

MCO Contracting and Compliance Guidance for the NJ FamilyCare Housing Supports Program

A resource from the Camden Coalition for prospective Housing Supports providers new to billing Medicaid

Context

To participate in the Housing Supports Program (HSP), providers will need to enter into contracts with Managed Care Organizations (MCOs). Unlike the three prior steps in the process of becoming an HSP provider (obtaining your NPI; enrolling with DMAHS; and credentialing with MCOs), each MCO will have their own contract and contracting process. These contracts will generally be comprised of a boiler plate agreement used for “non-traditional” providers, as well as a Housing Supports Program addendum. The contracts will likely reference MCO provider manuals, which outline organizational policy and procedure that is specific to each of the five MCOs, though you may notice similarities across them.

This document seeks to cover:

- 1) Background on the MCO contracts you will receive as part of the Housing Supports Program
- 2) Tips related to MCO contract review
- 3) Operational implications of becoming a contracted Medicaid provider
- 4) HIPAA Basics
- 5) Operational implications of complying with HIPAA

Disclaimers: This document contains general information and may include references to legal principles. It is provided for informational purposes only and does not constitute legal advice. No attorney-client relationship is formed by the use or distribution of this document. For advice specific to your situation, please consult a qualified legal professional. This document was prepared by the Camden Coalition and does not necessarily reflect the views of the Department of Medical Assistance and Health Services (DMAHS).

Understanding MCO Contracts

It is important to understand that the majority of the MCO contract language you will be reviewing and eventually signing is not tailored specifically to this program and sits within the context of the larger federal Medicaid program, as well as federal and state law. More specifically:

- I. **MCOs are legally and contractually obligated to fulfill the State’s responsibilities to the federal Medicaid program.** Therefore, MCOs hold contracts with the State that hold them accountable to certain practices; the MCOs then require their contracted providers to uphold those same practices. Many of these contract provisions are dictated by CMS and therefore cannot be modified or struck.
- II. **These MCO contracts may be adapted from existing contract templates that include content that may not be relevant to your organization.** The Housing Supports Program is one of the first examples of social care organizations participating in Medicaid billing in NJ. You may see language that relates to clinical care delivery that is not applicable. You may be able to

point that out and have it struck from the contract or at least clarify what expectations are for your agency around those provisions.

MCO Contract Review

- I. **If you choose to consult an attorney, it can be helpful to engage one who has experience with healthcare law to review the contract before signing**
 - a. You can consult your local NJ Bar Association chapter or look for firms in NJ that have a healthcare division
 - b. Provide your attorney with background and context on the Housing Supports Program.
- II. **Your review of the contract should aim to redline as little as possible while still protecting your organization from risk.** The details of the Housing Supports Program requirements, including the fee schedule and allowable scope of services, are outlined in detail in the MCO and Provider Guidance released by DMAHS. The MCO contracts have also been reviewed by DMAHS to ensure alignment with NJ FamilyCare requirements.
- III. **Areas you need to closely review and may want to red line include:**
 - a. Factual (mis)information (addresses, contact info, etc)
 - b. Insurance coverage amounts
 - c. Clauses that are written unidirectionally and could be made mutual (e.g. indemnification, confidentiality, breach notification, etc.)
 - d. Requirements that are impossible for your organization to comply with
 - e. Any language that you feel contradicts Housing Supports Program guidance (for example, with Pre-Tenancy/Tenancy-Sustaining Services, MCOs are not permitted to ask for third-party documentation beyond what is outlined in the guidance in order to make authorization determinations)

Operational Implications

- I. **MCO Provider Manuals** Each MCO has a Provider Manual that serves as comprehensive guide to the policies and procedures of that MCO and will give you more of a sense of operations related to the Medicaid program. While these will include similar details across the plans, they are structured differently and there may be substantive differences. **Some or all of the MCO contracts may reference the individual MCO's Provider Manual, meaning that if you sign the contract you are attesting that you have reviewed and agree to the contents of the Manual.** Here's where you can find each MCO's provider manuals though these may not be the most updated versions and may not yet include the Housing Supports Program.
 - a. [Aetna Better Health NJ Provider Manual](#)
 - b. [Medicaid Provider Resources | Fidelis Care](#)
 - c. [Provider Administrative Manual 2025](#) (Horizon)
 - d. [Care Provider Manual - UnitedHealthcare Community Plan of New Jersey](#)
 - e. [Wellpoint Provider Manual](#)
- II. **Operational Implications for your Organization** To meet the requirements of the MCO contract and to ensure you are paid for services delivered under the contract, you may need to develop or modify relevant policies and procedures, workflows, and infrastructure. In reviewing the contract

and Provider Manuals, confirm that your organization has the capacity to comply with their requirements. Some areas to pay specific attention to are:

- a. **Data security** – your organization will need to comply with HIPAA and other relevant laws which we will cover later in this document
- b. **Insurance coverage** – you may want to consult your insurance broker to discuss implications of becoming a contracted Medicaid provider
- c. **Background checks** – consider the operations of conducting background checks as well as how you will track and document compliance.
- d. **Training requirements** – MCOs have different training requirements outlined in their Provider manuals and may offer some or all of the required trainings themselves. Consider delivery of these trainings to your staff as well as if and how you will track and document compliance.
- e. **Critical Incident reporting** – MCOs require that you report any critical incidents that occur with their members. Make sure you understand these requirements and consider how you will track and document compliance.
- f. **Audits and record retention** – review the language around audits and requirements for record retention.
- g. **Financial implications** – your finance team should review the claims submission and appeals processes, as well as policies around overpayment. They can also reference the [Provider Guidance](#), [MCO Guidance](#) and [Tech Readiness Guidance](#) documents to better understand how billing and payment will work as it relates to service delivery within the Housing Supports Program, and potential investments in technology that may be necessary to sustain operations.
- h. **Governance implications** – consider whether your board needs to review and/or approve the contracts and other changes you are required to make.

Understanding HIPAA

The section below aims to give high level information about HIPAA to assess whether your organization can feasibly comply and therefore responsibly enter into a contract that establishes your organization as a covered entity that is governed by HIPAA. This document does not replace comprehensive HIPAA training or legal advice on the implications of becoming a covered entity.

The Health Insurance Portability and Accountability Act (HIPAA) seeks to improve the efficiency and effectiveness of the healthcare system through national standards for electronic healthcare transactions, and privacy protections for individuals' personal health information. As contracted Medicaid providers who will be working with electronic health data in order to bill and receive payment, HSP providers are "covered entities" meaning all protected health information (PHI) developed or exchanged under HSP is governed by HIPAA. There are two critical pieces to HIPAA, the privacy rule and the security rule.

- I. **Privacy Rule – this rule defines when and how you can disclose PHI without an individual's authorization.**
 - a. The HIPAA Privacy Rule establishes national standards to protect individuals' medical records and other individually identifiable health information (collectively defined as "protected health information") and applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically.
 - b. The Privacy Rule requires appropriate safeguards to protect the privacy of protected health information and sets limits and conditions on the uses and disclosures that may be made of such information without an individual's authorization.

- c. The Privacy Rule also gives individuals rights over their protected health information, including rights to examine and obtain a copy of their health records, to direct a covered entity to transmit to a third party an electronic copy of their protected health information in an electronic health record, and to request corrections.

II. **Security Rule – this rule defines the physical, administrative and technical safeguards that need to be in place to keep PHI secure and confidential.**

- a. The HIPAA Security Rule establishes national standards to protect individuals' electronic personal health information that is created, received, used, or maintained by a covered entity. The Security Rule requires appropriate administrative, physical, and technical safeguards to ensure the confidentiality, integrity, and security of electronic protected health information.

Operationalizing HIPAA

To understand what steps need to be taken to be HIPAA-complaint when you launch your organization's Housing Supports Program, it might be worth engaging an attorney or consultant familiar with HIPAA to assess your operations and what gaps need to be addressed immediately or over time. A few high-level suggestions are outlined below but your organization's context and existing infrastructure are crucial inputs to figuring out whether you are well-positioned for compliance.

Briefly, the Privacy Rule establishes when and how PHI can be shared, while the Security Rule establishes how PHI must be protected when it is at rest and when it is being transmitted or shared.

Operationalizing the Privacy Rule

Below are some best practices that your organization will want to put in place to ensure compliance with the Privacy Rule.

- **Establishing regular HIPAA training:** it is best practice that all staff who have access to PHI or work on the Housing Supports Program in any way will need to be trained at least annually on HIPAA and associated workflows to ensure compliance. All staff who are part of the chain of command of any programs involving PHI should be included in training.
- **Posting and Distributing Notice of Privacy Practices:** Providers must inform patients on how their medical information will be shared via a "[Notice of Privacy Practices](#)" It should be posted on your premises and provided/explained to your clients at intake or another point in your workflow.
- **Client Consent and Authorization Workflows**
 - HIPAA establishes that the sharing of your clients' data is permissible **without** individual authorization if it is being used for purposes of treatment, payment or operations.
 - **Treatment** refers to the provision, coordination or management of health care services, including consultations between providers and referrals for necessary medical care.
 - **Payment** involves activities related to billing, claims processing and reimbursement for health care services ensuring Medicaid covers costs for eligible beneficiaries
 - **Operations** includes administrative, financial and quality-improvement activities necessary for Medicaid to function efficiently, such as audits, case management and fraud prevention.
 - However, it is **recommended that clients review and sign a consent, referred to as a "Release of Information" or "Authorization for Disclosure of Protected Health Information" that clearly articulates how their data will be shared.** If you have a current consent process to collect such a form, you may decide to update it to include the Housing Supports Program, informing clients that your organization will be sharing

information with the client's Medicaid managed care organization. As part of the Housing Supports Program, clients will also need to provide signature to indicate that they consent to receiving services and will do so on the Initial Assessment Tool and Housing Stabilization Plan.

- There are some categories of data (eg: HIV, substance-use disorder, psychotherapy notes) that are considered "sensitive" and are governed by additional privacy rules beyond HIPAA. If your organization deals with these types of data, they may require additional consents or different workflows which should be researched as you establish your billing practices and program workflows.

Operationalizing the Security Rule

Below are baseline practices that your organization will need to have in place to ensure compliance with the Security Rule.

- **Physical Safeguards**

- Physical safeguards ensure that all PHI is secured through mechanisms such as locks for offices and filing cabinets; screen protectors for laptops and tablets to prevent accidental viewing of PHI; space that is conducive to private conversations with or about clients; and locked shredders to get rid of paper records that include PHI.

- **Technical Safeguards**

- Technical safeguards ensure that PHI is stored and transmitted in a secure manner through mechanisms like password protection, two-factor authentication, HIPAA-compliant case management platforms, email encryption, encrypted files or flash drives to store PHI, and encrypted shredding of electronic documents that contain PHI.
- PHI should never be stored in non-HIPAA compliant cloud platforms (eg: Google drive) or transmitted via unencrypted email
- E-fax should be used to ensure faxed PHI reaches the correct recipient

- **Administrative Safeguards**

- Administrative safeguards are the policies and procedures that ensure staff who work with PHI understand and actively comply with HIPAA. This includes training, monitoring and enforcing said policies and procedures, as well as on-going review and maintenance of a compliance program that evolves with the organization and its programming.
- Many organizations choose to establish a Security or Compliance Officer to oversee this critical function.

Please note: The [Tech Readiness Guidance](#) document lays out a default HIPAA-compliant workflow for the Housing Supports Program that requires no additional technical safeguards but does not eliminate the need for physical and administrative safeguards to further protect PHI.

- The default workflow does not provide a secure solution for transmitting PHI to patients or providers electronically, which would require encryption software.
- There are permissible methods (i.e., mail, fax) where PHI can be transmitted in a HIPAA-compliant manner non electronically. Please note that these methods can only be used with reasonable safeguards (i.e., confirming correct fax number/address, utilizing HIPAA disclaimer cover sheet)

- Due to the member population and service type that Housing Supports serves, requests for PHI from patients or providers are expected to occur less frequently than in traditional healthcare settings.

Additional Resources

Taking the step to become a Medicaid provider is a significant endeavor and it is important to understand the implications of taking this step, especially as you enter contractual relationships with entities who will extend their compliance obligations to your organization as a provider. As you continue to review the guidance and assess your organization's readiness, we encourage you to stay connected to the Camden Coalition's Housing Supports program resources:

- [Join our newsletter](#): We regularly share updates and relevant information through our Housing Supports Program newsletter.
- [Register for our training series](#): We hold trainings and office hours every other Wednesday from 1-2:30 pm. Sign up for the series and make sure you add the recurring event to your calendar!
- [Bookmark our website](#): We host all training recordings, slide decks and tools on our Housing Supports website.
- [Access the state's official guidance and forms](#): All official documents released by the Department of Medical Assistance and Health Services (DMAHS) are posted on this site.
- [Use our Help Desk](#): Get your questions answered or set up time for some individual support by filling out an inquiry form.