



Accountable Care Organization Use Case

Version	Approval Date	Owner
2.0	June 9, 2022	Privacy Officer

1. Purpose & Background

The delivery of health care has shifted from a fee-for-service payment model to value-based payment models. To participate in some of the new public and private payment programs, providers have established Accountable Care Organizations (ACOs) or functionally equivalent ACO-type entities (FE-ACOs). The ACO model includes health care providers and care managers who are employees of or contracted agents (“Agents”) of individual health care provider(s) (“Providers”) involved in the medical care and treatment (collectively, “Treatment”) of patients. Other equivalent entities exist that may not be called ACOs but exist to perform the same functions. Providers and care managers who are Agents rely on health information technologies that automate many of the processes that previously were manual and resource intensive, as well as facilitate the sharing of patient Data among authorized members of an entire care team, even when the Data is spread across unaffiliated electronic health records.

This use case recognizes the beneficial role of ACOs and FE-ACOs in the care of patients and seeks to support ACO- or FE-ACO-sponsored care managers (“Care Managers”) involved in the Treatment of patients who are assigned to recognized ACOs or FE-ACOs. With the responsibility that the Care Managers have for coordinating medical care and Treatment for patients, the Care Managers need access to medically necessary clinical information to be effective in their role as Agents of the Providers they serve in connection with the applicable ACO or FE-ACO.

In the Commonwealth of Pennsylvania, confidential HIV-Related Information generally may only be disclosed with the individual’s written consent unless it is specifically permitted to be shared under one of the several exceptions enumerated in the Confidentiality of HIV-Related Information Act (the “HIV/AIDS Act”). This use case reflects Providers’ general determination that access to HIV-Related Information (as defined in 35 P.S. 7601 et seq.) is critical and often medically necessary to have when providing medical care and Treatment to patients. This use case supports Care Managers who are Agents of treating Providers and who otherwise fit the legal exception criteria under the HIV/AIDS Act to be permitted to access all relevant Data about patients, including HIV-Related Information, through the HealthShare Exchange in connection with the Treatment of such patients.



2. Scope

This use case applies to ACOs and FE-ACOs that are contracted Participants of HealthShare Exchange (each, an “ACO/FE-ACO Participant” and collectively, the “ACO/FE-ACO Participants”). For purposes of this use case only, Providers and their Agents (i.e., Care Managers) are viewed as “stepping into the shoes” of the ACO/FE-ACO Participant they belong to, and vice versa. This use case covers HealthShare Exchange sharing HIV-Related Information with ACO/FE-ACO Participants solely for Treatment being furnished by such ACO/FE-ACO Participants’ Providers and their Agents, in the same manner as is already done directly with Provider Participants.

Exceptions to the Type of Data Available Through the Use Case:

- **Opt-Out Patients** – Data for patients that have opted-out shall not be shared with ACO/FE-ACO Participants.
- **42 CFR Part 2 Facility Data** – Access to Data originating from 42 CFR Part 2 facilities and programs may be provided only with patient consent in accordance with applicable state and federal laws.

3. Policy

In order for an ACO/FE-ACO Participant to be permitted to access Data in the same manner as HSX Provider Participants, the ACO/FE-ACO Participant must be contracted as an Agent, employee or medical staff of a health care provider (a “Provider”).

In accordance with the HIV/AIDS Act, HIV-Related Information may be disclosed, without the individual’s written consent, to the following persons (among others not applicable for purposes of this use case):

- The physician who ordered the [HIV] test, or the **physician’s designee**; 35 P.S. 7607(a)(2).
- An **agent, employee** or **medical staff member** of a **health care provider**, when the provider has received Confidential HIV-Related information during the course of the subject’s diagnosis or treatment by the provider, provided that the agent, employee, or medical staff member is involved in the medical care or treatment of the subject” 35 P.S. 7607(a)(4).

Hereinafter, the “**Provider Agent Exception**” when an ACO/FE-ACO Participant has met the Provider Agent Exception, the ACO/FE-ACO Participant’s Authorized Users may access HIV-Related information through HSX for Treatment being furnished by Providers and Agents contracted with such qualified ACO/FE-ACO Participant.



4. Procedures

- ACO/FE-ACO Participants currently contracted with HSX shall sign a written attestation representing and warranting that the ACO/FE-ACO Participant meets the Provider Agent Exception per the above policy statement. They will renew this attestation on an annual basis. The ACO/FE-ACO Participant is responsible for notifying HSX in the event that their relationship status with a practice changes and they no longer meet the Provider Agent Exception criteria.
- For each new ACO or FE-ACO wishing to join HSX, during the contracting process HSX will review this Use Case with such ACO or FE-ACO and when the ACO or FE-ACO becomes a Participant of HSX, the ACO or FE-ACO shall sign a written attestation representing and warranting that the ACO or FE-ACO shall comply with the Provider Agent Exception per the policy statement in this Use Case in order to be permitted access to HIV-Related Information.
- HSX ACO/FE-ACO Participants are responsible for notifying their attributed members that they participate in health information exchange.

5. Enforcement

- As per the HSX Participation Agreement, ACO/FE-ACO Participants will attest in writing on an annual basis to using the Data only in accordance with Treatment and approved non-treatment use cases.
- HSX's Chief Security Officer and Chief Privacy Officer are responsible for enforcing compliance with this Use Case under the direction of the HSX President.

6. Definitions

For a complete list of definitions, refer to the *Glossary*.

7. References

Regulatory References:

- HIPAA Privacy Rule [45 CFR 164.514]
- U.S. Department of Health and Human Services. Understanding Some of HIPAA's Permitted Uses and Disclosures <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/permitted-uses/index.html>
- The Office of the National Coordinator for Health Information Technology. Permitted Uses and Disclosures: Exchange for Health Care Operations 45 Code of



HealthShare Exchange

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Federal Regulations (CFR) 164.506(c)(4)

https://www.hhs.gov/sites/default/files/exchange_health_care_ops.pdf

- <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ACO/>
- <http://www.legis.state.pa.us/WU01/LI/LI/US/HTM/1990/0/0148..HTM>
- <http://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2011&sessInd=0&act=59>
- <http://www.health.pa.gov/My%20Health/Diseases%20and%20Conditions/E-H/HIV%20And%20AIDS%20Epidemiology/Pages/HIV-AIDS-Links.aspx#.WbqI6a2ZPfZ>
- The Office of the National Coordinator for Health Information Technology. Permitted Uses and Disclosures: Exchange for Treatment 45 Code of Federal Regulations (CFR) 164.506(c)(2)
- https://www.hhs.gov/sites/default/files/exchange_treatment.pdf

Policy Owner	Privacy Officer	Contact	don.reed@healthshareexchange.org
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Related Documents	Audit Logging and Monitoring Policy Clinical Data Repository Use Case Data Misuse Policy Glossary		