

# **Policy for sharing Protected Health Information of Enrollees between the MCO and the Health Home and its DownStream Providers Prior to the Member Signing a Health Home Consent**

In accordance with the Medicaid Managed Care contract, Section 20.3, medical records, which include protected health information, of an enrollee shall be confidential and shall only be disclosed to and by other persons within the MCO's organization, including Participating Providers such as contracted Health Homes and their downstream providers, only as necessary to provide medical care, which includes the provision of care coordination.

The Department of Health has determined that in accordance with the Medicaid Managed Care Contract and all Federal and State laws and regulations regarding confidentiality that absent a specific consent from the enrollee, a MCO may share with a contracted Health Home (to which the enrollee has not yet signed a Health Home consent) the last 5 claims or encounter data (defined as: The last 5 claims are based on service date, and must fall within the criteria for Loyalty which is inpatient, primary care, ER, and case management.), as well as two years of loyalty analysis showing the Enrollee's provider history for the purpose of outreach and engagement of the Enrollee within a Health Home network. Nevertheless, if a MCO and a Health Home have a contract in place with a Business Associate Agreement (BAA), then a member Health Home consent is not required to share information beyond the 5 encounters and loyalty analysis between the MCO, the Health Home and their downstream providers, and the MCO's network providers because the Health Home is acting on behalf of the MCO and the member has signed a consent with the MCO when they enrolled. For instance, it would be permissible for the Health Home or their downstream providers to contact one of the MCO providers identified in the last 5 encounters, as long as he or she is a network provider, to get more information about the member. The disclosure of information should be limited to that which is a minimum necessary to provide medical care.

Note: It is always up to a MCO or other provider's legal counsel to determine if it is appropriate to share protected health information (PHI) which is in their possession. If it is Medicaid data provided by the Department, then it is up to the Department whether disclosure is appropriate.