

# Cabinet for Health and Family Services

## Division of Health Information

### *Policies – Information Technology*

**Category: 3 000.000**

**Category Title: PARTICIPANT OBLIGATIONS**


#### **Policy Permitted Use of Data**


**Policy: Permitted Use:** Participant and its Authorized Users will use KHIE only for a Permitted Use. Participant will, and will require its Authorized Users, to comply with the Participation Agreement and all applicable laws and regulations governing the privacy and security of Data received through the Exchange. If Participant includes Data obtained through KHIE in a patient's medical record, Participant may use such Data only for those uses as defined below. Participant and Division of Health Information acknowledge that Participant will make Data available for access through the Exchange only for a Permitted Use and will request Data only for a Permitted Use.

All Participants must be covered entities under HIPAA, and, therefore, individually subject to regulation and penalties of federal and state authorities.

A permitted use of the Kentucky Health Information Exchange is defined as follows:

#### **1. By Health Care Providers:**

- a. For Treatment of the individual who is the subject of the Data,
  - b. For the Payment activities of the Participant for the individual who is the subject of the Data which includes, but is not limited to, exchanging data in response to or to support a claim for reimbursement by Participant to a Health Plan.
  - c. For the Health Care Operations of either
    - i. The provider of the Data if the provider is a Participant,
    - ii. A covered entity if the provider of the Data is exchanging Data on behalf of the covered entity, or
    - iii. The receiver of the data, if the receiver of the Data is a Participant who has an established Treatment relationship with the individual who the subject of the Data or the receiver of the Data is exchanging Data on behalf of a Participant, and: the purpose of the exchange is for those health care operations listed in paragraphs (1) or (2) of the definition of Health Care Operations in 45 CFR § 164.501 or health care fraud and abuse detection or compliance of such Health Care Provider. All Permitted Use by a Participant
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- iv. is such that patient authorization is not required under HIPAA; and
  - To facilitate the implementation of “meaningful use” criteria as required under the American Recovery and Reinvestment Act of 2009 and its related federal regulations, as permitted by HIPAA; and

**2. By the Department for Medicaid Services:**

- a. For Treatment and Payment for Medicaid patients and/or Operations such that patient authorization is not required under HIPAA, limited to functions related to case management, care coordination, and quality improvement activities; and
- b. To facilitate the implementation of “meaningful use” criteria as required under the American Recovery and Reinvestment Act of 2009 and its related federal regulations, as permitted by HIPAA.

**3. By the Kentucky State Laboratory, Division of Laboratory Services:**

- a. For Treatment and Payment for patients and/or Operations such that patient authorization is not required under HIPAA; limited to functions related to case management, care coordination, and quality improvement activities for the Kentucky newborn screening program, as authorized in KRS 214.155 and cited as the James William Lazzaro and Madison Leigh Heflin Newborn Screening Act; and
- b. To facilitate the implementation of “meaningful use” criteria as required under the American Recovery and Reinvestment Act of 2009 and its related federal regulations, as permitted by HIPAA.

4. **Public health activities and reporting** as permitted by applicable law, including the HIPAA regulation at 45 CFR § 164.512(b) or 164.514(e); and

5. **Uses and disclosures pursuant to an Authorization provided by the individual** who is the subject of the Data exchanged or such individual’s personal representative as described in 42 CFR § 164.502(g) of HIPAA.

**Scope:** This policy applies to all Participants and their Authorized Users.

**Policy/Procedure Maintenance Responsibility:** The Office of Health Information is responsible for the maintenance of this policy.

**Applicability:** All Participants and their Authorized Users shall adhere to this policy.

**Exceptions:** There are no exceptions to this policy.

**Review Cycle:** Bi-Annual



**Timeline:**

Review Date: 05-26-2022  
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**KENTUCKY**  
**HEALTH INFORMATION EXCHANGE**

Connecting Kentucky. Improving Healthcare.

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