

State of Connecticut



Hartford

KEVIN LEMBO
COMPTROLLER

September 12, 2013

Margo Lachowicz
Access Health CT/Connecticut Health Insurance Exchange
280 Trumbull Street, 15th Floor
Hartford, CT 06103

Dear Margo,

Thank you for the opportunity to respond to your request for comment on the proposed policies and procedures related to the All-Payer Claims Database (APCD).

My comments fall into three categories:

1. I request that the policies and procedures be amended to include an explicit ban on the use of this data for promotional or marketing purposes;
2. I urge that, as any future policies related to data access are developed, that they include an independent appeal process to ensure that those who use this data are treated uniformly and fairly – and that we preserve the spirit and intent of the APCD; and,
3. I suggest that all activities of the all payer claims database be conducted in a transparent manner that exceeds the letter of the state Freedom of Information laws. Specifically, I request that all data requests to the APCD (including the name and affiliation of the requestor, the purpose of the request, and the outcome) be publicly available on the APCD website in real time. This data should include data requests from Access Health CT.

The APCD will aggregate medical claims from each of the state's major medical carriers, third party administrators, Medicaid and Medicare to create a database that includes information for nearly all medical insurance claims in the state. The APCD was enacted by Public Act 12-166 "to increase efficiency, enhance outcomes and improve the understanding of health care expenditures in the public and private sectors." The enacting legislation is very specific about how the data collected for the APCD should be used to accomplish these goals – and directs Access Health CT to make data in the APCD available to third parties.

In order to ensure that the APCD data is used for its intended purpose, Access Health CT must design policies and procedures to regulate the disbursement of the information. In doing so Access Health CT should explicitly ban the use of the data for marketing or promotions, clearly define the criteria used to determine data access and include an appeals process for denied access requests.

Connecticut's APCD is relatively unique in that it will be housed with the state's health insurance exchange under a quasi-public entity. By design, quasi-publics are more independent than government agencies. In general they are less subject to public scrutiny and executive oversight. Given the greater degree of independence of Connecticut's APCD it is important that it be governed by clear and specific data access policies that comport with the statutorily expressed purpose of the APCD, to increase efficiency, enhance outcomes and improve understanding of our health care system.

The importance of creating clear and transparent policies and procedures is further elevated by the fact that the APCD is not anticipated to be supported with an ongoing general fund appropriation. The data maintained by the APCD will have real commercial value. For example pharmaceutical companies and device manufacturers already use prescriber data to inform their direct marketing campaigns to physicians. Access Health CT should expressly ban the use of the data for such purposes to avoid any temptations to allow these activities in the future. Equally as important, an explicit ban will increase public confidence in the integrity of their data housed in the APCD and thereby help to ensure the long-term success and viability of the database.

Other states with operational APCDs already expressly prohibit the use of APCD data for promotional or marketing purposes in their regulations or policies and procedures including Colorado and New Hampshire which are both often cited by Connecticut officials as model states for their APCD development.

The current proposed policies and procedures do not define the policies that Access Health CT will use to analyze data access requests, pushing those decisions off to a future date. When policies and procedures are promulgated access to APCD data should be determined based upon fair and transparent criteria that aligns with the objectives of the APCD. An independent data access appeals process to an outside entity should be defined and basic information including: name, purpose and outcome regarding data access requests should be made publicly available on the APCD's website. Together these basic requirements will help to ensure that the data access policies and procedures are fairly and uniformly applied while keeping the public apprised of who is requesting their data and for what purpose.

The APCD is a significant and important tool for improving the efficiency and outcomes in our health care system. It will allow consumers to make more informed decisions about the care they receive and provide significant insight into health care utilization, costs and quality in our state. However, we must ensure that the data is only used for its intended purpose. I cannot, nor should Access Health CT, support policies and procedures that do not explicitly prohibit the release or sale of medical claims data for marketing or promotions, layout clear and specific criteria for data access and include an appeals process in which outside parties can appeal data access denials.

Sincerely,



Kevin Lembo
State Comptroller

CC:

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