

# Cal HHS Data Exchange Framework Policy and Procedure

<b>Subject: Individual Access Services</b>	
<b>Status:</b>	<b>Policy:</b>
<b>Effective:</b>	<b>Version</b>

## **I. Purpose**

California Health and Safety Code section 130290 was enacted in 2021 and establishes the creation of the California Health and Human Services Data Exchange Framework (“Data Exchange Framework”), which requires certain data sharing among Participants. The purpose of this policy is to set forth the responsibilities of Participants to enable the right of an Individual User or an Individual User’s Personal Representative to inspect and obtain a copy of PHI or PII about the Individual User in a timely manner.

## **II. Policy**

Participants shall provide an Individual User or the Individual User’s Personal Representative access to the Individual User’s PHI or PII in accordance with this policy.

## **III. Procedures**

### **1. INDIVIDUAL USER ACCESS**

a. An Individual User or an Individual User’s Personal Representative has a right of access to inspect and obtain a copy of PHI or PII about the Individual User in a Designated Record Set, for as long as the PHI or PII is maintained in the Designated Record Set. Notwithstanding the foregoing, if permitted under Applicable Law, a Participant shall have the authority to deny right of access to inspect or obtain a copy of PHI or PII.

b. The Participant may require the Individual User or the Individual User’s Personal Representative to assert their right to access the Individual User’s PHI or PII in accordance with the HIPAA Regulations. Each Participant shall provide the Individual User or the Individual User’s Personal Representative with the option of using electronic means (e.g., email or secure web portal) or other such means as determined by the Governance Entity to assert their rights for Individual Access Services to PHI or PII.

### **2. INDIVIDUAL USE OR DISCLOSURE OF PHI OR PII**

a. Individuals shall have the right to use or disclose their own PHI or PII, except for any limitations set forth by Applicable Law.

### **3. AUTHENTICATION**

a. Prior to initiating Individual Access Services, the Participant shall be required to verify the identity of the Individual User or the Individual User’s Personal Representative using standards and methods consistent with 45 C.F.R. § 164.514(h).

4. **NO FEES FOR INDIVIDUAL ACCESS SERVICES**

a. A Participant may not charge another Participant any fees for PHI or PII exchanged in furtherance of this section.

5. **PROCESSING OF INDIVIDUAL ACCESS SERVICES REQUESTS**

a. Participants shall process Individual User or Individual User's Personal Representative requests for Individual Access Services as follows:

(i) Each Participant that receives a request for Individual Access Services from an Individual User or an Individual User's Personal Representative for whom it maintains a Designated Record Set shall provide such Individual User or Individual User's Personal Representative with Individual Access Services with respect to the Individual User's PHI or PII regardless of whether the Participant is a Covered Entity or Business Associate; provided, however, that if the Individual User wants the PHI or PII to go to a third party, the Individual User has satisfied the conditions at 45 C.F.R. § 164.524(c)(3)(ii) as it applies to PHI or PII;

(ii) When the Participant is acting as a Business Associate and the request for Individual Access Services is received by a Covered Entity Participant that directs the Business Associate Participant to satisfy the request, then the Business Associate Participant may respond to a request for Individual Access Services if permitted or required by the terms of the applicable Business Associate Agreement or otherwise required by Applicable Law; or

(iii) With respect to a Participant query for Individual Access Services, the response shall be provided as required by these terms and conditions regardless of whether it was prompted by (a) the Individual User or (b) a Participant who provides Individual Access Services and has been selected by the Individual User who is requesting PHI or PII for Individual Access Services.

**IV. Definitions**

“**Designated Record Set**” shall mean:

1. A group of records maintained by or for a Participant that is:
  - a. The medical or social services records and billing records about individuals maintained by or for a Participant;
  - b. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
  - c. Used, in whole or in part, by or for the Participant to make decisions about individuals.

For purposes of this paragraph, the term “record” shall mean any item, collection or grouping of information that includes PHI or PII and is maintained, collected, used or disseminated by or for a Participant.

“**Individual Access Services**” shall mean the services provided to satisfy the right of an Individual User or an Individual User's Personal Representative to access and to obtain a copy of the Individual User's PHI or PII under Applicable Law and to direct that it be sent to a third party consistent with 45 C.F.R. § 164.524 or any other Applicable Law or agreement.

All other capitalized terms not defined herein shall have the same meaning as set forth in the Data Sharing Agreement.

**V. References**

**VI. Related Policies and Procedures**

Permitted, Required and Prohibited Purposes Policy and Procedure

**VII. Version History**

	<b>Date</b>	<b>Author</b>	<b>Comment</b>
	April 21, 2022	CalHHS CDII	Draft for DxF Data Sharing Agreement Subcommittee review
	May 12, 2022	CalHHS CDII	Draft for DxF Stakeholder Advisory Group review and public comment

DRAFT