



Date: December 29, 2020

To: Coordinated Care Organizations

From: Dave Inbody, CCO Operations Manager

Subject: CCO access to confidential information during discharge planning with OSH

The purpose of this communication is to provide the Oregon Health Authority’s (OHA) interpretation of Applicable Laws relating to access by a Coordinated Care Organization (CCO) for discharge planning purposes to confidential health care information about an individual admitted to the Oregon State Hospital (OSH) who will be enrolled with a particular CCO upon discharge from OSH.

The CCO contract requires CCOs to engage in a variety of care coordination activities, including those related to OSH discharge planning. Some CCOs have expressed concern about whether they are permitted to access confidential information about an individual during such discharge planning without obtaining the written consent of the individual.

CCO Contract Requirements

Pursuant to Exhibit M, Section 13 c. of the CCO contract, the CCO “...shall, in accordance with OAR 309-091-0000 through 309-091-0050:

...

(2) Coordinate care for Members during discharge planning for the return to Home Contractor or to the Receiving Contractor if Member will be discharged into a different Service Area when Member has been deemed ready to transition;

...

(4) Provide Case Management Services, Care Coordination and discharge planning for timely follow up to ensure Continuity of Care;

...”

Applicable Laws

As defined in the 2021 CCO contract, Applicable Law(s) “means all State and federal statutes, rules, regulations, and case law, as may be amended from time to time, applicable to a particular issue that is referenced in or applicable to this Contract.”

The privacy provisions at [45 CFR Part 164](#) of the federal Health Insurance Portability and Accountability Act (HIPAA) and the corresponding State laws at [ORS 192.553 to ORS 192.581](#) govern the use and disclosure of Protected Health Information (PHI). A CCO is a “health plan” under federal law and a “state health plan” under State law. OSH is a health care provider under state and federal law. Both a CCO and OSH are “Covered Entities” under HIPAA.

State and federal law permit exchange of PHI between Covered Entities that have, had, or will have a relationship with the individual for treatment, payment, and health care operation activities without the individual's written consent. Health care operation activities include case management or care coordination.

OAR [309-091-0030](#) cited in Exhibit M, Section 13 c. of the CCO contract requires the responsible parties to participate in OSH discharge planning throughout the individual's hospitalization. OAR [309-091-0005](#) defines "Responsible Party" as including the CCO. OHA interprets this to mean *the CCO with which the individual will be enrolled upon discharge from OSH*.

Conclusion

OHA interprets the aforementioned Applicable Laws as permitting the use and disclosure for discharge planning purposes of confidential health care information about an individual between OSH and the CCO with which the individual will be enrolled upon discharge from OSH. OHA has confirmed this interpretation with the Oregon Department of Justice.

Questions?

If you have questions about this communication, please contact Cheryl Henning, CCO Contracts Administrator, at Cheryl.L.Henning@dhsoha.state.or.us.

Thank you for your continued support of the Oregon Health Plan (OHP) and the services you provide to OHP members.