

COUNTY OF



ALLEGHENY

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From: Marc Cherna, Director, Department of Human Services

Date: January 27, 2015

To: Allegheny County Department of Human Services (DHS)-Contracted Service Providers

Subject: Sharing of Client Information for Service Coordination and Quality Improvement Activities

For some time now, the Allegheny County Department of Human Services (DHS) has been a vocal proponent of data and information sharing to support the quality and coordination of services provided to Allegheny County residents. In pursuit of this goal, DHS undertook several initiatives during 2014 to make the information that DHS collects available to both service providers and clients.

This memo is designed to inform you of these initiatives, our efforts to better understand the regulations governing the sharing of client information, and how that understanding has informed the development of our approach to data sharing.

Background

As an oversight and coordination entity, DHS takes the care and confidentiality of its clients seriously. Thus, our goal is to achieve an appropriate and respectful balance that ensures quality care and services through collaboration and coordination, supported by appropriate use and sharing of client data. Under the federal Health Insurance Portability and Accountability Act (HIPAA), DHS is a covered component of Allegheny County, which means that we must comply with HIPAA's privacy and security rules with respect to any client information we receive.

As part of our due diligence concerning data confidentiality, DHS hired an independent expert, John Petrila, to examine how our use of data complies with federal and state laws on the privacy and security of individually identifiable health information. Mr. Petrila is an attorney, a professor and the Chair of the Department of Mental Health Law & Policy at the Florida Mental Health Institute, University of South Florida. With his assistance, we were able to develop a data-sharing approach that is in keeping with the letter and the spirit of the applicable laws.

Philosophy and Legal Approach

- **DHS believes fundamentally that sharing protected information is critical to the provision of care.** The appropriate sharing of client information promotes good care, and is essential to the continuity and overall quality of care provided to DHS clients.

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- **DHS defines itself as a covered component under the privacy rule and security rule of HIPAA.** DHS defines itself as a covered component for all program areas and business operations, requiring that all of those areas comply with the HIPAA privacy and security regulations. Similarly, all providers are required to comply with HIPAA regulations (and other applicable state and federal regulations) either directly or under the terms of their contract as a DHS-contracted provider of services.
- **DHS has a right to clients' protected information in its role as contracting entity.** By virtue of its role as a government service coordination and oversight entity – one that contracts and pays for services and must ensure the quality, coordination, and continuity of those services – DHS has a right to request and receive protected data about the clients served by contracted service providers. This includes (as relevant to the contracted service) information about a client's physical health, mental health, and substance abuse treatment.
- **As a government service coordination and oversight entity, DHS may re-disclose protected information for the purposes of treatment and treatment coordination.** Both the Pennsylvania Mental Health (MH) Procedures Act and HIPAA allow for the unconsented release of protected client information for purposes of treatment and treatment coordination (state and federal substance abuse laws are excluded in this discussion about sharing for treatment purposes).
- **It is not always feasible to obtain consent for re-disclosure of client information in a way that facilitates expedient treatment and coordination of care.** Although DHS supports and prefers obtaining direct client consent for the sharing of protected client information for these purposes, when possible, obtaining timely direct consent is not always reasonable and may create a barrier to DHS's standards for quality client care and service coordination. Neither HIPAA nor the MH Procedures Act requires consent for the sharing of information for treatment purposes. However, both permit the practice, so consents may be used. DHS encourages as a minimum standard the use of Privacy Notices as a mechanism for contracted providers to inform clients about the ways in which their information may be shared for the purposes of treatment.
- **DHS interprets the law to mean that DHS is responsible for maintaining the privacy and confidentiality of protected client information once the data is entered, transmitted or otherwise stored in our system.** The service provider maintains responsibility for the security and confidentiality of any paper or electronic data stored or retained in their files and information systems, as well as protecting from misuse any DHS system logins and security access privileges granted to them. However, the provider is not liable for any subsequent sharing or use of the data by DHS, once the data is in DHS's possession.

We believe that the above-described approach promotes quality client care while respecting each client's privacy and confidentiality; we further believe that this approach complies with the legal requirements of federal and state laws. It is important to note that these laws were not designed to prohibit appropriate sharing of data. In fact, they recognize the crucial role that appropriate sharing of information plays in providing quality care. HIPAA specifically authorizes the release of protected health

information (PHI) without consent, for the purposes of treatment, payment and operations. This authorization takes into account the reality that an attempt to obtain a separate, individual consent for each of these purposes is a barrier to providing effective care.

The MH Procedures Act also allows for the sharing of protected information in the interest of providing clients with the best care possible. The section of the act regarding the nonconsensual release of client information (55 Pa. Code § 5100.32) specifically authorizes the release of information “to those actively involved in treating the individual.” Furthermore, protected client information may be shared with “the administrator” under this section. In Pennsylvania, administrator duties are shared between the PA Department of Human Services (formerly the Department of Public Welfare) at the Commonwealth level and the agency responsible for mental health services in each county.

Psychotherapy notes are excluded from this discussion. Such information is outside the scope of what DHS needs to ensure the effective provision, coordination and continuity of quality care, and neither HIPAA nor the MH Procedures Act authorizes the sharing of these notes.

Client View and the Data Warehouse

In keeping with the philosophy and legal approach explained above, and as part of DHS’s ongoing effort to improve care for Allegheny County residents by supporting the collection and provision of a more comprehensive human service client record, Allegheny County has begun developing a secure, externally-accessible tool, Client View, to give contracted providers access to client data available in the DHS Data Warehouse.

This **Data Warehouse**, created and maintained by DHS, contains person-specific information from internal and external data sources. The Data Warehouse provides information regarding the service activity of any of these individuals across the multiple programmatic service areas administered by DHS (e.g., child welfare, mental health, drug and alcohol, homelessness, aging, intellectual disability and other community services) as well as additional individual client-level information provided to DHS by external sources (e.g., Public Housing Authorities, the Pennsylvania Department of Human Services and the Allegheny County Jail).

Client View will allow users to view data in the Data Warehouse on a client-by-client basis for those individuals whom they currently serve. Users can search by client demographics such as first name, last name, social security number, date of birth, Master Client Index ID, and address. The application will be able to retrieve basic demographic information, service coordination and services rendered activity, child welfare and juvenile probation out-of-home placement information, services plans, and assessments.

This capability was developed, in part, to address feedback from participating providers who indicated that this kind of information, which was not always readily available to them, would greatly improve their ability to serve clients if made available. Of course, access to some information (e.g., drug and alcohol data) must be limited, but DHS believes that most information can be shared and that appropriate sharing of that information is the core intent of laws such as HIPAA.

DHS also believes that clients should be able to view and access their own personal information collected by DHS, so in the third phase of Client View development, we will create a client accessible portal. Through this portal, clients and select family members will be able to view their own service information and use it for their own self-directed case management.

Conclusion

DHS takes its role as a government coordination and oversight agency seriously. Requesting and receiving information about the clients served by contracted providers is a critical part of our mission. It is not only our right, but our responsibility, to collect protected client information for this purpose, and to share it in ways that support quality, transparency, and coordination of care.

We are readily available to address any specific questions about this document or the described data requests. Thank you for your ongoing cooperation and commitment to providing excellent human services to the residents of Allegheny County.