



October 28, 2020

To: New York State Medicaid Health Home Leads

From: Magdalena Mandzielewska, MPH, CHC
Senior Director Compliance, Healthix, Inc.

Re: Update on Verbal and Written Consent for Health Homes During COVID-19 State of Emergency

Last week, Healthix and other RHIOs (also referred to as Qualified Entities or QEs) received specific guidance from NYS Department of Health (DOH) regarding Health Home Form 5055 and verbal consent for enrollment during the COVID-19 state of emergency declaration. Although the state's telehealth waiver to access SHIN-NY data with verbal consent did not explicitly include Health Homes, NYS DOH will allow access under the following conditions:

1. QEs may continue to accept the Health Home Form 5055 consents collected verbally through their normal consent management processes, with an attestation from the Health Homes that verbal consent has been documented in the members health record and that written consent will be obtained within 45 days of the verbal consent.
2. All verbal consents will be terminated upon receipt of the written consent from the Health Homes and will prevail.
3. QEs will conduct periodic audits of the Health Home consents to ensure that access to SHIN-NY information is for treatment, care management and quality assurance purposes and to ensure that Health Homes are collecting written consent.

NYSDOH has issued a guidance document, also included in this communication. Finally, NYS NYSDOH Office of Health Insurance Programs (OHIP) is preparing a similar communication to be shared with all NYS Health Homes.

For a full listing of IMPORTANT COVID-19 Guidance and Updated Materials for Health Homes, visit: https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/

Please do not hesitate to contact us at compliance@healthix.org or accountmanagement@healthix.org if you have any questions about Healthix consent.



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

Date: October 26, 2020

This notice provides additional clarification to Health Homes Serving Adults, Health Homes Serving Children, and Care Coordination Organization/Health Homes regarding verbal and written consents during the COVID-19 State of Emergency.

As stated in the *Health Home Frequently Asked Questions During COVID-19 State of Emergency* (Issued March 26, 2020, Revised April 9, 2020), when Health Home signed consent cannot be obtained through *wet or electronic* signature, verbal consent is permissible. However, *verbal* consent greatly limits access to pertinent information (e.g., hospital notifications, RHIO alerts, communication with providers, etc.). Verbal consent only authorizes the care manager to enroll the member in the Health Home Program and to access basic member information; it does not authorize the care manager to access or share Protected Health Information (PHI). Therefore, care managers must inform members that while verbal consent allows for Health Home Program enrollment, a *wet or electronic* signature *must* be obtained to allow the Health Home access to/sharing of PHI with providers and others authorized by the member.

Since the lifting of the COVID-19 State of Emergency is uncertain at this time, the Department is directing Health Homes to initiate a process for obtaining signed consents (*wet or electronic* signature) within 45 days of this notice for all members with only verbal consent in place. All attempts to contact the member to obtain proper signed consent must be clearly documented. If the signed consent cannot be obtained within 45 days of this notice, the HHCM must document the reason and disenroll the member, as noted below.

Additional clarification related to obtaining Health Home consent during the continued COVID-19 State of Emergency is provided below:

- Verbal consent should be used as a last resort when other methods of obtaining consent e.g., electronic or wet signature, cannot be done. Members should be informed of the purpose and limitations of verbal consent and that a signed consent with either wet or electronic signature is required. Documentation of verbal consent must clearly indicate why verbal consent was obtained (e.g. reason other methods could not be used, result of COVID-19 emergency, etc.) and include the date verbal consent was obtained.
- The date of verbal consent is the date entered into the MAPP HHTS.
- Within **45 days** of obtaining any new verbal consents, a hard copy signed consent with either *wet or electronic* signature must be obtained.
- Within **45 days** of the date of this notice, a *wet or electronic* signature must be obtained from members for whom only verbal consent is currently on file.
- Health Homes may continue to receive patient care alerts from SHIN-NY Qualified Entities (RHIOs) without affirmative consent per 1.2.9 of 10 NYCRR Part 300 (https://www.health.ny.gov/technology/regulations/shin-ny/docs/privacy_and_security_policies.pdf). However, Health Homes are responsible for

ensuring that they appropriately notify QEs on consent status of written vs verbal as there will only be the 45 day window allowed to transition verbal to written consent to continue to access data in the SHIN-NY for the coordinating of care.

- A wet or electronic signature must also be obtained from the member for any changes to Health Home consent (e.g. add/remove providers, etc.) provided verbally (refer to: [Access to/Sharing of Personal Health Information \(PHI\) and the Use of Health Home Consents Policy #HH0009](#) for updating consents).
- In the absence of a signed consent, there are extreme limitations on what a care manager can do, including sharing information with the member's care team. Therefore, enrollment cannot be maintained for any member for whom signed consent cannot be obtained within 45 days.

The *Health Home Frequently Asked Questions During COVID-19 State of Emergency* (Issued March 26, 2020, Revised April 9, 2020) can be accessed on the *Medicaid Health Homes - Comprehensive Care Management* webpage (under: IMPORTANT: COVID-19 Guidance and Updated Materials) at: https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/