

Kansas Department of Health and Environment POLICIES AND PROCEDURES

P&P 03: Approved HIO Participants and Data Sources

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Definitions:

1. Participant – An Eligible Entity (as defined below) or other KDHE-approved entity that enters into an KDHE-approved binding legal agreement with an approved HIO (Participation Agreement) establishing the terms and conditions on which the entity may (a) disclose protected health information (PHI) regarding individuals to the approved HIO, and (b) authorize individuals employed by or contracting with that entity to access the approved HIO for purposes of electronic health information exchange. The required terms for a Participation Agreement are the subject of KDHE P&P 04 – Conditions of Participation.
2. Data Source – An entity from which an approved HIO obtains data to be made available to Participants but which is not authorized to access the approved HIO for purposes of electronic health information exchange.
3. User – An individual who is employed by or contracts with a Participant who is properly authorized to access the approved HIO for purposes of electronic health information exchange consistent with the terms of the Participant’s Participation Agreement with the approved HIO.

Policy:

- 1) The following entities are eligible to enter into a Participation Agreement with an approved HIO “Eligible Entities”:
 - a) Kansas Department of Health and Environment (KDHE) and other government agencies as identified by KDHE,
 - b) State-licensed or registered health care providers (as “health care provider” is defined by KHITA)
 - c) Those health care providers for which the State does not have a licensing or registration process that employ or contract with a state-licensed/registered health care provider to provide treatment for the former’s patients (e.g., local health department, physician practice)
 - d) A health plan (as “health plan” is defined by KHITA)
- 2) An approved HIO shall enter into a Participation Agreement with KDHE for purposes of facilitating health care providers’ mandatory reporting requirements under state law.

- 3) An approved HIO may not refuse to enter into a Participation Agreement with any Eligible Entity on any basis except the following:
 - a) the Eligible Entity refuses to accept KDHE-mandated contractual terms;
 - b) the Eligible Entity demands contractual terms that are inconsistent with KDHE-mandated terms;
 - c) the Eligible Entity refuses or is unable to pay the rates established by the approved HIO;
 - d) the Eligible Entity (if a health care provider) does not utilize a certified EHR product (with the exception of an Eligible Entity that seeks access to a provider portal only);
or
 - e) the Eligible Entity otherwise does not satisfy the requirements set forth in KDHE P&P 04, Conditions of Participation.
- 4) Entities other than Eligible Entities that wish to gain access to PHI through an approved HIO for purposes of treatment, payment, or health care operations may submit a formal written request for consideration to KDHE, and KDHE shall review and take appropriate action on such request within a reasonable period of time. An approved HIO shall not enter into a Participation Agreement with such entity unless and until KDHE has granted such request for consideration.
- 5) An approved HIO is not restricted from entering into a Data Source Agreement with any specific type of entity (e.g., clinical laboratories, private payers), provided the terms of such agreements comply with all applicable KDHE requirements. The manner in which an approved HIO receives, reviews, provides access to, and safeguards PHI received from a Data Source shall be consistent with the approved HIO's practices with respect to PHI received from Participants.