

Managed Care Operations Memorandum
General Operations
MCOPS Memo # 05/2024-006

Date: May 21st, 2024

Subject: Guidance for Use of Service History Data Files That Include Substance Use Disorder Encounters

To: All Physical Health (PH), Behavioral Health (BH) and Community HealthChoices (CHC) Managed Care Organizations (MCOs) – Statewide

From: Juliet Marsala, Deputy Secretary for Long Term Living; Sally A. Kozak, Deputy Secretary for Medical Assistance Programs; and Jennifer Smith, Deputy Secretary for Mental Health and Substance Abuse Services

Purpose:

The purpose of this memorandum is to provide guidance regarding updates being made to the Service History Data File (SHDF) to implement the provisions of Act 33 of 2022 and comply with 42 C.F.R. Part 2, including §§ 2.16 and 2.53(b), (c) and (f).

Background:

The SHDF is transferred weekly from the Department of Human Services (DHS) to the MCOs. The SHDF contains encounter data history for the MCOs' members. The information in the SHDF helps MCOs evaluate effectiveness of care, improve outcomes, and assure appropriate services are covered by the PH-MCOs, CHC-MCOs and BH-MCOs. The SHDF provides information about care received by PH and CHC MCO members to BH-MCOs, and information about care received by BH-MCO members to PH and CHC MCOs. Prior to the enactment of Act 33 of 2022, DHS was required by state regulation to redact or exclude certain data elements pertaining to substance use disorder (SUD) diagnosis and treatment from the SHDF. This is because 4 Pa. Code § 255.5 contained certain confidentiality requirements that were more stringent than the federal regulations at 42 C.F.R. Part 2. The exclusion in 4 Pa. Code § 255.5 of most SUD diagnosis and treatment data limited the ability of MCOs to audit and evaluate services for members with SUD.

Discussion:

On July 7, 2022, Act 33 of 2022 was signed into law. This state statute aligns certain state confidentiality requirements for SUD-related information with 42 C.F.R. Part 2. Without the need for the individual's prior written consent, a Part 2 program or lawful holder may disclose this data for audit and evaluation purposes subject to certain limitations and requirements. See 42 C.F.R. §§ 2.53(b), (c).

As 42 C.F.R. § 2.53(c) provides, audit and evaluation activities may include, but are not limited to:

(1) Activities undertaken by a federal, state, or local governmental agency, or a third-party payer entity, in order to:

(i) Identify actions the agency or third-party payer entity can make, such as changes to its policies or procedures, to improve care and outcomes for patients with SUDs who are treated by part 2 programs;

(ii) Ensure that resources are managed effectively to care for patients; or

(iii) Determine the need for adjustments to payment policies to enhance care or coverage for patients with SUD.

(2) Reviews of appropriateness of medical care, medical necessity, and utilization of services.

Additionally, MCOs are required to comply with applicable federal and state laws regarding the confidentiality of health-related information. This includes compliance with 42 C.F.R. § 2.53(b)(1), which requires that the entity receiving SUD data:

(1) Agrees in writing to:

(i) Maintain and destroy the patient identifying information in a manner consistent with the policies and procedures established under § 2.16;

(ii) Retain records in compliance with applicable federal, state, and local record retention laws; and

(iii) Comply with the limitations on use and disclosure in 42 C.F.R. § 2.53(f).

Due to these changes to state law and application of 42 C.F.R. Part 2, including §§ 2.16 and 2.53(b), (c) and (f), DHS will begin to include SUD-related encounter data in the

SHDF that is transmitted to the MCOs upon receipt of a signed attestation form from the MCOs.

Next Steps:

As a condition of receiving SUD-related encounter data from DHS, MCOs must submit the attached attestation form, executed by an individual with authority to legally bind the MCO, to DHS to verify compliance with 42 C.F.R. Part 2.

MCOs must develop policies and procedures to ensure that 42 C.F.R. Part 2 requirements are adhered to, including the confidentiality and security requirements in 42 C.F.R. §§ 2.16 and 2.53(b), (c) and (f).

MCOs must also prepare procedures for utilizing the updated SHDF for audit and evaluation purposes concerning members with SUD, consistent with the permitted use and disclosure of patient identifying information requirements in 42 C.F.R. §§ 2.16 and 2.53(b), (c) and (f).

This MC OPS Memo will remain in effect until the requirements addressed in this memo are added to the 2025 Physical, Behavioral, and Community HealthChoices Agreements.

Attachment:



attestation of
compliance attachm