

QUALITY MANAGEMENT MEMO

COUNTY OF SAN DIEGO BEHAVIORAL HEALTH SERVICES

To: Mental Health and Substance Use Disorders Service Providers

Date: 1/26/17

From: Tabatha Lang, Chief, Quality Improvement

Re: **42 CFR Part 2 – Final Rule**

Dear Providers,

On January 18, 2017, the U.S. Department of Health and Human Services (HHS) finalized changes to 42 CFR Part 2 to facilitate health integration and information exchange within health care models that have developed since the last revision of this law in 1987. The new rule goes into effect February 17, 2017, and applies to SUD Service programs as well as Mental Health Programs that employ staff who are functioning as Drug and Alcohol Specialists, (given their specialty, training, certification, and education – providing SUD services and/or referrals to clients in a mental health setting).

Major provisions in the Final Rule include:

- The Substance Abuse and Mental Health Services Administration (SAMHSA – the agency within the HHS that leads public health efforts to reduce the impact of substance abuse and mental illness on America’s communities) will allow any lawful holder of patient identifying information to disclose Part 2 patient identifying information to qualified personnel for purposes of conducting scientific research if the researcher meets certain regulatory requirements. SAMHSA also permits data linkages to enable researchers to link to data sets from data repositories holding Part 2 data if certain regulatory requirements are met. These will enable more needed research on substance use disorders.
- SAMHSA will continue to apply Part 2 rules when a program is federally assisted and holds itself out as providing substance use disorder diagnosis, treatment, or referral for treatment.
- SAMHSA will allow a patient to consent to disclosing their information using a general designation to individual(s) and/or entity(-ies)(e.g., “my treating providers”) in certain circumstances. This change is intended to allow patients to benefit from integrated health care systems. This provision also ensures patient choice, confidentiality, and privacy as patients do not have to agree to such disclosures.
- SAMHSA has added a requirement allowing patients who have agreed to the general disclosure designation, the option to receive a list of entities to whom their information has been disclosed to, if requested.
- SAMHSA has made changes that outline the audit or evaluation procedures necessary to meet the requirements of a CMS-regulated accountable care organization or similar CMS-regulated organizations (including CMS-regulated Qualified Entities). This change will ensure CMS-regulated entities can perform necessary audit and evaluations activities, including financial and quality assurance functions critical to Accountable Care Organizations and other health care organizations.
- SAMHSA has updated and modernized the rule to address both paper and electronic documentation.
- SAMHSA will monitor implementation of the final rule and is working to develop additional sub-regulatory guidance and materials on many of the finalized provisions.

The final rule begins on page 6115 at this link: <https://www.gpo.gov/fdsys/pkg/FR-2017-01-18/pdf/2017-00719.pdf>

Please direct any questions and/or comments to the QI Matters mailbox: QIMatters.HHSA@sdcounty.ca.gov



LIVE WELL
SAN DIEGO

