



Community Behavioral Health: Provider Notification City Controller Audit July 17, 2018

As we have previously communicated (see Provider Notice dated March 20, 2018), the City of Philadelphia's Office of the City Controller is conducting an audit of the Department of Behavioral Health & Intellectual disAbility Services (DBHIDS) and Community Behavioral Health (CBH) and its administration of the Behavioral Health Medical Assistance Program. As part of its audit, the Controller's Office is conducting visits to CBH contracted agencies.

As part of their site visits to various CBH providers, staff of the City Controller's Office requested that agencies disclose protected health information to City Controller staff without benefit of a court order, subpoena, or consent to release protected health information.

The City Controller's Office has not clearly identified itself as a health oversight agency under the Health Insurance Portability and Accountability Act (HIPAA). To be classified as a health oversight agency, the City Controller's Office must be an agency that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant. Identification as a health oversight agency in writing to providers would permit disclosure of certain medical records. Records related to alcohol and substance use treatment are protected from disclosure under state statute unless the City Controller's Office obtains a court order or signed consent from the individuals whose records are requested at the provider site visits.

CBH has informed the City Controller of applicable privacy and confidentiality issues that are implicated in the audit process. Given the asserted purpose of the audit, namely, to evaluate the system of internal control by CBH over payments made to network providers, access to sensitive personal health information seems unwarranted. The fundamental distinction between a review of client records that disclose sensitive personal information and a financial review of records must not only be recognized but strictly adhered to. Provider agencies must comply with the provisions of federal and state statutes and regulations that strictly govern access to individually identifiable personal health information. Please consult with your legal counsel should your agency be requested to provide members' personal information.