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Director

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Date: March 5, 2024

Tracy S. Gruber
Executive Director
Utah Department of Health & Human Services
288 N. 1460 W.
Salt Lake City, UT 84116

Dear Tracy Gruber,

I am writing to you in my capacity as San Juan Public Health Director to request access to Health and Human Services (HHS) emPOWER data, when received by the Utah Department of Health and Human Services for an imminent threat or emergency that warrants its use, and as it pertains to my jurisdiction.

The data is needed to carry out certain public health emergency response activities that San Juan Public Health (hereafter known as the Local Health Department) is authorized to perform, per San Juan County Ordinance 2018-01-A. The data set will support the Local Health Department in conducting public health activities that will assist at-risk individuals that have access and functional needs that include: dialysis, oxygen services, home health or hospice services, or utilize durable medical equipment or devices. The Local Health Department aims to use the dataset to enhance situational awareness of, emergency planning for, and outreach and assistance to at-risk Medicare beneficiaries with access and functional needs prior to, during, and in the aftermath of an incident, emergency, or disaster that poses an adverse health and/or public health impact. These responsibilities and uses would, in our opinion, be a permitted disclosure under the HIPAA Privacy Rule¹.

The Local Health Department agrees to the same stipulations for data disclosure and use that the Utah Department of Health and Human Services agrees to with the Centers for Medicaid Services (CMS) and Health and Human Services (HHS) in the attached Privacy Assertion, Data Use Agreement (DUA) and DUA Addendum. These stipulations include assurances by the Local Health Department that:

- the individual or party who uses the data is either an employee of the Local Health Department, a contractor of the Local Health Department or other, as defined in the DUA Addendum, who is tasked with carrying out activities under our public health authority;
- the Local Health Department has the appropriate safeguards implemented for protecting all personally identifiable information (PII) and protected health information (PHI);
- all individuals with access to the data, including those conducting the public health activities, have passed a criminal background check and are HIPAA trained to ensure data security and privacy;
- those identified for outreach activities may be asked no more than one time for inclusion in the State Special Needs Registry per emergency / data set;

¹ 45 C.F.R. § 164.512(b)(1)(i)

- all data use must be tracked and shared in real-time with the Utah Department of Health and Human Services;
- any data breaches must immediately be disclosed to the Utah Department of Health and Human Services;
- the Local Health Department shall bear the cost and liability for any data breaches of the data in the possession of the Local Health Department, and, if CMS determines that the risk of harm requires notification of affected individual persons of the security breach and/or other remedies, the Local Health Department agrees to carry out these remedies without cost to CMS or the Utah Department of Health and Human Services
- all data in any form must be destroyed within 30 calendar days of receipt, and certification of its destruction must be given to the Utah Department of Health and Human Services in writing when it occurs, unless an extension has been requested and granted prior to the 30 days.

If you have any questions regarding this request, please contact Grant Sunada at 435-587-383 or by gsunada@sanjuancounty.org.

Sincerely,

Grant Sunada, PhD, MPH
Director & Health Officer
San Juan Public Health
735 S 200 W Ste 2, Blanding, UT 84511
Office: 435-587-3838 ext. 3509
Cell: 801-660-9255
<https://sanjuanpublichealth.org/>

Enclosure:

- Utah Department of Health and Human Services Agreement with Health and Human Services (HHS) and Centers for Medicaid Services (CMS):
 - Public Health Authority HIPAA Privacy Rule Authority for Disclosure Assertion
 - CMS Data Use Agreement (Form CMS-R-0235)
 - CMS Data Use Agreement Addendum