

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES
AND THE FLORIDA AGENCY FOR HEALTH CARE ADMINISTRATION**

This Memorandum of Understanding (“MOU”) is entered into by and between the Florida Department of Children and Families (“DCF”) and the Florida Agency for Health Care Administration (“AHCA”), pursuant to Florida Statutes and as required by the Memorandum of Agreement signed by the two agencies on August 31, 2011.

Whereas, AHCA shall make available to DCF certain data that is confidential and must be afforded special protection; and

Whereas, DCF shall receive and have access to data from AHCA that can be used or disclosed only in accordance with this agreement and within state and federal law;

NOW, THEREFORE, AHCA and DCF agree as follows:

1. **Purpose of MOU.** DCF and AHCA will share certain data to assist in the coordination of medical and behavioral health care for children enrolled in Medicaid who are also in the care and custody of DCF only if permitted by state and federal law, and in accordance with 42 C.F.R. § 431.300-307.

Currently, a data sharing agreement is in effect between AHCA and DCF that enables enrollment of certain Medicaid eligible children whose cases are open for child welfare services in the Florida Safe Families Network (FSFN) into the Child Welfare Prepaid Mental Health Plan. This MOU expands that purpose to allow AHCA to share Medicaid provider payment files with DCF to improve coordination of care for these children and help ensure that services are delivered in a timely, appropriate, efficient, and cost-effective manner.

DCF and AHCA will match children whose cases are open for child welfare services in the Florida Safe Families Network (FSFN) to Medicaid eligibility and provider payment files in the Florida Medicaid Management Information System (FMMIS) in order to make available information on Medicaid eligibility and Medicaid claims payment data for services and prescriptions for these children. This data sharing is important for the effective administration of Medicaid services.

2. **Justification for Access.** This MOU is authorized by law under section 1902(a)(7) of the Social Security Act. Section 1902(a)(7) of the Social Security Act mandates that a State Medicaid Plan provide safeguards that restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the Plan. This MOU implements this statute by allowing the AHCA to disclose the data necessary for the administration of the Medicaid program.

3. **Description of Data.** DCF may disclose and AHCA may obtain and use the following data pursuant to this MOU: FSFN data for Medicaid eligible children whose cases are open for child welfare services in the FSFN.

AHCA may disclose and DCF may obtain and use the following data pursuant to this MOU: Medicaid claims payment data and Medicaid beneficiary eligibility data associated with Medicaid beneficiaries

under the age of 21 years only, who are found to be dependent or children in shelter care and whose cases are open for child welfare services in the FSFN.

4. **Points of Contact.** DCF and AHCA designate the following individuals as points of contact for this MOU:

Agency	Department of Children and Families	Agency for Health Care Administration
Contact Name	Art Harwood	David Powers
Street Address	1940 N. Monroe Street	2562 Executive Center Circle E Montgomery Bldg. Suite 100
City/State/Zip Code	Tallahassee, Florida 32399	Tallahassee, Florida 32301
Telephone Number	(850) 921-0676	(850) 412-3406
E-mail Address	art_harwood@dcf.state.fl.us	David.Powers@AHCA.myflorida.com

5. **Custodial Responsibility.** DCF and AHCA designate the following individuals as custodians of the data received from the other agency:

Agency	Department of Children and Families Custodian of AHCA Data	Agency for Health Care Administration Custodian of DCF Data
Contact Name	Jason Gaitanis	Alan Strowd
Street Address	1317 Winewood Boulevard	2562 Executive Center Circle E Montgomery Bldg. Suite 100
City/State/Zip Code	Tallahassee, Florida 32399	Tallahassee, Florida 32301
Telephone Number	(850) 717-4654	(850) 412-1362
E-mail Address	jason_gaitanis@dcf.state.fl.us	Alan.Strowd@AHCA.myflorida.com

The custodians shall be responsible for the observance of all conditions of use and for the establishment and maintenance of safeguards to prevent unauthorized use. Either party shall notify the other in writing within fifteen (15) days of any change of custodianship. Notification of change of custodianship shall be delivered by certified mail, return receipt requested, or in person with proof of delivery, or via e-mail.

6. **Permissible Uses and Disclosures of Data.** DCF shall not use or further disclose, transmit, copy, or disseminate the data specified in this MOU except as permitted by this MOU or as required by federal law.

DCF shall establish appropriate administrative, technical, and physical safeguards to protect the confidentiality of and to prevent unauthorized use or access to the data specified in this MOU.

DCF shall ensure that all electronic transmissions of protected health information are authorized by the terms of this MOU and that all transmissions shall be protected from improper disclosure. DCF shall use appropriate authentication and encryption systems to safeguard all protected health information from improper disclosures.

DCF shall not release or allow the release of the data specified in this MOU to any person or entities other than as permitted by this MOU.

DCF shall restrict disclosure of the data specified in this MOU to the minimum number of individuals who require the information in order to perform the functions of this MOU. DCF shall instruct individuals to whom the data is disclosed of all obligations under this MOU and shall require the individuals to maintain those obligations.

DCF shall secure the data specified in this MOU when the data is not under the direct and immediate control of an authorized individual performing the functions of this MOU. DCF shall make a good faith effort to identify any use or disclosure of the data not provided for by this MOU. DCF shall notify the AHCA by certified mail, return receipt requested, or in person with any proof of delivery within seventy-two (72) hours of discovery of any use or disclosure of the data not provided for by this MOU of which DCF is aware.

A violation of this section shall constitute a material breach of this MOU.

7. **Disclosure to Agents.** DCF and AHCA shall ensure that any agents of DCF and AHCA, including, but not limited to, a contractor or subcontractor, to whom DCF and AHCA provides the data specified in this MOU agree to the same terms, conditions, and restrictions that apply to DCF and AHCA with respect to the data.

DCF shall provide AHCA with a list of all contractors and sub-contractors who will be provided with the protected Medicaid data.

DCF shall notify AHCA immediately (within twenty-four (24) hours) in the event of a breach of established security measures to protect the confidentiality of Medicaid data. In addition, DCF shall notify AHCA immediately (within twenty-four (24) hours) in the event of a terminated contractor or sub-contractor to whom protected health information or data has been provided.

DCF shall ensure that any agent, including contractors and subcontractors, to whom it provides protected health information received from, or derived from, information received from AHCA, upon termination of the contract, destroys any data and any information derived from its contents, including all copies, modified data, or hybrid or merged databases containing the data. In addition, DCF is responsible for ensuring that copies of the data residing in databases of contractors and subcontractors are also destroyed, and for providing such proof as is deemed acceptable to AHCA, that such secondary data systems have been purged of the data. DCF shall provide AHCA with a list of terminated contractors and sub-contractors, together with written confirmation of the destruction of the data and any information derived from its contents.

8. **Access to Data.** DCF and AHCA shall notify each other in writing, by certified mail, return receipt requested, or in person with proof of delivery within ten (10) days of any requests received from individuals seeking access to or copies of the data specified in this MOU.

9. **Accounting of Disclosures.** DCF shall notify AHCA in writing by certified mail, return receipt requested, or in person with proof of delivery within ten (10) days of any requests received by DCF from individuals seeking an accounting of disclosures of the data specified in this MOU. DCF shall document all disclosures of the data as needed for AHCA to respond to a request for an accounting of disclosures in accordance with 45 C.F.R. § 164.528, and shall provide AHCA with such documentation upon AHCA's request.

10. **Incorporation of Amendments to the Data.** DCF shall incorporate any amendments to the data specified in the MOU when and as notified by AHCA.

11. **Terms and Conditions.**

a. DCF shall transmit demographic files electronically to AHCA and receive electronic files in return when the demographic file is matched as described above.

b. Access to client-identifying information shall be strictly limited to the stated purposes and to those authorized agents of DCF and AHCA as necessary to perform activities related to ensuring that the Medicaid-eligible children who are matched to the data provide by DCF receive appropriate medical care, behavioral health care, and prescription services pursuant to Chapter 409, Florida Statutes. Disclosure of client-identifying information to any person or entity other than an authorized agent of DCF or AHCA may subject the discloser to criminal penalties and/or civil liabilities. Authorized agents shall mean employees or contractors under contract with DCF or AHCA.

c. Each authorized agent of DCF or AHCA provided access shall be required to sign security forms indicating their understanding of the confidentiality restrictions and possible penalties for unauthorized disclosure.

d. Where applicable, DCF and AHCA will comply with the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S. section 210 et seq) as well as all regulations promulgated thereunder (45 CFR Parts 160, 162, 164).

e. DCF and AHCA shall comply with and cause contractors to comply with the requirements of ss. 39.202 (2)(i), 414.295, and 119.07, Florida Statutes, and 42 USC 1396a and 42 CFR 431.302-306.

f. DCF and AHCA shall comply with and cause contractors to comply with the requirements of DCF, AHCA, and the Agency for Enterprise Information Technology (AEIT) policies and best practices for security of data. DCF and AHCA shall also comply with and cause contractors to comply with Chapter 71A-1, Florida Administrative Code, section 119.071(5) of the Florida Statutes, and the National Institute of Standards and Technology (NIST) Federal Information Processing Standards (FIPS) as applicable.

12. **Penalties.** DCF and AHCA both acknowledge that failure to abide by the terms of this MOU may subject them to penalties for wrongful disclosure of protected health information under federal law. DCF and AHCA both agree to inform all persons with authorized access to the data specified in this MOU of the penalties for wrongful disclosure of protected health information.

13. **Indemnification.** If either agency enters into a contract with a private contractor who will access department data on its behalf, that agency agrees that it will include in such contract a provision requiring the contractor to indemnify and hold both agencies harmless from any claims, suits, judgments, or damages including attorneys' fees and costs arising out of the disclosure or release of protected confidential information.

14. **Disposition of Data.** DCF and AHCA may retain the data specified in this MOU until all necessary reporting requirements have been met, including a period of time after termination of this MOU. For this period of time, DCF and AHCA shall be responsible for ensuring that all requirements of this MOU regarding use of data, client confidentiality, and data security are maintained. At the end

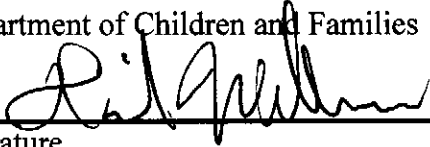

of this period, DCF and AHCA shall destroy the data and any information derived from its contents, including all copies, modified data, or hybrid or merged databases containing the data. The data custodians shall have responsibility for ensuring that these actions are completed timely and for providing a written description and confirmation of the destruction to the points of contact. The points of contact will exchange that information on behalf of their respective agencies.

15. **Term of Agreement.** This MOU shall be effective upon execution by both parties and shall remain in effect until terminated by one of the parties. The terms of the MOU, and compliance with them, shall be reviewed sixty (60) days prior to the anniversary of execution. A determination of compliance or non-compliance must be completed no less than thirty (30) days prior to the anniversary of execution of the MOU. Either party may, with no less than twenty-four (24) hours' written notice to the other, terminate the MOU upon material breach. The MOU may be terminated by either party without cause upon thirty (30) days' written notice. Notice of termination shall be delivered by certified mail, return receipt requested, or in person with proof of delivery, or via e-mail.

The terms of this MOU may not be waived, altered, modified, or amended, except as described above, without written agreement of both parties.

This MOU supersedes any and all agreements between the parties with respect to the use of the data specified in this MOU.

In witness whereof, the Department of Children and Families and the Agency for Health Care Administration have caused this MOU to be signed and delivered by their duly authorized representatives as of the date set forth below.

Department of Children and Families	Agency for Health Care Administration
	
Signature	Signature
David Wilkins	Elizabeth Dudek
Print Name	Print Name
Secretary	Secretary
Title	Title
2-9-12	2/27/2012
Date	Date