

ORD 21-057

AN ORDINANCE TO AUTHORIZE AND APPROVE A MULTI-YEAR AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF WILMINGTON AND TELADOC HEALTH, INC. FOR TELEHEALTH SERVICES

#0114

Sponsor:

**Council
Member
Johnson**

WHEREAS, pursuant to Section 2-308 and Section 8-200 of the City Charter, the City of Wilmington is authorized to enter into contracts for the supply of personal property or the rendering of services for a period of more than one year if approved by City Council by ordinance; and

WHEREAS, on September 17, 2020, City Council passed Ordinance No. 20-041, which authorized the City to enter into an agreement (the "Agreement") with Teladoc Health, Inc. ("Teladoc") to purchase telehealth services for City employees and their dependents for a period of three (3) years from October 1, 2020 through September 30, 2023, at an estimated maximum price of Thirty-Two Thousand Dollars (\$32,000,00) per year, with the possibility of three (3) extensions of one (1) year thereafter at the same estimated maximum annual price; and

WHEREAS, the City subsequently entered into the Agreement; and

WHEREAS, the City would like to enter into an amendment to the Agreement to add mental health services to the Agreement (the "Amendment"), a copy of which, in substantial form, is attached hereto and incorporated by reference herein as Exhibit "A"; and

WHEREAS, the Amendment will take effect on January 1, 2022 and will apply for the remainder of the Agreement, i.e., through September 30, 2023, with the possibility of three (3) extensions of one (1) year thereafter; and

WHEREAS, the Amendment will cost a total estimated maximum price of One Hundred Fifteen Thousand Dollars (\$115,000.00) for the period from January 1, 2022 through

September 30, 2023, with the possibility of three (3) extensions of one (1) year thereafter, at an estimated maximum price of Sixty-Five Thousand Dollars (\$65,000.00) per year; and

WHEREAS, it is the recommendation of the Department of Human Resources that the City enter into the Amendment to the Agreement.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. The Amendment to the Agreement between the City of Wilmington and Teladoc Health, Inc., a copy of which Amendment, in substantial form, is attached hereto as Exhibit "A", for the period from January 1, 2022 through September 30, 2023 at a total estimated maximum price of One Hundred Fifteen Thousand Dollars (\$115,000.00), with the possibility of three (3) extensions of one (1) year thereafter at an estimated maximum price of Sixty-Five Thousand Dollars (\$65,000.00) per year, is hereby approved, and the Mayor, or his designee, is hereby authorized to execute as many copies of the Amendment, as well as to take all additional undertakings related thereto, as may be necessary.

SECTION 2. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading.....November 18, 2021
Second Reading.....November 18, 2021
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2021.

Mayor

SYNOPSIS: This Ordinance authorizes the execution of a multi-year amendment to the agreement between the City of Wilmington and Teladoc Health, Inc. for telehealth services for City employees and their dependents to add mental health services to the agreement. The amendment is for a period of one (1) year and nine (9) months from January 1, 2022 through September 30, 2023, with the possibility of three (3) extensions of one (1) year thereafter.

FISCAL IMPACT STATEMENT: The fiscal impact of this Ordinance is an amendment with a total estimated maximum price of One Hundred Fifteen Thousand Dollars (\$115,000.00) for the period from January 1, 2022 through September 30, 2023, with the possibility of three (3) extensions of one (1) year thereafter at an estimated maximum price of Sixty-Five Thousand Dollars (\$65,000.00) per year.

W0115823

EXHIBIT A

MENTAL HEALTH ADDENDUM

This **Mental Health Addendum** (the "**Addendum**") is entered into on **January 1, 2022** ("**Addendum Effective Date**"), by and between **Teladoc Health, Inc.** ("**Teladoc Health**") and **CITY OF WILMINGTON** ("**Employer**"), pursuant to the terms of the Teladoc Health Services Agreement entered into by the Parties, dated **October 1, 2020**, which includes a Teladoc Services Exhibit (collectively, the "**Agreement**"), the terms and conditions of which are incorporated by reference into this Addendum. Teladoc Health and Employer shall be referred to herein as the "**Parties**" and each individually as a "**Party**". The Agreement shall be amended to include the additional provisions set forth below, and any capitalized terms not otherwise defined herein shall have the meanings given to them in the Agreement.

I. Introduction

- A.** Teladoc Health provides a suite of telehealth services, which includes mental health services as more fully described below (the "**MH Services**"), and has entered into a contract with one or more professional associations (collectively, the "**MH Provider**") that employ and/or contract with various mental health practitioners, including psychiatrists, psychologists, clinical social workers, licensed professional counselors, mental health counselors, certified drug and alcohol abuse counselors, and marital and family therapists (each, a "**MH Practitioner**"), and for which Teladoc Health provides various operational and administrative services to the MH Provider. The MH Practitioners who are employed by, or under a contractual arrangement with, the MH Provider form a network that is designed to facilitate the provision of mental health consultations via electronic exchange ("**MH Consultation(s)**"). The arrangement between Teladoc Health and the MH Provider permits Teladoc Health to offer the MH Services to its customers that consist of: (a) a network of MH Practitioners who provide MH Consultations; and (b) support for the operation and administration of that network, as further described herein.
- B.** Employer desires to purchase the MH Services for use by certain of its employees ("**Employees**") and their eligible dependents ("**Eligible Dependents**") as an additional benefit in connection with Employer's employee benefits program. "Eligible Dependent" means a "dependent," as defined under the Internal Revenue Code, I.R.C. § 152, or as may be mutually agreed between the Parties. Employees and Eligible Dependents are collectively and each referred to as "**Member(s)**".

II. Term and Termination

- A.** Teladoc Health will provide the MH Services to Employer commencing on the Addendum Effective Date. This Addendum commences on the Addendum Effective Date and will continue in force until the expiration of the Teladoc Services Exhibit to the Agreement ("**Term**"), unless terminated earlier pursuant to **Section II(B)** below.
- B.** In addition to the termination provisions outlined in **Section 2** of the Agreement, either Party may terminate this Addendum for convenience on each anniversary of the Addendum Effective Date by providing 60 days' advance written notice to the other Party.

III. MH Services

- A.** During the Term, Teladoc Health will provide the MH Services described in this Addendum.
- B. MH Services for Members.** Teladoc Health will provide the following MH Services to Members:
- 1. The MH Practitioners:**
 - i. General:** The MH Services include access to the MH Practitioners who provide MH Consultations to Members by telephone or video conference in the MH Services' service area. The MH Services offer Members ongoing access to mental diagnostic services, talk therapy, and prescription medication management, when appropriate. The MH Practitioners are selected and engaged by the MH Provider to provide mental health clinical intake assessments, ongoing talk therapy, and medication management in accordance with mental health protocols and guidelines that are tailored to the telehealth industry.
 - ii. Types and Selection:** The MH Services are designed to allow the Member to select the type of MH Practitioner that will provide the MH Consultation. The following types of MH Practitioners are available under the MH Services:
 - Psychiatrists (MD/DO);
 - Psychologists (PhD);
 - Counselors (Masters);
 - Clinical Social Workers (Masters);
 - Therapists (Marriage and Family) (Masters); and
 - Substance Abuse Counselors.
 - iii. Requirements:** Each MH Practitioner is required to satisfy all applicable state licensing laws in his/her field of practice. Each MH Practitioner shall also be board certified in his/her field of practice as applicable, technologically proficient, trained in providing mental health counseling services, and covered by medical malpractice insurance or other applicable liability insurance having limits equal to or greater than the minimum required amounts in the state where the MH Practitioner practices.
 - 2. The MH Consultations:**

- i. **Prerequisites:** In order for a Member to receive a MH Consultation, the Member must complete a comprehensive medical history and an assessment that is specific to the MH Services. This medical history may be completed online or via the mobile app. If the Member fails to provide their comprehensive medical history, the Member will not have access to the MH Practitioners, and Teladoc Health will so advise the Member when he/she attempts to schedule a MH Consultation. In order for a Member to receive a MH Consultation, the Member must also agree to Teladoc Health's Informed Patient Consent and Release Form confirming an understanding that the MH Practitioner is not obligated to accept the Member as a patient, and that the Member's participation in the MH Services may be cancelled at any time without recourse by the Member.
- ii. **Scheduling:** Teladoc Health will provide the Member with information identifying each MH Practitioner's licensure, specialties, gender and language, and will provide sufficient biographical information on each MH Practitioner to allow the Member to select the MH Practitioner from whom the Member wishes to receive treatment. The Member may schedule MH Consultations through Teladoc Health's website/mobile platform. When scheduling a subsequent MH Consultation, the Member may choose to receive the MH Consultation from a different MH Practitioner. Alternatively, a Member may choose the same MH Practitioner for any subsequent MH Consultation. There are no limitations on the number of MH Consultations a Member may receive.
- iii. **Individual Sessions:** The Initial MH Consultation is expected to be 45 minutes in length on average, followed by requested subsequent visits. For visits conducted with a therapist other than a psychiatrist, subsequent requested visits are expected to be 45 minutes in length on average. Visits conducted by a Psychiatrist (subsequent to an initial visit with a Psychiatrist) will be shorter in length, for the purpose of a medication check-in (if applicable). Prior to each MH Consultation, the Member will be required to complete a brief intake assessment. A MH Practitioner may determine that the treatment of a Member's particular mental health issue would be managed more appropriately through in-person therapy. In such a case, the MH Practitioner will encourage the Member to make an appointment for an in-person visit. Employer acknowledges that the terms of the MH Services do not apply to any in-person visits between a Member and a MH Practitioner.
- iv. **Clarifications:** Unlike General Medical Consultations, the MH Consultations:
 - are not accessible 24 hours per day, 365 days per year. Rather, a Member must schedule a MH Consultation with a MH Practitioner, and the MH Consultation with a particular MH Practitioner must occur within a time period for which the MH Practitioner is scheduled to support the MH Services;
 - are not intended to be provided in emergency situations. Rather, Teladoc Health will follow an internal emergency protocol that includes calling 911 in emergency situations; and
 - are currently not available to Members who are minors.

4. Prescription Drug Formulary: The MH Services include a customized formulary of commonly-prescribed mental health medications (e.g., antidepressants, anti-anxiety, etc...). Medications may be prescribed only by MH Practitioners who are psychiatrists. Such MH Practitioners will generally issue a 30-day prescription, but may, in their discretion, issue a 90-day prescription. As is the case under the General Medical Services, MH Practitioners will not prescribe DEA controlled substances or narcotics under the MH Services. In the event a MH Practitioner elects to prescribe a DEA controlled substance or narcotic, or any other medication that is outside of the MH Services' formulary, the MH Practitioner shall refer the Member for an in-person visit, and the terms of the MH Services will not apply to such visit or to the prescription.

IV. MH Services Fees

A. Fees.

1. Employer agrees to pay Teladoc Health the following fees in connection with the MH Services:
 - i. a recurring PEPM Fee of US **\$0.42** for each Employee eligible to utilize the MH Services each month; and
 - ii. The following MH Consult Fee(s), which shall be payable by the Member at the time of the MH Consultation by credit card or debit card. Employer shall pay any portion of the MH Consult Fee(s) which was not charged to the Member as a copay at the time of the MH Consultation. Employer shall provide Teladoc Health with thirty (30) days' advance notice of requested modifications to Member co-pay structure(s):
 - **\$220.00** per initial MH Consultation with a psychiatrist;
 - **\$100.00** per each subsequent MH Consultation with a psychiatrist; and
 - **\$90.00** per MH Consultation with a therapist other than a psychiatrist.
2. The MH Consult Fees may be changed or modified by Teladoc Health upon thirty (30) days' prior written or e-mail notice of such change or modification by Teladoc Health to the Employer. However, no increase in the MH Consult Fees shall occur prior to the first anniversary of the Addendum Effective Date.

V. Other Terms & Conditions



The terms and conditions set forth in the Agreement shall apply to the MH Services in the same manner that such sections apply to the Teladoc Services.

IN WITNESS WHEREOF, the Parties have caused this Addendum to be executed by their duly authorized representatives as of the Effective Date.

Teladoc Health, Inc.		CITY OF WILMINGTON	
Print Name	Title	Print Name	Title
Signature	Date	Signature	Date