

EXHIBIT

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UPDATE
Notification to Current Fiscal Intermediaries
Regarding Data Transfers

To: Current Fiscal Intermediaries (FIs)

DATE: December 23, 2024

UPDATE: The purpose of this communication is to provide additional information regarding data transfers from current FIs to the Department and Medicaid managed care plans (MMCPs).

As stated in the Department's Memo issued on December 6, 2024, no later than January 15, 2025, current FIs must provide data related to the Consumer Directed Personal Assistance Program (CDPAP) consumers they serve and their personal assistants (PAs) to the MMCPs for managed care enrollees and the Department for fee-for-service members. Data transfer to the Department will be through the Health Commerce System (HCS) and formatted following the template shared in the Memo.

The Department has received several inquiries about privacy concerns during the required data transfers, citing the Health Insurance Portability and Accountability Act (HIPAA) and New York's Personal Privacy Protection Law (PPPL) as barriers to such transfer. The assertion is that both statutes require express consent from the consumer or their PAs before any data transfers can occur.

The Department appreciates the concerns about privacy during the transfer. HIPAA allows the sharing of protected health information between "covered entities" for purposes of healthcare operations without individual consent.¹ Since current FIs, the Department, and MMCPs are covered entities under the Rule, current FIs can transfer the requested data to MMCPs and the Department for purposes of payment and healthcare operations without prior express consent under HIPAA. Regarding New

¹ See 45 C.F.R. 164.506. For basic background information on the HIPAA Privacy Rule, please visit the U.S. Health Department of Health and Human Services website at ["Summary of the HIPAA Privacy Rule"](#).

York's PPPL, the statute is inapplicable in this scenario since PPPL applies to state agencies, not current FIs.²

The Department reminds current FIs that as administrator of the Medicaid program, the Department is entitled to such data –and MMCPs are also entitled to the data as benefit care managers under the program. The Department also reminds current FIs that entities participating in the Medicaid program are required to comply with all Medicaid statutes, regulations, and guidance as a condition of participation in the program. Failure to do so can carry penalties and other sanctions, including exclusion from the Medicaid program.

Questions regarding these SFI transition provisions should be directed to the Department of Health at StatewideFI@health.ny.gov.

² See Article 6-A of the Public Officers Law. For basic background information about New York's PPPL, please visit New York's Open Government website at ["What You Should Know - NYS Personal Privacy Protection Law \(PPPL\)"](#).