42 CFR Part 2 Data Strategy
Agenda

• Introductions and meeting purpose
• What is 42 CFR Part 2
• SAMHSA* 2017 Final Rule
• HEALTHeLINK Part 2 Strategy
• Accessing Part 2 data

* Substance Abuse and Mental Health Services Administration
What is 42 CFR Part 2?

Federal regulation that provides special protections to substance use disorder (SUD) services:

• Applies to a limited set of data
• Access requires patient consent
• Other required controls beyond HIPAA and state regulations and policies
SAMHSA – What Data is Protected?

• 42 CFR Part 2 rules apply to any individual or entity that is **federally assisted** and holds itself out as providing, and provides, alcohol or drug abuse diagnosis, treatment or referral for treatment.

• The information protected by 42 CFR Part 2 is **any information** disclosed by a **covered program** that identifies an individual directly or indirectly as having a current or past drug or alcohol problem, or as a participant in a covered program.

• Generally, facilities licensed by the NYS Office of Alcoholism and Substance Abuse Services (OASAS) are subject to 42 CFR Part 2 regulations.
SAMHSA 2017 Final Rule

Permitted the use of a “general designation” consent for identifying “to whom” disclosures may be made

- May be listed on a website, versus on the form
- Limited “purposes of use” when a “general designation,” a.k.a., community consent, is used
- Other consent form requirements
HEALTHeLINK Part 2 Strategy

• HEALTHeLINK segregates data from Participants subject to 42 CFR Part 2

• HEALTHeLINK consent form modified to be SAMHSA compliant

• Participant’s Authorized Contact must specifically grant access to Part 2 data by an Authorized User

• Access to Part 2 data is only permitted:
  • By a HEALTHeLINK Authorized User
  • Where access where a “Treating Provider Relationship” exists
  • Where the patient has signed a HEALTHeLINK consent
Treating Provider Relationship means that, regardless of whether there has been an actual in-person encounter:

- A patient is, agrees to or is legally required to be diagnosed, evaluated, and/or treated, or agrees to accept consultation, for any condition by an individual or entity, and;
- The individual or entity undertakes or agrees to undertake diagnosis, evaluation, and/or treatment of the patient, or consultation with the patient, for any condition.
SHIN-NY Purposes of Use

- Treatment
- Care Management
- Quality Improvement – generally not patient specific
  “activities designed to improve processes and outcomes related to the provision of health care services”
- Treatment and Care Management typically align with the SAMHSA definition for Treating Provider Relationship.
- Quality Improvement likely does not.
Process for Gaining Access to Part 2 Data

1. Determine which Authorized Users (AU) need access to Part 2 data and determine each users’ Purpose of Use:
   1. Treatment Provider Relationship only
   2. Quality Improvement only
   3. Mix of the two. There are two options:
      1. Do not permit access to Part 2 data
      2. Request a second set of user credentials to access Part 2 Data

2. For each AU, complete a HEALTHeLINK Part 2 Access Request Form
Key Points for the Authorized Contact

• Responsible to determine and attest to the users Purpose of Use.
• Periodically confirming user access to HEALTHeLINK is for permitted Purposes of Use
• Inform HEALTHeLINK in a timely manner if a user’s access rights need to be modified
Questions?
SHIN-NY Definition

Treatment

• Provision, coordination, or management of health care and related services among health care providers or by a single health care provider.

• May include providers sharing information with a third party.

• Consultation between health care providers regarding a patient and the referral of a patient from one health care provider to another also are included within the definition of treatment.
SHIN-NY Definition

Care Management

• Includes:
  • Assisting a patient in obtaining appropriate medical care,
  • Improving the quality of health care services provided to a patient
  • Coordinating the provision of multiple health care services to a patient, or
  • Supporting a patient in following a plan of medical care.

• Does not include utilization review or other activities carried out by a payer organization to determine whether coverage should be extended or payment should be made for a health care service.
SHIN-NY Definition

Quality Improvement

• Activities designed to improve processes and outcomes related to the provision of health care services.

• Quality Improvement activities include but are not limited to:
  • Outcome evaluations
  • Development of clinical guidelines
  • Population based activities relating to improving health or reducing health care costs
  • Clinical protocol development and decision support tools
  • Case management and care coordination
  • Reviewing the competence or qualifications of health care providers

• The use or disclosure of Protected Health Information for quality improvement activities may be permitted provided the accessing and disclosing entities have or had a relationship with the individual who is the subject of the Protected Health Information.
Reference Material

Available on the HEALTHeLINK web site: http://wnyhealthelink.com/physicians-staff/training-videos/

• FAQ
• PPT Presentation
• Request form
• Reference sites:
  • SAMHSA 2017 Final Rule
  • Final Rule Comments and SAMHSA Responses
  • https://oasas.ny.gov/providerdirectory/index.cfm#search_results