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Sent: Friday, June 30, 2023 3:57 PM
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Subject: DxF Privacy Standards and Security Safeguards

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DHCS has this comment on the DxF Privacy Standards and Security Safeguards:

DHCS remains concerned that the question of whether social service providers are business associates of covered entities is not clearly answered. We are of course clear that HIPAA permits the disclosure of PHI for treatment activities of one or more health care providers and excludes health care providers from the concept of business associate, and we are familiar with a couple of pieces of federal guidance that are consistent with a more holistic view of health (e.g., disclosure of PHI by a health care provider to a housing agency without authorization). But the exact nature of the relationship between the health care provider and the housing authority is unspecified. No one thinks the housing authority is a health care provider, but if this disclosure is for treatment and the housing authority conducts an electronic transaction (e.g., ironically, by participating in DxF), are they now subject to HIPAA? If not, are they the business associate of the health care provider making the disclosure? DHCS is eager to support the flow of data to treat and serve individuals as whole persons, but we note that as a health plan, the treatment line of reasoning may not apply to DHCS, and we are concerned about identifying the appropriate path to let this happen. We also recognize that this issue could be framed as a HIPAA problem, not necessarily to be solved in DxF. But the smooth and consistent functioning of DxF will be significantly enhanced by a clear resolution. If there is a clearly identifiable path that we have not discerned, we are eager to know about it and reconsider this concern.

Thank you for considering this and for the remarkable progress you have made to move DxF forward.



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