

Good morning members of the MHDO Data Release Subcommittee and interested parties. My name is Karynlee Harrington and I am the executive director of the Maine Health Data Organization. I would first like to review what documentation the members of the subcommittee received in advance of this meeting and then make a few general comments regarding MHDO's role in releasing data to an authorized applicant/recipient.

Each member of the data release subcommittee was provided in advance of this meeting with a binder containing copies of the following documents for each of the three data releases in question:

1. MHDO's public posting of the data request;
2. Written comments from UnitedHealthcare (data provider) regarding the public posting of data request;
3. Written response from the data applicant regarding the data providers comments;
4. Written response from MHDO to data provider regarding comments and decision regarding the release of data;
5. Written request from the data provider to appeal the decision to release data to the MHDO data release subcommittee;

Also included in the binders are copies of the following:

6. MHDO governing statute, Title 22, Chapter 1683
7. MHDO's Rule Chapter 120, *Release of Data to the Public*

MHDO Data are obtained to fulfill MHDO's legislative mandate to create and maintain a useful, objective, reliable and comprehensive health information database that is used to improve the health of Maine citizens and to issue reports promoting public transparency of health care quality, outcomes, and costs. The MHDO will make data publically available and accessible to the broadest extent consistent with the laws protecting individual privacy, and proprietary information.

The primary use of the MHDO Data is to produce meaningful analysis in pursuit of improved health and health care quality for Maine people. Acceptable uses of MHDO Data include, but are not limited to, study of health care costs, utilization, and outcomes; benchmarking; quality analysis; longitudinal research; other research; and administrative or planning purposes.

Proprietary Data is defined in Rule Chapter 120 as data that is submitted to the MHDO by a Data Provider which has not been made available to the public and is information that if made available to the public will directly result in the data provider being placed in a competitive economic disadvantage. The MHDO claims data that is released in a Level II data release is not proprietary information, because MHDO reports this information publically as required by its governing statute and;

MHDO has been releasing claims data to authorized data applicants/recipients since 2003. Authorized data applicants represent a broad group of stakeholders including payers, providers, researchers and policy makers.

MHDO Data Recipients are bound by statute and rule to only use MHDO data for the purposes of the data release. All MHDO data recipients must sign a MHDO Data Use Agreement (MHDO DUA). This

document details the data applicant/ recipient's commitment to data privacy and security, as well as restrictions on the disclosure and legal use of data.

The release of specific commercial payer identifiers is allowable per Rule Chapter 120, however, beginning in October 2018, in keeping with the principles of minimum necessary, MHDO's standard Level II data release does not include specific payer codes; but rather a code that identifies the payer in a category of either Commercial, Medicaid or Medicare. An applicant may request the specific payer codes and as part of that request they would need to justify in their application why these codes are necessary for their data use.

MHDO currently collects data from over 50 commercial payers that are licensed in the State of Maine and meet the reporting thresholds as defined in MHDO Rule Chapter 243, Uniform Reporting System for Health Care Claims Data Sets.

MHDO's governing statute, section 8712, requires the MHDO to promote public transparency through an interactive website related to payment for services rendered by health care facilities and practitioners by individual commercial health insurance companies. We do this via [www.comparemaine.org](http://www.comparemaine.org)

CompareMaine reports the average payment on over 200 healthcare procedures by facility for the top 5 health insurance companies (based on volume of claims data submitted to MHDO) in the state of Maine. The top 5 are Aetna, Anthem, CIGNA, Community Health Options and Harvard Pilgrim Health Care. There is the option on CompareMaine to look at the average payment for all insurance companies that report data to the MHDO.

One final note regarding the transparency of health care payments/ costs in the state of Maine. On the front page of the MainSunday Telegram dated 2/24/19, there was an article titled, *Wide-Ranging Costs for the Same Procedure. Across Maine, Patients Treated to Staggering Price Disparity*. This article provides specific examples of the variation in health care payments (what the provider is paid) across the State for the same procedure. The article makes clear there is no price uniformity at the provider level; much less signs of anti-competitive collusion. The source of the payment information used in the article was CompareMaine.

Harvard Pilgrim Health Care (HPHC) is a non-profit health services company based in New England and licensed in the state of Maine.

- HPHC has been accessing MHDO claims data for over 10 years and during this time has been a good steward of our data. MHDO has no reason to believe that HPHC is in violation or will violate the requirements in the MHDO Data Use Agreement;
- The description of how the MHDO data will be used by HPHC is consistent with acceptable uses defined in MHDO Rule Chapter 120, *Release of Data to the Public*; and consistent with prior releases of MHDO claims data.
- The release of MHDO claims data to HPHC will not result in the disclosure of UHC's confidential and proprietary information, including competitive and trade secret information because the MHDO claims data if released to HPHC is identified by category of payers which are Commercial, Medicare and Medicaid. HPHC cannot identify UHC's claims data in the MHDO claims data or any other commercial payer. All commercial claims are identified in the same way, as a claim paid by a commercial payer.

For the reasons stated above and in my December 27, 2018 letter to UHC in response to their initial comments, which are consistent with the content of their appeal, my recommendation is that the MHDO data release subcommittee uphold my decision to release data to HPHC as requested.

Decision of the MHDO Data Release Subcommittee:

MaineHealth (MH) is a not-for-profit group of providers and healthcare organizations licensed in the State of Maine.

- MH has been accessing MHDO claims data for over 9 years and during this time has been a good steward of our data. MHDO has no reason to believe that MH is in violation or will violate the requirements in the MHDO Data Use Agreement;
- The description of how the MHDO data will be used by HPHC is consistent with acceptable uses defined in MHDO Rule Chapter 120, *Release of Data to the Public*; and consistent with prior releases of MHDO claims data.
- The release of MHDO claims data to MH will not result in the disclosure of UHC's confidential and proprietary information, including competitive and trade secret information because the MHDO claims data if released to MH is identified by category of payers which are Commercial, Medicare and Medicaid. MH cannot identify UHC's claims data in the MHDO claims data or any other commercial payer. All commercial claims are identified in the same way, as a claim paid by a commercial payer.

For the reasons stated above and in my December 27, 2018 letter to UHC in response to their initial comments, which are consistent with the content of their appeal, my recommendation is that the MHDO data release subcommittee uphold my decision to release data to MH as requested.

Decision of the MHDO Data Release Subcommittee:

MaineGeneral Health (MGH) is a not-for-profit group of providers and healthcare organizations licensed in the State of Maine.

- MGH has accessed MHDO claims data five years ago and during this time was a good steward of our data. MHDO has no reason to believe that MGH will violate the requirements in the MHDO Data Use Agreement;
- The description of how the MHDO data will be used by MGH is consistent with acceptable uses defined in MHDO Rule Chapter 120, *Release of Data to the Public*;
- The release of MHDO claims data to MGH will not result in the disclosure of UHC's confidential and proprietary information, including competitive and trade secret information because the MHDO claims data if released to MGH is identified by category of payers which are Commercial, Medicare and Medicaid. MGH cannot identify UHC's claims data in the MHDO claims data or any other commercial payer. All commercial claims are identified in the same way, as a claim paid by a commercial payer.

For the reasons stated above and in my December February 4, 2019, letter to UHC in response to their initial comments, which are consistent with the content of their appeal, my recommendation is that the MHDO data release subcommittee uphold my decision to release data to MGH as requested.

Decision of the MHDO Data Release Subcommittee: