition screening per employee prior to the end of the Term.

- c. Conduct six (6) education sessions over a 2-week period discussing body composition and the opportunity for a 16 week obesity management program for those Employees that had the initial body composition testing as set forth in Section 5(b).
- d. Conduct the application and selection process for the 16 week program, which selection of Employees for participation in the program shall be in the sole discretion of the On Target Health selection committee.
- e. Implement 16-week obesity management system utilizing indirect calorimetry, body composition testing and group coaching sessions. The 16-Week Obesity Management Program for the Employees selected as a subgroup of the original body composition screenings shall not exceed the number of Employees set forth on Exhibit A and will be conducted as follows:
 - i. One Metabolism Screening by method of indirect calorimetry at beginning, middle, and end of program.
 - ii. Bi-Weekly body composition screenings by method of BodPod, followed by 15 minute one on one consult with the obesity management coach, commencing in Week 1 and throughout remainder of program.
 - iii. Bi-Weekly Group Coaching Sessions, alternating with Bi-Weekly body composition screenings, commencing in Week 2 and throughout remainder of program.
 - iv. Aggregate reporting for Company review provided during the middle and end of the 16 Week Program.
- f. Provide the services during the determined hours of operation and days of coverage set by Company and approved by On Target Health, which shall be scheduled to coincide with the dates and times that the Company is open and also not to exceed the average onsite hours set forth on Exhibit A.
- g. Aid in marketing and communication of the Obesity Management Program to Employees; provided however, that all such marketing and communications to the Company's Employees shall be subject to the prior written approval of the Company.
- h. Should Company decide to exceed the number of allowable screenings in Section 5(b) and as set forth on Exhibit A or the number of selected Employees in Section 5(c) and as set forth in Exhibit A, then it may do so by paying to On Target Health the additional payment for each additional Employee as set forth on Exhibit B.

- i. If so decided by the Company, On Target Health may collect an Employee contribution from each of the Employees accepted into the 16-week program. On Target Health will retain those funds throughout the 16-week program and return them directly to each participating Employee provided the participating Employee meets the following accountability standards:
 - i. Employee attends 11 out of 12 body composition accountability sessions within the times sessions that are offered.
 - ii. Employee does not go longer than 3 weeks (21 days) without attending the body composition accountability sessions.
 - iii. Employee attends 11 out of 12 “Group Meetings”.
 - iv. If Employee fails to meet the above accountability standards throughout the duration of the 16-week program, then their contribution, if applicable, will be kept by On Target Health and credited to any balance due and owing by the Company.

- j. All Employees that participate in the 16-week program must obtain laboratory draws per the Participant Agreement (as defined herein) and are encouraged to obtain a physician office visit. On Target Health may utilize information from physician office visits and/or laboratory draws at the beginning, middle and end of each of program, for the purposes of analyzing return on investment. The Company acknowledges and agrees that it, its Employees or its Employee’s medical professionals may submit any necessary billing or invoicing for such laboratory draws or office visits to the applicable payer.

6. Professional Standards.

- a. On Target Health certifies that Coaches provided under this Agreement shall perform their work in accordance with law, professionally and ethically. When at the Company Facilities, On Target Health and Coaches shall conform to all applicable Company policies issued to On Target Health in writing including, but not limited to, Company safety precautions and policies adopted by Company to protect the health and welfare of its Employees.

- b. The Company acknowledges and agrees that On Target Health is not providing any type of medical services or medical advice to the Employees. The Company further acknowledges and agrees that On Target Health does not hire or utilize licensed medical professionals in performing the Plan of Services. On Target Health’s Plan of Services are intended to be utilized by Employee in conjunction with the Employee being cared for by their primary care physician or specialist physician, as applicable, and not as a substitute for any type of medical services or medical decisions.

- c. On Target Health reserves the right to decline any request for service under this Agreement with appropriate cause (e.g., unsafe area to provide service).

7. Progress Notes and Reporting.

- a. On Target Health and Coaches shall maintain detailed, accurate, and timely records and reports on the progress of any Employee taking part in 16-week obesity management program, which may include notes of the consultation, indirect calorimetry readings and calorie recommendations, body composition readings, and coaching sessions
- b. To the extent allowed under any federal and state privacy laws (the "Privacy Laws"), On Target Health shall provide the Company with the following records on or before the 10th day of each month for the prior calendar month:
 - i. Participation levels (i.e., number of BodPod sessions, educational sessions, and applicants seeking to participate in the 16-week program);
 - ii. Program compliance (i.e., Employee attendance at BodPod sessions;
 - iii. Progress (i.e., number of fat pounds lost-to-date during the 16-week program);
 - iv. The aggregate improvement of wellbeing for Employees participating in the program (i.e., medical statistics that On Target Health may gather from Employee's physicians or other contractor such as changes in Employee's medications, biometric changes in blood pressure and pulse rates, and other relevant lab/test results); and
 - v. Photographic images of Employees who consent to before-and-after photographs being taken as a form of measuring their success.
- c. On Target Health shall not release any records kept or maintained as required by this Agreement to anyone other than the Company unless in compliance with the Privacy Laws, this Agreement and the Business Associate Agreement.

8. Insurance.

- a. General Liability Insurance. On Target Health shall maintain, at its sole costs and expense, general liability insurance with limits of no less than \$1,000,000.00 for any one accident or occurrence and \$2,000,000 protecting against any claim for bodily injury or property damage.
- b. Professional Liability Insurance. On Target Health shall maintain professional liability insurance coverage for the Coaches of \$1,000,000 per occurrence and \$2,000,000 annual aggregate covering the professional services of the Coaches during the Term of this Agreement. On Target Health hereby agrees that such

insurance must provide that it will not be terminated without thirty (30) days prior written notice to Company.

- c. Worker's Compensation. On Target Health and the Company shall procure and maintain in full force and effect worker's compensation insurance in any amounts required to comply with applicable laws.
 - d. Personal Property Insurance. Company will, at its sole cost and expense, insure or obtain insurance for the personal property owned by the Company, including the BodPod, fixtures, equipment and supplies for the full insurable replacement value of such fixtures, equipment and supplies.
 - e. Proof of Insurance. On Target Health will furnish to the Company Certificates of Insurance for all policies required under this Section upon request. On Target Health shall further name the Company as an additional insured on such policies.
 - f. Self-Insured Status of Company. The Company hereby represents to On Target Health that it is self-insured.
- 9. Equipment and Supplies.** Unless otherwise agreed to in writing by the parties, (i) the Purchase Price includes all supplies and equipment required to conduct the services as set forth on Exhibit B; and (ii) On Target Health shall provide all equipment necessary to provide the services under this Agreement. Any arrangement for the Company to purchase equipment, such as a BodPod, from On Target Health shall be pursuant to a separate agreement. At the Company's sole expense, the Company shall be responsible for maintaining and replacing any equipment owned by the Company including, but not limited to the BodPod. At the Company's sole expense, the Company shall also be responsible for maintenance and or replacement of any equipment that is damaged by the Company or its employees or agents, regardless of if such equipment is owned by the Company. Any such maintenance that the Company is required to perform or have performed, must be conducted promptly in order to minimize any interruption to On Target Health's ability to render services.

10. Term of Agreement and Termination.

- a. The term of this Agreement shall be as set forth on Exhibit B (the "Term").
- b. In the event either party materially breaches any term or fails to fulfill any obligation under this Agreement, the non-breaching party shall, as a condition of any right to terminate this Agreement, give written notice to the breaching party of any breach of which the nonbreaching party becomes aware. If the breaching party fails to correct the breach within thirty (30) days after receiving the written notice or, if the breach cannot reasonably be corrected within such thirty (30) day period, fails to initiate corrective action within such period and diligently

complete correction thereafter, then the nonbreaching party shall be entitled to terminate this Agreement

- c. Notwithstanding the foregoing, should the deficiency be related to the breaching party's commission of physical abuse, endangerment to persons, or violation of the law other than a misdemeanor not relevant to performance of this Agreement (e.g., a Coach's receipt of a ticket for a traffic speeding violation), the other party may immediately terminate the further provision of services that may be owed under this Agreement.
- d. In the event of any termination under this Section 10, the parties agree to mediate any disputes including, but not limited to, those related to compensation under the Indiana Rules for Alternative Dispute Resolution within sixty (60) days of the alleged termination date, with mediation costs to be paid 50% by each party, before either party may bring legal action seeking damages or other relief for alleged improper termination of this Agreement or damages owed for such termination.

11. Status and Relationship of Parties. The parties hereto are not, nor shall they become by virtue of this Agreement or any actions taken pursuant thereto, joint venturers, partners or agents of one or the other so as to permit a party to bind the other party to any agreement, warranty, or representation beyond those specifically authorized herein. On Target Health and the Company have contracted on an independent contractor basis for the provision of the services hereunder. The Company shall neither have nor exercise any control or direction over the methods by which the On Target Health or its Coaches shall perform their work and functions. Neither party is or shall be responsible for any FICA, FUTA, or income or state withholding taxes under any provision of the Internal Revenue Code of 1986 as amended from time to time, for the other party or its employees, and each party hereto agrees to be responsible for any such taxes resulting from income derived by it or its employees by reason of this Agreement.

12. Confidentiality and Intellectual Property.

- a. Confidentiality. On Target Health and Company shall maintain the confidentiality of all information, knowledge, or data of whatsoever kind or nature, whether provided in written, electric, oral or other form, not generally available to the public or which is marked as confidential which they acquired or which was made available to them while providing or receiving services under this Agreement, including, but not limited to, any information relating to either party. Neither party shall, except for the other party's use or in order to carry out the services under this Agreement or disclosure to their attorneys or accountants on a need to basis only, copy, duplicate, publish, disclose or transcribe any of the other party's documents or objects, whether written,

electronic, oral or in other form, or remove them from the other party's offices or facilities, nor use any information concerning them except in order to carry out the services and obligations under this Agreement. Except as required by law, both parties further agree that they will deliver all of the aforementioned documents and objects that may be in their possession to the other party upon termination of this Agreement or at any time upon the other party's request.

- b. Intellectual Property of On Target Health. The Company acknowledges and agrees that the On Target Health is using a patented methodology as well as other proprietary information, methodologies, document templates, project tools, intellectual property, materials, ideas, data and trade secrets (collectively, "On Target Health IP") to provide the services, including the Plan of Services. The Company acknowledges and agrees that the Company has no license and is not granted a license by virtue of this Agreement to utilize, publish or distribute such On Target Health IP nor does the Company have any other rights, ownership or otherwise, in the On Target Health IP. Notwithstanding the foregoing, On Target Health acknowledges and agrees that any reports or progress notes provided to the Company pursuant to Section 5(k) and 7 shall be owned by the Company.
- c. Trademarks. On Target Health and Company may not use any logo or trademark of the other party, whether or not such mark(s) are registered, without prior written approval from the other party. This includes use on printed materials of any kind as well as electronic mediums such as internet web pages or email.

13. Covenants.

- a. Employee Prescription and Claims Data. The Company agrees to release employee prescription and claims data to On Target Health to the minimal extent necessary to permit On Target Health to perform its services under this Agreement. Nothing in this Agreement precludes an Employee who is participating in the services offered under this Agreement from voluntarily releasing or disclosing his/her own medical or other information to On Target Health.
- b. Employee Participant Agreement. The Company acknowledges that On Target Health, at its discretion, may request as a condition of participation in the On Target Health Program that all participating Employees sign a Participant Agreement.
- c. Taxes. On Target Health recognizes that Company is State Sales Tax exempt and Federal Excise Tax exempt. As such, On Target Health shall be responsible for all

taxes. Upon request, Company shall timely furnish On Target Health with any necessary documentation showing its exemption from such taxes.

- d. Non-Solicitation by Company. During the Term of this Agreement, and for a period of one (1) year thereafter, or such lesser time as may be found reasonable by a court of competent jurisdiction, Company shall not, without the express written consent from On Target Health, directly or indirectly, employ, contract with, or enter into any arrangement with any current or former Coach or employee of On Target Health, who on behalf of On Target Health provided services for the Company under this Agreement for the purpose of having that Coach or employee provide the same or similar services for Company that the Coach or employee performed on behalf of On Target Health. On Target Health may also pursue any legal or equitable relief available in the event of a breach of this provision.
- e. Compliance with Laws. On Target Health and Company shall comply with all applicable federal, state, local and foreign laws, rules and regulations.

14. Limitation of Liability. IN NO EVENT SHALL ANY PARTY TO THIS AGREEMENT OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR SUBCONTRACTORS BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR LOST PROFITS, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL DAMAGES OR THE LIKE. THE PARTIES EXCLUDE ALL SUCH DAMAGES REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER EITHER PARTY OR ANY ENTITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Notwithstanding the foregoing, this Section shall not apply to damages arising under Section 13 or 14(d).

15. Release and Waiver. Except for those claims arising from the gross negligence or intentional misconduct of On Target Health, the Company shall and does hereby RELEASE, HOLD HARMLESS and FOREVER DISCHARGE, On Target Health and their past and present owners, officers, directors, employees, representatives, Coaches, successors and assigns (collectively, the "Releases") from any claim, demand or cause of action related to or arising from personal injury, medical complications, allergic reactions, death or failure to achieve any of the desired health benefits or weight loss goals of its Employees or their dependents.

16. Governing Law. This Agreement in all respects shall be interpreted and construed in accordance with and governed by the laws of the State of Indiana.

Dispute Resolution. Any and all disputes arising from, out of or in connection with this Agreement or the performance of any obligation under this Agreement shall be resolved in a non-jury proceeding. Accordingly, the parties hereby waive any right to request a trial by jury.

17. [RESERVED.]

18. Notices. Any notices required or permitted hereunder shall be sufficiently given in writing and hand-delivered or if sent by registered or certified mail, postage prepaid, addressed or delivered as follows:

On Target Health: On Target Health, LLC
5865 E 71st Street
Suite E 302
Indianapolis, IN 46220

With a copy to: Krieg DeVault LLP
One Indiana Square
Suite 2800
Indianapolis, IN 46204-2079

Company: Indiana Economic Development Corporation
Attn: General Counsel
1 N Capital Avenue #700
Indianapolis, IN 46204

Or to such other addresses as shall be furnished in writing by either party; and any such notice shall be deemed to have been given, if hand-delivered, as of the date of delivery, or if mailed as provided herein, as of day three (3) after the date mailed.

19. No Waiver. No failure or delay of a party to detect, protest, remedy, or enforce its rights due to a breach of any of its rights under this Agreement shall be deemed a waiver of any of the aggrieved party's rights. Any waiver of rights shall only occur by a written document specifying the specific right waived and the specific circumstance covered by the waiver, and shall be signed by an authorized representative of the party granting the waiver.

20. Force Majeure. On Target Health shall not be responsible for failure or delay in providing services to Company if the failure or delay is due to labor disputes and strikes, fire, riot, war, acts of God or any other causes beyond the control of On Target Health.

21. Construction. This Agreement contains the entire understanding and agreement between the parties and supersedes any and all prior understanding(s), agreement(s), representation(s), and other communication(s) between the parties concerning the subject matter hereof, whether written or oral.

- 22. Assignment.** On Target Health shall not assign this Agreement or any of its rights or responsibilities hereunder; provided, however, that this Agreement may be assigned by On Target Health to another entity in connection with a reorganization, merger, consolidation, acquisition or other restructuring involving all or substantially all of the voting securities, units or assets of On Target Health, in which case the On Target Health shall send written notice of such assignment to the Company promptly thereafter.
- 23. Section Headings.** The use of headings to the provisions of this Agreement are for convenience and reference only and shall not, expressly or by implication, be deemed to modify, limit, define, extend or construe the terms or provisions of the sections of this Agreement.
- 24. Severability.** If any of the terms of this Agreement are held by a court of competent jurisdiction to be null, void or inoperative for any reason, or if any provision or term of this Agreement is in violation of any applicable federal, state or local law, guideline, rule or regulation, all such provisions are severable and the remaining provisions shall retain full force and effect. In any interpretation of this Agreement, there shall be no presumption(s) against the party drafting this Agreement.
- 25. Binding Effect.** Except as otherwise provided for herein, this Agreement shall be binding upon and inure to the benefit of the undersigned parties and their respective successors and assigns.

[signature lines on following page]

IN WITNESS WHEREOF, the parties hereto have set forth their signatures on this Services Agreement the day and year written below.

On Target Health, LLC (“On Target Health”)

By: _____

Title: _____

Date: _____

Indiana Economic Development Corporation (“Company”)

By: _____

Title: _____

Date: _____

Exhibit A
Locations and Hours

1. **Company Locations:** On Target Health shall provide the Plan of Services at the following location(s):
 - a. One America Square

2. **Hours:** On Target Health shall provide the Plan of Services according to the following schedule:
 - a. 4.5 hours weekly scheduled for metabolism and BodPod screenings;
 - b. 4.5 hours weekly scheduled for Employee Group Meetings and meetings between On Target Health and the Company PER SITE;
 - c. As the parties may otherwise agree in writing to ensure that all Employees are fully served by the services to be provided under this Agreement; and,

3. **Maximum Participants:**
 - a. Maximum number of Employees for BodPod body composition screening: 50 average per site.
 - b. Maximum number of Employees that can participate in 16-Week Obesity Management Program: 15

Exhibit B
Term and Purchase Price

1. **Term:** The Term of this Agreement shall commence on the Effective Date and continue for a period of 6 months.
2. **Purchase Price:** The Company shall pay the following Purchase Price exclusive of certain equipment and additional services as set forth in the Agreement: \$24,930.

The Purchase Price shall include:

- a. The initial investment of \$ which includes the staff training, BodPod clothing, equipment, and netbooks.
 - b. The cost for the 16 week obesity management program, including employee meetings, HRA BodPods, results delivery sessions, application review and invitations, and all services detailed in the Plan of Services.
3. **Payment Terms:** The Purchase Price for the Term shall be paid as follows:

In monthly installments commencing on October 5, 2016 and as follows: **Payment by ACH required before services are provided.**

NOTE: the following does not include charges for lab services (lipid panel and A1Cs) required at the beginning, middle and end of the 16 week program.

<u>[Month Date, Year:</u>	
November 4, 2016	\$13,960.80
December 4, 2016	\$ 3,739.50
January 4, 2017	\$ 2,409.90
February 4, 2017	\$ 2,409.90
March 4, 2017	\$ 2,409.90
Total	\$24,930.00

4. **Additional Services Not Included in Purchase Price:**
 - a. Cost of additional BodPod screenings: \$25
 - b. Cost of additional Employee participants in 16 week obesity management program: \$1,662

Exhibit C**Sharing Company Facilities with Other Employers**

1. N/A The Company does not agree to allow another employer's employees access to the Company's facilities.
2. N/A The Company does agree to allow another employer's employees and or eligible dependents access to the Company's Facilities pursuant to the terms hereof:
 - a. The employer whose employees will be accessing the Company's facilities is referred to as the "Guest Employer".
 - b. On Target Health shall enter into a separate Services Agreement with the Guest Employer. Such Services Agreement shall contain the following:
 - i. The Guest Employer shall release and hold harmless the Company from any and all claims, liabilities or causes of action except for those caused by the Company's gross negligence or intentional acts.
 - ii. The Guest Employer acknowledges and agrees that the hours and days when On Target Health's services are available at the Company's Facilities for Guest Employer's employees will be mutually agreed to by Company and On Target Health.
 - iii. The Guest Employer shall abide by and shall cause its employees to abide by any policies and procedures applicable to the Company's Facilities.
 - c. On Target Health and the Company acknowledge and agree that any Guest Employer's employees that enter the Company's facilities are there only for the purpose of receiving services from On Target Health.
 - d. The Purchase Price and the payment terms between the Company and On Target Health and the Guest Employer and On Target Health are strictly between the respective parties and neither the Company nor the Guest Employer shall invoice or bill the other entity for any services, equipment or supplies.
3. X The Company agrees that its own employees may access other facilities of employers, which employers will be mutually agreed to by On Target Health and the Company. In this instance, the Company agrees to abide by all terms in Section 2 above that are also applicable to a Guest Employer.

n Target Health

An Obesity Management Solution for Employers

**Proposal to Indiana Economic
Development Corporation**



Executive Summary

On Target Health recognizes the Indiana Economic Development Corporation's (IEDC) desire to find new and proven ways to improve health outcomes while reducing the cost of their self-funded health program. On Target Health provides a targeted obesity intervention program that accomplishes both of these goals.

We know the IEDC recognizes how obesity impacts Hoosier workers. A program that works for the IEDC in treating obesity could be used statewide in population health management for the Hoosier workforce.

On Target Health is the only company in the country that provides a targeted obesity intervention program. We are an Indiana start-up that focuses on improving the health of employees and saving employers money on their self-funded health plan.

This document highlights the obesity problem in Indiana, On Target Health's methodology for addressing the problem, the business terms of engaging On Target Health, and how we objectively calculate your return on investment.

Uniqueness

From the beginning, On Target Health has stood apart from other programs because it is a targeted obesity intervention program that has weight loss from only fat tissue. To confirm these unique results, Ball State University conducted two independent review board studies in 2009 and 2011. After receiving this independent confirmation, On Target Health was awarded a patent on the methodology for the program's unique ability to target fat loss.

History and Background

On Target Health was founded in 2006 by Beth Thompson, an Indiana native and graduate of the exercise science program at Indiana University.

Thompson worked as a paramedic for Wishard Ambulance and Operation Life for 10 years. During this time as paramedic, she became intimately familiar with the harmful health effects of obesity on the patients she served. She witnessed the effects of stress, poor sleep habits, and turning to food for comfort in many of the public servants in police and fire departments throughout the metro Indianapolis community.

Looking for a solution she combined technology with her experience in human performance labs in an innovative way. Over the course of several years, she developed the methodology to achieve 100% weight loss from pure fat.

The proprietary methodology has been studied twice by Ball State University, repeating the same outcome each time of 100% weight loss from fat. Prior to this methodology, only 75% of weight loss at most was expected to come from fat. This unique offering of pure fat loss directly, swiftly, and dramatically proved to reduce diabetes and cardiovascular disease.

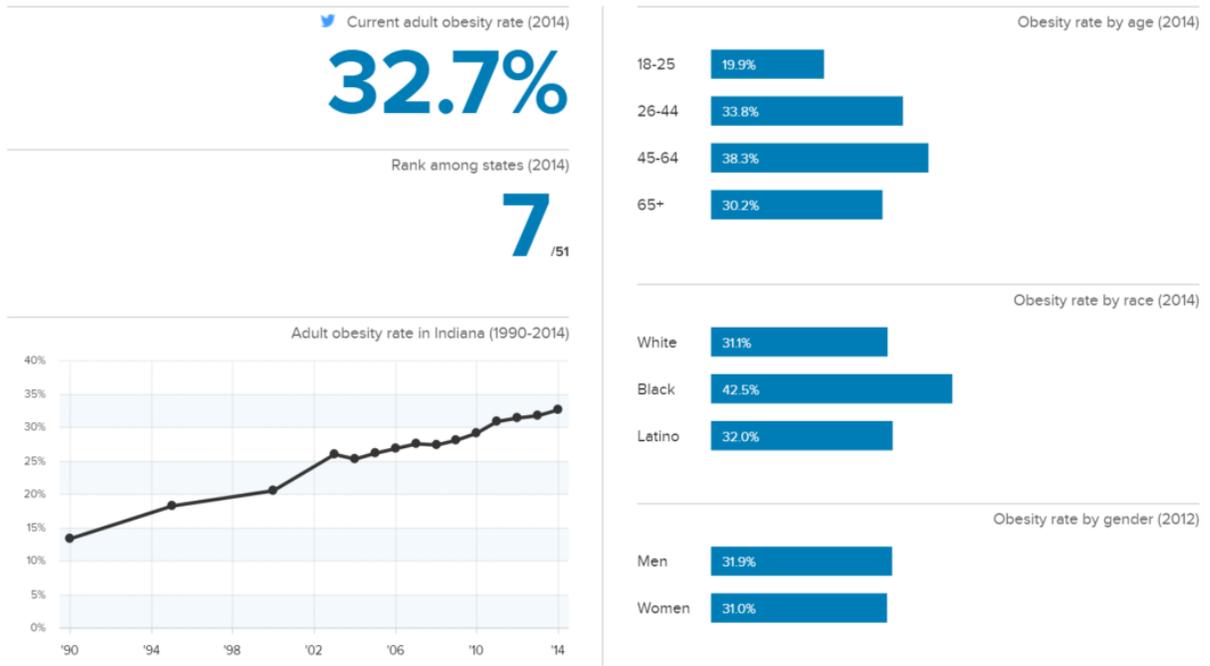
In the retail setting Ms. Thompson served thousands of Indiana residents in retail centers in the Indianapolis metro area from 2006 – 2013.

The methodology used to realize fat loss uses a unique approach combining technology, a series of algorithms, and behavioral coaching to generate unprecedented results in attacking pure fat. The results demonstrated individuals repeatedly reducing and eliminating medications.

The course curriculum introduces 12 behavioral goals. Each builds on the previous to contribute to healthy weight management.

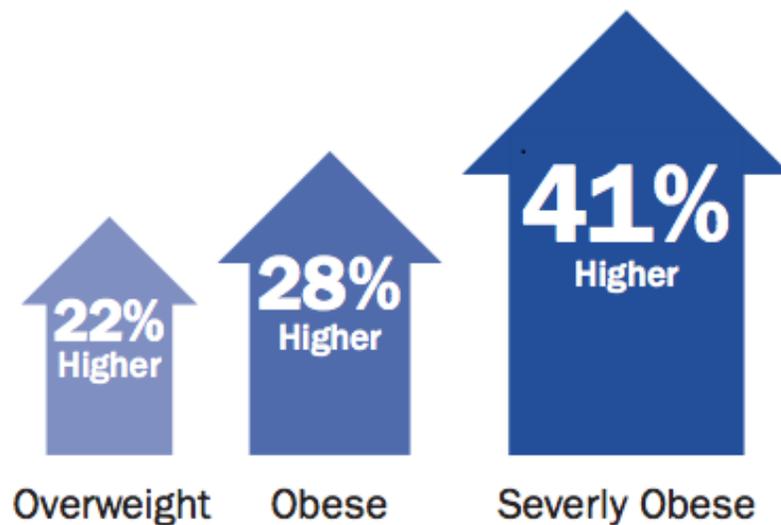
In 2013, Thompson, Todd Foushee and Jeff Fox formed a partnership and brought the patented methodology for obesity management to the employer space. Since that time, On Target Health has been serving primarily Indiana employers, as well as some in 3 other states (KY, OH and PA). The programs achieved repeatable, sustainable impacts on their employees' health and a dramatic reduction in healthcare expenses. Each company served has chosen to renew the program and its unique methodology to reach more and more of their employees and spouses. Testimonials are spreading rapidly from employer to employer, and On Target Health has positioned itself to scale and serve.

Obesity in Indiana



Source: Trust for America's Health and Robert Wood Johnson Foundation. The State of Obesity 2015 [PDF]. Washington, D.C.: 2015.

Difference in Emergency Room Costs for Patients Presenting With Chest Pains Compared with a Normal-weight Patient

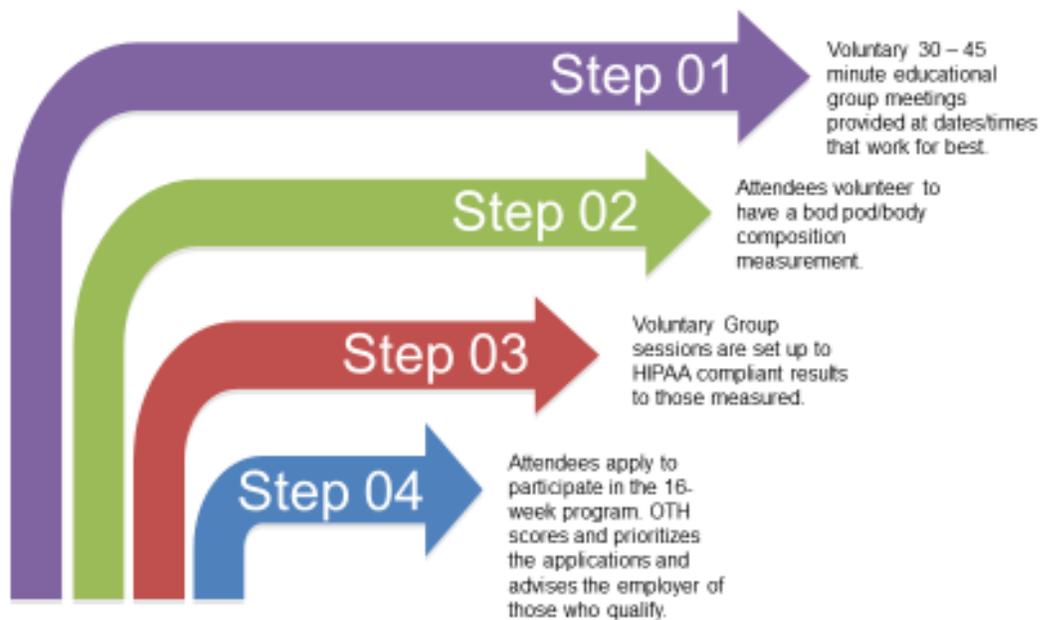


On Target Health's Methodology

Employee Orientation Process

The process begins with an invitation via e-blast, intraweb posting and or postal mailing to the targeted employees. They are invited to attend an orientation meeting to share and educate on the importance of knowing one's body composition and specific metabolism. The program also explains how losing the weight the wrong way can be detrimental to one's health.

- Step 1: attend a 45 minute educational session;
- Step 2: choose at the end of the of the session to have a body composition measurement;
- Step 3: attend a Results Session for 30 minutes to receive his/her HIPAA compliant results comparing current body composition to what is "normal"; and
- Step 4: apply to employer to participate in initial 16 week program



Scoring, Selection and Participation

During the application process outlined previously, the employee answers a series of questions that allow On Target Health (OTH) to assess, in a HIPAA compliant manner, each applicant's readiness to change and medical history. OTH scores each application using its proprietary software to identify and prioritize those who qualify for the program. The results are presented to the employer so a business decision can then be made regarding funding, beta test size, etc. Once decided, an invitation is sent to each applicant welcoming him/her to the program and advising of the schedule over the course of the 16-week period.

Qualified and selected participants are scheduled for weekly 30 minute sessions with a health coach. The initial meeting includes a second HRA Bod Pod measurement, metabolic reading (10-minute breathing exercise) and an individual health coaching session. Except for the metabolic reading, the Bod Pod testing and individual coaching session is repeated every other week during the 16-week program.

During weeks 2, 4, 6, 8, 10, 12 and 14 group behavioral health coaching sessions are provided. By design the program offers both individual and group sessions to facilitate the participant's learning. During the group meetings, a new behavioral goal is introduced to each participant. These include stress management, nutrition, exercise, sleep, etc., as each is attributable to fatty tissue gain or loss of wrong weight (lean mass) when not managed.



Typical Results

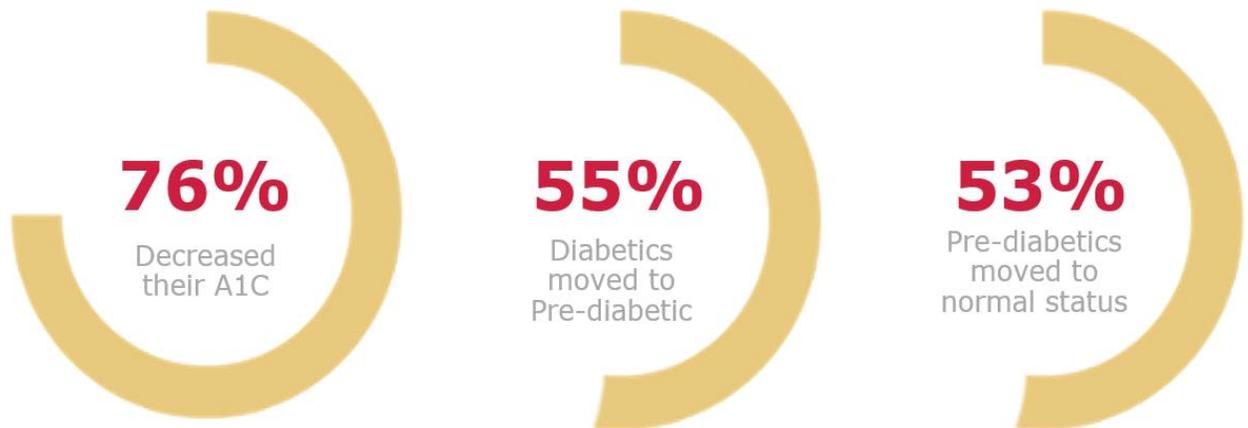
Participants in the On Target Health program are losing the right weight. Almost 100% of On Target Health weight loss comes from fat tissue in the body. As a result of the fat loss, inflammation is reduced in the body and there is dramatic improvement in health indicators. See the before and after lab metrics below.



	<u>Before</u>	<u>After</u>
Weight (lbs.)	232.4	188.9
Lean Mass	62.8%	78.2%
Fat	37.2%	21.8%
Total Cholesterol	214 abnormal	167 normal
HDL	39 abnormal	57 normal
LDL	141 abnormal	96 normal
Triglycerides	172 abnormal	70 normal
A1C	6 pre-diabetic	5.6 normal
Medicines	Blood Pressure Medicine	Eliminated

	<h2>BEFORE</h2>	<div style="background-color: #d4b800; color: white; text-align: center;"> <h2>AFTER</h2> </div>	
	<p>VITALS 216.7 lbs 43.4% body fat 203 total cholesterol 52 HDL cholesterol 126 LDL cholesterol 124 triglyceride 5.8 A1C</p>		<p>VITALS 158.5 lbs 32.9% body fat 186 total cholesterol 59 HDL cholesterol 112 LDL cholesterol 76 triglyceride 5.3 A1C</p>
	<p>DISEASE STATE Pre-diabetic</p> <p>MEDICATIONS High Cholesterol</p>		<p>DISEASE STATE Preventing Type II Diabetes</p> <p>MEDICATIONS Reduced dosage for high cholesterol</p>

Diabetes Results



Return on Investment

On average, the employers we service realize a 2.4:1 return on investment for every dollar spent with On Target Health.

Keeping the Weight Off

On average, 74% of On Target Health participants maintain their body composition or seen additional improvement a year after completing the program. This is four times better than the national average of traditional weight loss programs.

Business Terms

Number of Participants	15	30	45	60
Total Cost	\$24,930	\$49,807	\$62,583	\$75,359
Cost Per Participant Per Month (PPPM)	\$277	\$277	\$231	\$209

Total cost for the 16-Week Program is billed over a 6 month period (see pricing chart below for monthly invoice amounts). Pricing includes the following:

Month 1

Employee Orientation Meetings, Voluntary HRA Bod Pods, Body Composition Results Delivery Sessions & Applications Review and Invitations.

Months 2 – 5 (16 week program)

Qualified and selected participants are scheduled for weekly, 30 minute sessions with a health coach. The initial meeting includes a second HRA Bod Pod measurement, metabolic reading (10 minute breathing exercise) and a one on one health coaching session. Except for the metabolic reading, the testing and one on one coaching session is repeated every week during the 16 week program.

Every opposite week (weeks 2, 4, 6, 8, 10, 12 and 14) are group behavioral coaching sessions. During these meetings, a new behavioral goal is introduced to each participant such as stress management, nutrition, exercise, sleep, me time, etc., as each is attributable to fatty tissue gain or loss of wrong weight (lean mass) when not managed.

Note: prior to the 1st week of the program and again during approximately the 14th week of the program, the participant is required to have a lipid panel and A1C performed at the IEDC's Onsite Clinic or provider of choice. Results allow OTH to compare the lab results and report to the State in a HIPAA compliant manner on the lab improvements and Return on Investment.

The cost of the labs is not included in OTH's per participant per month pricing.

Month 6

Claims Payer, Pharmacy Benefits Manager, Onsite Clinic and biometrics data is collected and analyzed to prepare a health outcomes and return on investment report for management.

Location: Program will be administered at the Our Health Clinic in the One America Building (One American Square, Indianapolis, IN).

Guaranty – Provided the IEDC agrees with how we propose to calculate Return on Investment (see next section) or other mutually agreed upon metrics, we will guaranty a 1:1 Return on investment. For every dollar that the IEDC pays On Target Health for this program, they will see at least a dollar of savings per the calculations in the next section. Within 12 months of the completion of the program, allowing time for physicians to render care and for your third party administrators to process such claims, On Target Health will provide a detailed Return on

investment report. If the 1:1 savings are not seen, On Target Health will pay the IEDC the difference.

Payment Schedule

<u>Number of Participants</u> <u>Total Dues</u>	<u>15</u> \$24,930	<u>30</u> \$49,807	<u>45</u> \$62,583	<u>60</u> \$75,359
Month 1	\$6,980	\$13,946	\$17,523	\$21,101
Month 2	\$6,980	\$13,946	\$17,523	\$21,101
Month 3	\$3,740	\$7,471	\$9,388	\$11,304
Month 4	\$2,410	\$4,815	\$6,050	\$7,285
Month 5	\$2,410	\$4,815	\$6,050	\$7,285
Month 6	\$2,410	\$4,815	\$6,050	\$7,285

Data Analytics Vendor cost not included

ROI Method of Calculation

Approximately the 14th week of the program, we provide the employer with a detailed Return on Investment (ROI) report using the formulas outlined in the chart below.

ROI is realized by

- 1) reducing or eliminating a participant's need for medicine
- 2) improving their risk profile from Pre-diabetic to normal risk profiles for example
- 3) Increasing engagement at the State's onsite clinic
- 4) the predicted reduction of future costs through predictive modeling services provided by DataSmart.



Step 1 of 3: Application of Medication Reduction Savings

Each time labs are drawn, On Target Health receives a claims, encounter and pharmacy report from the IEDC's claim payer, pharmacy benefits manager and onsite clinic manager or self-reported by the participant if the above is unavailable. This data is used to assess any reductions or eliminations of medications as a result of the reduced risk factors.

At commencement of any project, and every year thereafter, On Target Health works with an appointee of the employer to obtain cost information per medicine. On Target Health then applies this savings to the ROI report as medications are reduced or eliminated.

Step 2 of 3: Cost Savings Chart

	Total Cholesterol	HDL	LDL	Triglycerides	Diabetic to Normal	Diabetic to PreDiabetic	PreDiabetic to Normal	Avoided Hospital Stay
Cost Reduction Per Month Formula					= \$6025 X 2.3 Then divide by 12 months	= \$7832.50 Then divide by 12 months	= \$6025 Then divide by 12 months	
Cost Avoidance Per Month Formula	= ½ of \$13,509 Then divide by 12 months	= ½ of \$13,509 Then divide by 12 months	= ½ of \$13,509 Then divide by 12 months	= ½ of \$13,509 Then divide by 12 months			= \$7832.50 Then divide by 12 months	If move 2 CVD Risk Factors + 1 Diabetic Factor = \$62,755 (One Time)

Sources for the above Cost Savings Factors*:

American Diabetes Association (2013) "Economic Impact of Diabetes":

Cost for Employees with Diabetes = \$13,857.50 Annually

Cost for Employees with Pre-Diabetes = \$6,025 Annually

American Journal of Managed Care (2010): "Medical Care Costs Among Patients with Established CVD":

Cost of Employee with 2 or more CVD indicating factors: \$13,509 Annually

Cost of Employee Hospital Stay due to CVD (calculated as 2 or more indicating factors + Diabetic) = \$62,755

*After an exhaustive search at university and medical libraries and online journals, reaching out to the Indiana Wellness Council and the American Diabetes Association, this is the most recent chronic diseases associated-cost data available. Every year On Target Health performs an exhaustive search for updated data, and uses such data for that year's subsequent ROI reports. The employer's checks and balances for ROI report provided by On Target Health is the actual claims data for the specific individuals in the program, noting that this claims data will trail by approximately 12 months.

Step 3 of 3: Application of Cost Savings

At the onset of the On Target Health program, baseline labs are drawn for the following CVD and diabetic risk factors: Total Cholesterol, HDL, LDL, Triglycerides, A1C

Periodically (every 8-12 weeks as dictated by the specific project), labs are redrawn to objectively assess any changes in chronic disease risk factors.

To assess objectively if any risk factor is reduced, On Target Health uses a nationally recognized lab vendor's (LabCorp) established values to define "normal":

LabCorp Standards:

Cholesterol Normal: <200

HDL Normal: >45

LDL Normal: <130

Triglycerides Normal: <150

A1C Normal: <5.7

A1C Pre-Diabetic: 5.7 – 6.4

A1C Diabetic: >6.4

Though many participants may have improved lab values in any or all categories, On Target Health only applies the associated Cost Savings Factor or Cost Reduction Factor when a participant officially moves a risk factor to normal.

Conclusion

On Target Health provides a unique and targeted intervention program to employers for members of their health plan. This program addresses the root cause of most chronic conditions attributing to 70+% of most employers' health spend. The Indiana Economic Development Corporation will see strong returns on an investment in On Target Health's program for its members. Additionally, they will uncover a solution for a problem that has been plaguing the Hoosier workforce; obesity. The program further engages members, reduces health costs, and also protects the investments the IEDC has already made in other wellness offerings.

We are confident you will consider this one of the most impactful programs the IEDC has offered its members. Our results are second to none.

Please direct all questions to:

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