

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**Department of Health Care Finance**



**Office of the Senior Deputy Director and  
Medicaid Director**

**MDL #22-05**

**MEDICAID DIRECTOR LETTER**

**TO:** All Interested Parties

**DATE:** December 14, 2022

**SUBJECT:** **Data Privacy Requirements for Medicaid Providers and Technical Assistance (TA) Opportunity**

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**Purpose**

This Medicaid Director Letter (MDL) serves as 1) a formal statement of the Department of Health Care Finance's (DHCF) data privacy expectations, including the requirement to be HIPAA covered entity, for all enrolled providers, and 2) an announcement of a new tailored technical assistance program for home and community-based services (HCBS) providers<sup>1</sup> for the adoption and use of digital health.

**Data Privacy Requirements for Medicaid Providers**

The Health Insurance Portability and Accountability Act (HIPAA) requires covered entities<sup>2</sup> to establish security and privacy practices that ensure the safeguarding of protected health information. DHCF considers itself and enrolled providers to be covered entities and holds the same view of all providers who would enroll to deliver Medicaid services. HIPAA compliance ensures Medicaid data and beneficiary information is protected and allows providers to participate fully in the DC Health Information Exchange (DC HIE).

According to the Medicaid Provider Participation Agreement, all Medicaid providers participating in the District's Medicaid program "shall ensure that its employees and agents comply with and are properly trained about HIPAA, including but not limited to the requirements of the Privacy Rule and Security Regulations, 45 C.F.R. §§ 160, 162, and 164;" along with other District and federal healthcare laws.

The Office of Civil Rights (OCR) at US Health and Human Services is the federal agency responsible for the protection and security of protected health information. OCR provides guidance and training on HIPAA provider requirements.<sup>3</sup> OCR also enforces HIPAA requirements through

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<sup>1</sup> Eligible HCBS providers include long-term services and supports, behavioral health rehabilitative services (MHRS, ASARS), IDD/IFS waiver services, and housing supportive services. Eligibility criteria is listed on p. 4 of this document.

<sup>2</sup> As defined at 45 CFR 160.102, includes a health care provider who transmits any health information in electronic form in connection with a transaction covered by the subchapter.

<sup>3</sup> See OCR provider guidance resource page for HIPAA: <https://www.hhs.gov/hipaa/for-professionals/index.html> and OCR list of provider training resources <https://www.hhs.gov/hipaa/for-professionals/training/index.html>.

complaint-driven audits, fines, and corrective action agreements/resolutions. OCR determines whether an entity is a covered entity by the facts in accordance with the law. Therefore, DHCF seeks to mitigate the risk of any unauthorized disclosures of Medicaid data.

### **HCBS Digital Health Technical Assistance Program**

DHCF expects that providers who are new to the Medicaid program may need specialized support to become more familiar with the industry-standard data privacy requirements. Providers who are newly covered entities may need specific technical assistance to be able to meet HIPAA requirements within the first year and mitigate the risks associated with unauthorized disclosures of protected health information. Therefore, the District has included approximately \$4 million in Section 9817 of American Rescue Plan Act (ARPA) funds to incentivize the meaningful use of certified health IT systems by providing tailored technical assistance to eligible HCBS providers.

Please see Attachment I for details on the HCBS Digital Health Technical Assistance Program.

### **Contact**

For more information about DHCF's privacy and data standards, please contact:

Cecelia Davis  
Information and Privacy Officer  
Department of Health Care Finance  
Email: [Cecelia.Davis@dc.gov](mailto:Cecelia.Davis@dc.gov)  
202-442-9053

For more information on the Digital Health TA program, please contact:

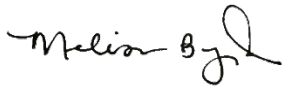
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202-673-3561

For HCBS providers interested in participating in Digital Health TA, please contact:

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Chief Operating and Technology Officer  
District of Columbia Primary Care Association  
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Program Manager  
District of Columbia Primary Care Association  
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Sincerely,

A handwritten signature in black ink, appearing to read "Melisa Byrd". The signature is fluid and cursive, with the first name "Melisa" written in a larger, more prominent script than the last name "Byrd".

Melisa Byrd  
Senior Deputy Director/Medicaid Director

**Cc:** DC Hospital Association  
DC Primary Care Association  
DC Health Care Association  
DC Home Health Association  
DC Behavioral Health Association  
DC Coalition of Disability Service Providers  
Medical Society of DC