

Sample Inter-Agency Data-Sharing Agreement

State of _____

Requester

Agency Name _____

Data User _____

Title _____

Address _____

Phone _____

Data Provider

Agency Name _____

Custodian _____

Title _____

Address _____

Phone _____

I. PURPOSE

In this section, both parties must state in non-technical language the purpose(s) for which they are entering into the agreement, i.e., how the data will be used, what studies will be performed, or what the desired outcomes are perceived to be as a result of obtaining the data. The source of the data will come from any and all public health or claims databases. The data will only be used for research and/or analytical purposes and will not be used to determine eligibility or to make any other determinations affecting an individual. Furthermore, as the data will be shared within a State, it will be subjected to all applicable requirements regarding privacy and confidentiality that are described herein.

II. PERIOD OF AGREEMENT

The period of agreement shall extend from _____ to _____.

III. JUSTIFICATION FOR ACCESS

A. Federal requirements: Section 1902(a)(7) of the Social Security Act (as amended) provides for safeguards which restrict the use or disclosure of information concerning Medicaid applicants and recipients to purposes directly connected with the administration of the State plan. Regulations at 42 CFR 431.302 specify the purposes directly related to State plan administration. These include (a) establishing eligibility; (b) determining the amount of medical assistance; providing services for recipients; and (d) conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the plan.

If the State Medicaid agency is a party to this agreement, specifically as the provider of information being sought by the requestor, it must be demonstrated in this section how the disclosure of information meets the above requirements.

An example of permissible data matching/sharing arrangements is the matching of data with a registry of vaccines or diseases for the purposes of improving outreach or expanding Medicaid coverage of populations being served under Medicaid.

States should identify any additional requirements that are needed for the release of additional data in this section.

B. State requirements: Cite specific State statutes, regulations, or guidelines (See Appendices)

IV. DESCRIPTION OF DATA

In this section, the parties provide specific detailed information concerning the data to be shared or exchanged.

V. METHOD OF DATA ACCESS OR TRANSFER

A description of the method of data access or transfer will be provided in this section. The requestor and its agents will establish specific safeguards to assure the confidentiality and security of individually identifiable records or record information. If encrypted identifiable information is transferred electronically through means such as the Internet, then said transmissions will be consistent with the rules and standards promulgated by Federal statutory requirements regarding the electronic transmission of identifiable information.

VI. LOCATION OF MATCHED DATA AND CUSTODIAL RESPONSIBILITY

The parties mutually agree that one State agency will be designated as “Custodian” of the file(s) and will be responsible for the observance of all conditions for use and for establishment and maintenance of security agreements as specified in this agreement to prevent unauthorized use. Where and how the data will be stored and maintained will also be specified in this section.

This agreement represents and warrants further that, except as specified in an attachment or except as authorized in writing, that such data shall not be disclosed, released, revealed, showed, sold, rented, leased, loaned, or otherwise have access granted to the data covered by this agreement to any person. Access to the data covered by this agreement shall be limited to the minimum number of individuals necessary to achieve the purpose stated in this section and to those individuals on a need-to-know basis only.

Note that, if all individually identifiable Medicaid data remains within the purview of the State Medicaid agency, matching with any other data is permissible. Any results of the data matching which contains individually identifiable data cannot be released outside the agency unless the release meets the conditions of Section III.

Any summary results, however, can be shared. Summary results are those items which cannot be used to identify any individual. It should be noted that the stripping of an individual’s name or individual identification number does not preclude the identification of that individual, and therefore is not sufficient to protect the confidentiality of individual data.

VII. CONFIDENTIALITY

The User agrees to establish appropriate administrative, technical, and physical safeguards to protect the confidentiality of the data and to prevent unauthorized use or access to it. The safeguards shall provide a level and scope of security that is not less than the level and scope of security established by the Office of Management and Budget (OMB) in OMB Circular No. A-130, Appendix III – Security of Federal Automated Information System, which sets forth guidelines for security plans for automated information systems in Federal agencies.

Federal Privacy Act requirements will usually not apply if this agreement is entered into by agencies of the State and no Federal agencies are involved. The same applies to the Computer Matching and Privacy Protection Act of 1988. However, State laws, regulations, and guidelines governing privacy and confidentiality will apply.

It is strongly suggested that the guidelines presented in the Model State Vital Statistics Act be applied. The

guidelines are available from the U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Center for Health Statistics, Hyattsville, Maryland (DHHS) Publication No. (PHS) 95-1115.

Where States have enacted laws based on this model, the actual provisions of the statute take precedence.

VIII. DISPOSITION OF DATA

(Sample Language)

The requestor and its agents will destroy all confidential information associated with actual records as soon as the purposes of the project have been accomplished and notify the providing agency to this effect in writing. Once the project is complete, the requester will

1. destroy all hard copies containing confidential data (e.g., shredding or burning);
2. archive and store electronic data containing confidential information off line in a secure place, and delete all on line confidential data; and
3. all other data will be erased or maintained in a secured area.

IX. DATA-SHARING PROJECT COSTS

In this section, it should be stated in detail how the costs associated with the sharing or matching of data are to be met. If these can be absorbed by the “salaries and expenses,” and the partner providing the requested data is agreeable to absorbing such costs, that should be noted here. If there are extra costs to be assumed, the parties need to specify here how they will be met. If the requesting party is to bear the burden of specific extra costs, or the party providing the data is unable or unwilling to bear such, these special requirements are to be formalized in this section.

X. RESOURCES

The types and number of personnel involved in the data sharing project, the level of effort required, as well as any other non-personnel resources and material, which are required, are to be listed here.

XI. SIGNATURES

In witness whereof, the Agencies’ authorized representatives as designated by the Medicaid Director and Health Commissioner attest to and execute this agreement effective with this signing for the period set forth in Article II.

(Name)

(Title)

(Date)

(Name)

(Title)

(Date)

Source: Centers for Medicaid and Medicare Services
<http://www.cms.hhs.gov/states/letters/smd10228.asp>