

<b>Subject: eHealth Exchange Vendor Participation</b>		
<b>Status: FINAL – Approved by CC</b>	<b>Policy #: OPP-12</b>	
<b>Effective Date: 8/1/2020</b>	<b>Version: 2.0</b>	<b>Page 1 of 4</b>

**I. Purpose**

The Coordinating Committee is responsible for supporting eHealth Exchange Participants who wish to Transact Message Content with other eHealth Exchange Participants.

OPP #1: Participation – Review and Disposition of Applications for Participants provides the framework for assessing the qualifications and eligibility of valid legal entities and governmental entities to become eHealth Exchange Participants. This OPP provides additional criteria for vendors which provide cloud-based solutions, or other vendor intermediated models, that have the ability to initiate queries on behalf of their healthcare provider customers.

**II. Policy**

Participants that sign the Data Use and Reciprocal Support Agreement (DURSA) are legally obligated to comply with all of the provisions of the DURSA. Participants may only exchange information using the eHealth Exchange for a Permitted Purpose.

It is vital that an organization seeking to be a Participant has the ability to monitor the use of the eHealth Exchange by its Participant Users or Customers and take appropriate action to stop and correct any unauthorized use.

Vendors which provide cloud-based solutions, or other vendor-intermediated models that have the ability to initiate queries on behalf of their healthcare provider customers can join the eHealth Exchange to exchange data with federal Participants only, provided that they meet the eligibility requirements detailed in this OPP.

**A. Delegation of Rights**

1. The Coordinating Committee has designated Healtheway, Inc. (d/b/a/ “The eHealth Exchange” and its “eHealth Exchange support staff”) to provide operational support to eHealth Exchange Participants and the Coordinating Committee.
  - a. The Coordinating Committee has chosen to delegate certain authorities, duties or responsibilities to The eHealth Exchange including but not limited to: the receipt, processing, and review and disposition of Applications; coordinating with Applicants and the Coordinating Committee in the Applicant testing process; conducting all testing with Applicants and Applicant Technology Partners in accordance with the Validation Plan; issuing and maintaining Digital Credentials; and establishing maintaining the eHealth Exchange Directory.

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**B. Eligibility Requirements for Vendors that will initiate queries on behalf of its Customers**

2. To be accepted as an eHealth Exchange Participant, a Vendor Applicant must meet all of the following criteria:
  - a. The Vendor Applicant agrees to facilitate exchange solely as an agent of its Customers. This means that the Vendor Applicant may use the interoperability available through the eHealth Exchange only to transmit or receive information on behalf of its Customers and not on its own behalf. The Vendor Applicant does not have rights to, and shall not, for its own benefit, re-use, re-disclose, aggregate, deidentify or sell any information transmitted or received by its Customers through the eHealth Exchange. The Vendor Applicant will not use the data being exchanged through its system for any purpose other than serving its Customers unless its respective Customers have given the Vendor Applicant the explicit written authority to do so.
  - b. The Vendor Applicant, as required by law, shall have entered into a HIPAA compliant Business Associate Agreement with its Customers.
  - c. The Vendor Applicant agrees that it may store data transacted via eHealth Exchange solely for the purpose of serving its Customers. Specific examples of acceptable reasons that a vendor would store data include: saving the data temporarily for the purpose of transforming the data; aggregate the data for the purpose of creating a longitudinal record; or retain data for specified period of time to support the operational service for its Customer (e.g. for auditing purposes, or authorization/consent tracking).
  - d. The Vendor Applicant agrees that it has the ability to terminate its Customers' access to the eHealth Exchange if requested by the CC or if the Customer presents a risk to the privacy or security of information transacted with other eHealth Exchange Applicants or the security of the eHealth Exchange network.
  - e. The Vendor Applicant agrees that it has formal contractual mechanisms in place with its Customers that authorize the vendor Applicant to initiate and respond to requests on behalf of its healthcare provider or health plan customers through the eHealth Exchange. The Vendor Applicant will provide representative samples of the contractual mechanisms to the CC upon request.
  - f. The Vendor Applicant attests that it has established mechanisms to assure that it can effectively flow down the DURSA requirements to its Customers and that

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its Customers are aware of and understand the Vendor Applicant’s obligations under the DURSA (e.g. how patient / member information may be used and exchanged, the Vendor Participant’s accountability to its Customers, etc.)

- g. The Vendor Applicant shall identify and attest that every Customer exchanging health information via the eHealth Exchange is legally obligated to comply with the DURSA flow-down provisions.
- h. The Vendor Applicant has the organizational structure, resources, governance mechanisms and resources to govern this activity and to fulfill its responsibilities in the DURSA.

**III. Procedure / Approach**

Vendor applicants must sign an attestation to the above requirements, which is included with the application and meet the requirements and follow the onboarding process described in OPP #1.

OPP #1 outlines the steps for determining whether an Applicant has satisfied the eligibility requirements to be an eHealth Exchange Participant. The process for testing and determining whether a system complies with the Performance and Service Specifications is addressed in the Validation Plan.

**IV. Definitions**

**Customer(s):** an organization or an individual that purchases services from a Vendor Applicant and on whose behalf the Vendor Applicant exchanges information via the eHealth Exchange.

**DURSA:** Data Use and Reciprocal Support Agreement

**eHealth Exchange:** A network of Participants who share data in accordance with the DURSA.

**Vendor Applicant:** The vendor entity that submits an Application for Participation

All other capitalized terms, if not defined herein, shall have the same meaning as set forth in the DURSA

**V. References**

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“Restatement II of the Data Use and Reciprocal Support Agreement (DURSA)”, Version Date: August 13, 2019

**VI. Related Policies and Procedures**

- OPP #1, Participation – Review and Disposition of Applications for Participation
- OPP #3, Participation – Changes, Suspension, Termination

**VII. Version History**

<b>ID</b>	<b>Date</b>	<b>Comments</b>
1	10/14/17	Drafted policy, based upon recommendations from the Coordinating Committee, federal partners, and internal eHealth Exchange support staff.
2	6/2020	Updated language to reflect newest DURSA amendment changes; Updated formatting for consistency and readability