

## **Data Exchange “LINCS” Applicants CPU to CPU**

*You must keep this information and conditions of enrollment for your records.*

### **PURPOSE**

The purpose of this application is to provide information supporting the LINCS supplier’s request for the release of Medicaid Confidential Data (MCD) and to serve as the basis for assessing the appropriateness of releasing such data.

The New York State Medicaid State Plan, the Federal Social Security Act section 1902(a)(7), section 369(4) of the NYS Social Services Law and Federal Regulation 42 CFR 431.302 do not allow the release of MCD unless such release is directly related to the administration of the New York State Medicaid program.

Section 1902(a)(7) of the Federal Social Security Act provides for safeguards which restrict the use or disclosure of information concerning Medicaid applicants and recipients to purposes directly connected with the administration of the New York State Plan. Federal Regulation 42 CFR 431.302 specifies the purposes which are directly related to the administration of the state plan. These include: (a) establishing eligibility; (b) determining the amount of medical assistance; (c) providing services for recipients; (d) conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the plan.

Pursuant to section 367-b(4) of the NYS Social Services Law, information relating to persons applying for medical assistance (Medicaid), shall also be considered confidential and shall not be disclosed to persons or agencies without the prior written approval of the New York State Department of Health.

The LINCS supplier certifies to the Department that the LINCS supplier, its officers, employees, agents or subcontractors will adhere to these Medicaid confidentiality standards as cited herein.

### **AIDS/HIV RELATED CONFIDENTIALITY RESTRICTIONS**

Medicaid Confidential Data may contain HIV related confidential information, as defined in Section 2780(7) of the N.Y. Public Health Law. As required by N.Y. Public Health Law Section 2782(5), the New York State Department of Health (NYSDOH) hereby provides you with the following notice:

## **HIV/AIDS Notice**

**This information has been disclosed to you from confidential records, which are protected by state law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of state law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure.**

The supplier agrees that any further disclosure of MCD requires prior written approval of the New York State Department of Health. The LINCS supplier will require and ensure that any approved agreement, contract or document with a subcontractor contains the above notice and a statement that the subcontractor or other party may not disclose the MCD without prior written approval of the NYSDOH Office of Medicaid Management (OMM).

## **STORAGE AND DISPOSAL OF MEDICAID CONFIDENTIAL DATA**

The LINCS supplier agrees that it is designated as Custodian of the Medicaid Confidential Data released under this application and will be responsible for the observation of all conditions for use, establishment and maintenance of security as specified in this agreement. The LINCS supplier agrees that it is responsible for the actions of its subcontractors, if any, with regard to confidentiality.

The LINCS supplier agrees to establish and to insure that its subcontractors, if any, establish appropriate administrative, technical and physical safeguards to protect the confidentiality of the data and to prevent unauthorized use of or access to the data. The safeguards shall provide a level and scope of security that is not less than the level and scope of security established by the Health Insurance Portability and Accountability Act of 1996. The matching with any other data is prohibited.

NYSDOH requires all agencies handling individual data records to keep a record of data use, storage and disposal. Additionally, NYSDOH reserves the right to audit the LINCS supplier to ensure compliance with the terms of the application for enrollment.

## **PROVIDING SERVICES**

LINCS suppliers will serve as data LINCS to the Department's eMedNY system for one or more providers of medical care, services or suppliers only pursuant to the terms, and conditions of enrollment and the regulations of the Department and the written instructions or directions of its fiscal agent.

### **LIABILITY OF LINCS SUPPLIER**

DOH shall not be liable for loss, destruction, or damage by LINCS supplier of customer supplied materials.

DOH shall not be liable for failure to connect to eMedNY or delays in eligibility determinations.

DOH shall not be held liable for any misuse of Medicaid Confidential Data by the LINCS Supplier or for any inappropriate data.

LINCS supplier agrees that it is responsible for any incorrect or delayed supply of eligibility determinations made to provider as a result of any error, omission, deletion, or erroneous insert caused by LINCS supplier in data transaction.

### **WAIVER OR MODIFICATION INEFFECTIVE UNLESS IN WRITING**

No waiver, alteration or modification of any of the provisions of this agreement shall be binding unless approved by the Department in writing.

### **LAW OF NEW YORK TO GOVERN**

The interpretation of this enrollment shall be governed by the Laws of the State of New York.

### **REPRESENTATION AND WARRANTIES**

LINCS supplier acknowledges that he has not been induced to enter into this agreement by any representatives or statements, oral or written, not expressly contained herein or expressly incorporated by reference.