

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

August 11, 2017

BULLETIN NO. 11--2017

TO: ALL LICENSED INSURERS, HEALTH MAINTENANCE ORGANIZATIONS (HMOs), FRATERNAL BENEFIT SOCIETIES, FARMERS' MUTUAL AID ASSOCIATIONS OR COMPANIES, HOSPITAL MEDICAL SERVICE CORPORATIONS, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, PRODUCER AND COMPANY TRADE ASSOCIATIONS, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: ARKANSAS APCD DATA SUBMISSION UPDATE

The new 42 C.F.R. Part 2 regulation regarding the confidentiality of substance abuse disorder data is now in effect. The Final Rule makes clear that a state APCD is allowed to receive Part 2 data under the research exception provided in § 2.52, provided that the conditions of the research exception are met. If Arkansas receives the data in this fashion, we would be "considered a 'lawful holder' under these final regulations and would therefore be permitted to redisclose part 2 data for research purposes, subject to the other conditions imposed under § 2.52." (See 82 Federal Register 6052, 6102.)

The Arkansas Insurance Department has a federal wide assurance with HHS Office of Human Research and Protection. Our Institutional Review Board (IRB) is bound to follow the Common Rule (45 C.F.R. 46) for all human subject research. The Final Rule does not require a lawful holder to be a HIPAA-covered entity. Instead, as a lawful holder, the APCD must remain subject to the confidentiality provisions set forth in Part 2.

We are notifying all APCD data suppliers that we are a lawful holder under the new regulation. Therefore, data suppliers do not need to suppress any part 2 data prior to submitting to our vendor for processing.

Direct your inquiries to the Health Insurance Rate Review Division at (501) 683-3146 or the Arkansas Center for Health improvement at (501) 526-2244.

ALLEN W. KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS

August 1, 2017
DATE