ITUP
Insure the Uninsured Project

» Fact Sheet

California Data Exchange Framework 101

SEPTEMBER 2023

The California Health and Human Services (CalHHS) Data Exchange Framework (DxF) is the first-ever statewide data-sharing agreement intended to provide a governance structure to privately and securely exchange important health information among health care providers and organizations, government agencies, and social service programs throughout the state of California. **The DxF is guided by 8 principles:**

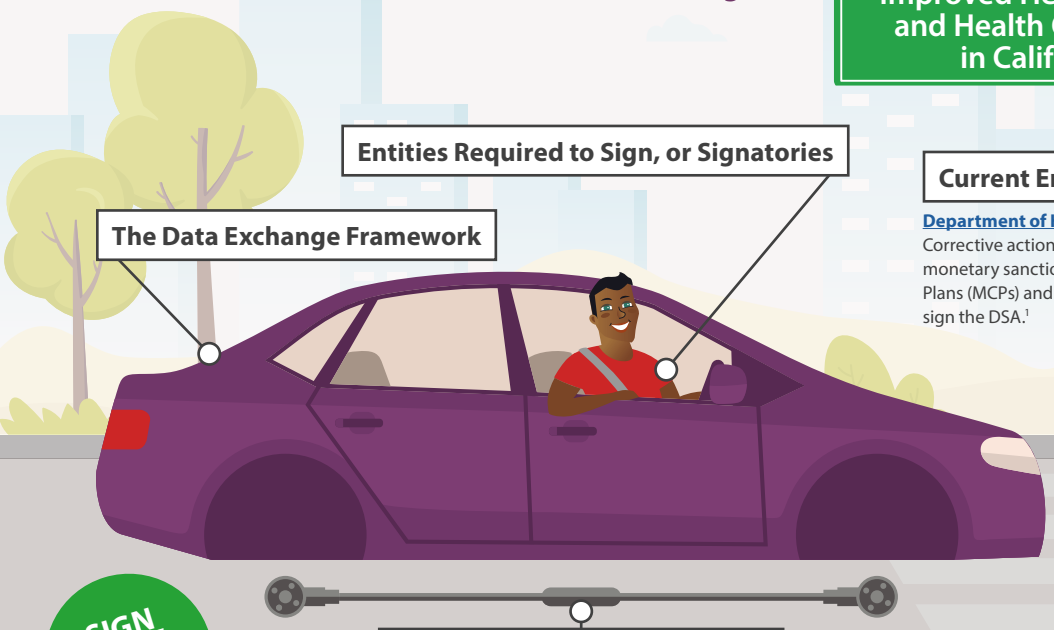
1. **Advance Health Equity**
2. **Make Data Available to Drive Decisions and Outcomes**
3. **Support Whole Person Care**
4. **Promote Individual Data Access**
5. **Reinforce Individual Data Privacy and Security**
6. **Establish Clear Terms and Conditions for Data Collection, Sharing, and Use**
7. **Adhere to Data Exchange Standards**
8. **Ensure Accountability**

How are the DxF, the Data Sharing Agreement, and its Policies and Procedures Connected to Promote Interoperability and Widespread Health and Social Services Information Exchange?

DESTINATION
Improved Health Equity and Health Outcomes in California

Entities Required to Sign, or Signatories

The Data Exchange Framework



Current Enforcement:

Department of Health Care Services (DHCS): Corrective action plans and/or administrative or monetary sanctions for Medi-Cal Managed Care Plans (MCPs) and any subcontractors that fail to sign the DSA.[1]

Proposed Enforcement in the Legislature:

AB 1331* requires:

- Center for Data Insights and Innovation (CDII) to oversee the DxF and establish a Governing Board
- CDII to investigate DSA P&P violations, enforce compliance, and report noncompliance

SB 582 requires:

- Department of Managed Health Care (DMHC) to mandate health plans and insurers to provide application programming interfaces (APIs) to facilitate access to health information
- CalHHS to impose fines and penalties on Electronic Health Records (EHR) vendors charging fees for information exchange that are non-compliant with regulations

* AB 1331 is currently in the Senate Appropriations Committee and is a two-year bill meaning that it may move through the rest of the Legislative session no sooner than January 2024.

SIGN THE DSA TODAY!

Data Sharing Agreement (DSA):

The legal contract among signatories to the DSA that defines the data sharing obligations and requirements of those who sign.

DSA Policies and Procedures (P&Ps):

The terms and conditions of the DSA that operationalize the DxF.

BREAKING DOWN THE DETAILS: OPERATIONALIZING THE DxF

OVERVIEW OF SIGNING THE DSA[2]

Signatories of the DSA enter into a two-way exchange of health and social service data among and across other signatories consistent with the P&Ps, or the terms and conditions of the DSA.

Required data exchange does not conflict with federal or state laws.

Defines Health and Social Services Information (HSSI) as information received, stored, processed, generated, used, transferred, disclosed, made accessible, or shared that is related to health and social care services.

Permits sharing between a HIPAA* covered entity and non-covered entity when there is a valid authorization from the patient or patient's representative or the disclosure is otherwise permitted or required by applicable law.

* The Health Insurance Portability and Accountability Act of 1996 (HIPAA) established national standards that protect the privacy of personal, protected health information (PHI) and govern any PHI disclosure for entities that collect and maintain PHI.

WHO NEEDS TO SIGN?

DATA SHARING TIMELINE

JAN 31 2024

Initial Required Signatories

- General acute care hospitals
- Physician organizations and medical groups
- Skilled nursing facilities
- Health service plans and disability insurers
- Medi-Cal managed care plans
- Clinical laboratories

JAN 31 2026

Required Signatories with Delayed Exchange

- Physician practices of fewer than 25 physicians
- Rehabilitation hospitals
- Long-term acute care hospitals
- Acute psychiatric hospitals
- Critical access hospitals
- Rural general acute care hospitals with fewer than 100 acute care beds
- State-run acute psychiatric hospitals
- Nonprofit clinics with fewer than ten health care providers

JAN 31 2026

Voluntary Signatories that are Encouraged to Sign

- Governmental signatories, such as state and county agencies
- Social services organizations
- Emergency Medical Services (EMS) agencies
- Pharmacies
- Intermediaries and may include entities such as EMS and pharmacies

CalHHS DATA EXCHANGE **FRAMEWORK TIMELINE**

July 27, 2021
Governor Newsom signed Assembly Bill (AB) 133

August 2021
Data Exchange Framework (DxF) Group convened and met monthly until June 2022

November 2021
Data Sharing Agreement (DSA) Subcommittee convened and met monthly until April 2022

January 2022
Strategies for Digital Identities focus groups convened and occurred twice monthly until March 2022

July 2022
CalHHS established Data Sharing Agreement and Data Exchange Framework (DxF) as described in AB 133

July 2022
CalHHS released a final version of the DSA and an initial set of policies and procedures to govern the DxF

October 2022
DxF Grant Program was established to help health care entities and government organizations understand and implement the DxF, specifically in under-resourced geographies and/or serving historically marginalized populations and underserved communities. There are three possible grants (DxF Grant One-pager):

- Educational Initiative Grants: $3 million for non-profits to conduct educational outreach and activities
- DSA Signatory Grants: Up to $47 million in direct support for signatories. Grants include:

BREAKING DOWN THE DETAILS: OPERATIONALIZING THE DxF

CalHHS DATA EXCHANGE **FRAMEWORK TIMELINE**

- Qualified Health Information Organization (QHIO) Onboarding Grants: Assists in covering the initial costs of connecting to a DSA Signatory entity with a QHIO
- Technical Assistance Grants: Provides funding for assistance in implementing DxF requirements

November 2022
DSA signing began

January 2023
Deadline for DSA to be signed by required signatories in California

February 2023
QHIO draft application released

May 2023
Public comment on QHIO application and QHIO P&Ps closed

May 2023
DSA Signatory Grant Round 1 applications released

August 2023
QHIO application and application guide released, application window opened

September 21, 2023
QHIO application window closes

January 2024
Most required signatories will begin to exchange health information for treatment, payment, health care operations, and public health activities

January 2026
Certain specified required signatories are required to begin sharing health information

THE DETAILS OF THE CONTRACT: POLICIES AND PROCEDURES (P&Ps)

The DSA P&Ps are the details governing data exchange standards across signatories. In addition, there are still a number of P&Ps that are under review.

The current P&Ps include several key policies:

- Requirement to share information for treatment, payment and most operations scenarios, as defined in HIPAA
- Interoperability standards and requirements for exchanging (HSSI)
- Requirement for Hospitals and Emergency Departments to send notifications of patient admission, discharge, and transfer (ADT) events notifications to requesting signatories
- Protocols to modify the DSA and P&Ps
- Protocols for reporting breaches of P&Ps
- Specific data elements to be exchanged, including electronic health information, clinical data, encounter data, claims data, and social services data[3]
- Data privacy and security requirements
- Consumer protection requirements for accessing individual health information
- Regulations to prevent information blocking, or any interference with the access, exchange, or use of HSSI by signatories
- Definitions and requirements for the QHIO program
- Requirement for timely HSSI data sharing

WHAT'S NEXT: POLICY CONSIDERATIONS FOR SUCCESSFUL DxF IMPLEMENTATION

1. **Clarify required signatories**
   There are not enough definitions in the statute to clarify who is required to sign the DSA. This leads to confusion regarding which entities need to sign as well as who should sign on the entity's behalf. If passed, this issue is addressed in AB 1331.
2. **Address privacy concerns across required signatories and data elements shared**
   Covered entities, such as health care providers, are concerned and need more guidance about how PHI will be shared with non-covered entities like social services.*
3. **Clarify enforcement authorities under HIPAA**
   Currently, there is no penalty for not signing the DSA. No official enforcement policy for executing the DSA from CalHHS or CDII has been released. DHCS, however, released an all plan letter on May 18, 2023, requiring all MCPs and any subcontractors to sign the DSA. Failure to comply may result in corrective action plans (CAPs) and/or administrative or monetary sanctions. In addition, similar communications have been released by the California Department of Public Health (CDPH) and DMHC.[4]
4. **Clarify penalties for not adhering to P&Ps**
   Penalties for breaching the DSA P&Ps remain unclear. P&Ps for information blocking, or interfering with the exchange of HSSI, defer to federal regulations for penalties, for those subject to the federal rule, which varies by circumstance. AB 1331 and SB 582 also include proposed enforcement for breaching DSA P&Ps.
5. **Make QHIO designations more accessible for small HIOs**
   Current draft QHIO application materials and technical requirements are attainable primarily by large HIOs who have more resources. Smaller regional HIOs who have built deep community connections and currently exchange HSSI data may not have the resources to meet all QHIO requirements such as financial reserves, leaving their role in the DxF unclear.
6. **Disseminate funding and supports necessary for infrastructure and capacity building**
   Many rural counties may lack infrastructure and technological capacity to meet interoperability standards. CDII's DSA Signatory Grants provide funding and connect lower-resource signatories with assistance, but if these grants are unable to reach under-resourced signatories and underserved communities, this may exacerbate existing disparities. Funding beyond that allocated for the DxF signatory grants will be needed to support future signatories and ongoing costs of QHIO connections and technology upgrades for signatories.

* All PHI is covered under applicable law, such as HIPAA or the Lanterman-Petris-Short Act (LPS). For such information to be shared, including with social service providers, the requesting signatory would need to be a covered entity or have valid authorization from the patient or their representative. Data must be requested by a signatory and is not automatically shared with other signatories.

Key Terms

Admissions, Discharge, and Transfer Data, Notifications (ADT Data): Admissions, discharge, and transfer (ADT) data refer to a particular patient's hospital/ED admission, discharge, or transfer to another facility. As of May 1, 2021, The Center for Medicare and Medicaid Services (CMS) required hospitals, psychiatric hospitals, and critical access hospitals to send electronic ADT notifications to all necessary providers for that specific patient. These notifications must contain at least the name of the patient, treating physician, and name of the sending institution. These ADT notifications are important for care coordination and communication across provider networks, and timely notifications to important stakeholders are an important aspect of HIE.[5]

Covered Entity: A covered entity is a health care entity, such as a health plan, healthcare clearinghouse, or a health care provider who transmits electronic health information. These covered entities must comply with privacy and security regulations established by HIPAA.[6]

Culturally Competent Care: Culturally competent care describes the ability of a provider to tailor health care services to the preferred culture of the patient. This can include but is not limited to having interpreter services, culturally relevant meals for patients during hospital admissions, inclusive providers, racially or culturally congruent providers, and culturally tailored health care messaging and program design.[7]

Digital Identity: A digital identity is a digital indicator that ensures health data from multiple sources is linked to the correct, real person. These identities will be treated with the same level of security as health information and will be safeguarded by data security measures.[8]

DxF: The Data Exchange Framework (DxF) is a set of rules and policies that govern the exchange of HSSI data in California, and make this exchange mandatory between certain signatories.[9]

Health and Social Services Information (HSSI): Data on health and social services as defined in the P&P: Data Elements to be Exchanged. This includes electronic health information, clinical data, encounter data, claims data, and social services data.[10]

HIE/HIT/HIO: Health Information Exchange (HIE), Health Information Technology (HIT), and Health Information Organization (HIO) refer to organizations and infrastructures that can serve as intermediaries in the technical exchange of HSSI data.[11]

Information Blocking: "Information Obstruction" or "Information Blocking", occurs when an entity interferes with the access, exchange, or use of electronic health information, outside of certain exceptions. The DSA largely follows the Federal Information Blocking Regulations (45 C.F.R. Part 171).[12]

Interoperability: Interoperability is the ability of different entities to communicate and exchange information. Currently, separate organizations utilize separate systems, and data is not easily shared across these systems.[13]

Protected Health Information (PHI): PHI is health information collected and maintained by covered entities for patient care and other purposes. Health data is considered PHI if it contains HIPAA Identifiers. Patients' PHI is federally protected through the HIPAA Privacy Rule, which also allows for the disclosure of PHI for certain uses.[14]

Qualified Health Information Organization (QHIO): A QHIO is a Health Information Organization (HIO) that is qualified for use for the DxF by CDII. HIOs must apply to become a QHIO through CDII's application portal. These QHIOs will provide health information exchange capacity to signatories who lack the capacity to exchange data.[15]

Signatories: Also referred to as DSA Participants or Entities, 'Signatories' are entities or participants that sign the DSA.[16]

Endnotes

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5. Association of American Medical Colleges, CMS Issues Guidance to State Surveyors and FAQs on ADT Notifications, Accessed: July 5, 2023.
6. National Institute of Standards and Technology, Computer Security Resource Center: Covered Entity Definition, Accessed: July 5, 2023.
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10. Center for Data Insights and Innovation, CalHHS Data Exchange Framework Policy and Procedure: Data Elements to Be Exchanged, Accessed: May 25, 2023.
11. Department of Health and Human Services, The HIPAA Privacy Rule and Electronic Health Information Exchange in a Networked Environment, Accessed: July 5, 2023.
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13. The Office of the National Coordinator for Health Information Technology, Interoperability Definition, Accessed: July 5, 2023.
14. Department of Health and Human Services, What is PHI?, Accessed: July 6, 2023.
15. Center for Data Insights and Innovation, Information is Power Webinar: DxF Data Sharing Agreement Fact vs. Fiction, DxF Grant Applications, & QHIO Applications, Accessed: May 25, 2023.
16. California Health and Human Services, CalHHS Data Exchange Framework Frequently Asked Questions (FAQ) Last Updated: 2 December 2022, Accessed: July 5, 2023.

About ITUP

ITUP is an independent, nonprofit, health policy institute that has been a central voice in the California health policy landscape for more than two decades. ITUP serves as a trusted expert, grounded in statewide and regional connections with a network of policymakers, health care leaders, and stakeholders. The mission of ITUP is to promote innovative and workable policy solutions that expand health care access and improve the health of all Californians.

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