Breaking Down Eligibility: Key Terms and Concepts

Data Sharing Agreement and Memorandum of Understanding

Data Sharing Agreement (DSA)
A document that defines terms, conditions, and restrictions for the sharing and use of specific, protected data. These agreements are usually highly specific (such as listing the detailed data sources and data elements that will be shared) and legally binding, especially regarding data privacy and security. For example, they must agree to be compliant with the Health Insurance Portability and Accountability Act (HIPAA), a U.S. federal law designed to protect sensitive patient health information from being disclosed without consent. Data sharing agreements (DSA) and memorandums of understanding (MOU) are used to govern protected health information or other sensitive datasets.

Memorandum of Understanding (MOU)
A document that defines the intent, collaboration, and general roles between two or more parties. It is usually focused on high-level goals, scope of work, and non-financial support.

Protected Health Information (PHI)
Identifiable health data, often in a medical record. Includes any information that can be used to identify an individual and relates to their physical or mental health or the care they receive.

- **Examples:** Viral load, CD4 count, diagnostic codes, clinic visit dates, a name/address when tied to a medical diagnosis.

Protected Identifiable Information (PII)
Identifiable financial and personal data. Includes any information that can be used, on its own or combined with other data, to identify, contact, or locate a specific person. It's sensitive personal data that is not medical. In the Ryan White HIV/AIDS Program (RWHAP), PII is treated with the highest level of confidentiality because linking it to a client's enrollment status immediately reveals their HIV status, which is sensitive PHI.

- **Examples:** Income, social security number, full name, residential address, date of birth.

When should RWHAP Recipients use a DSA or MOU?

Data sharing within the RWHAP often requires partnerships and processes that set the terms of how information transfers from one party to another. **In short, the MOU confirms *why* the relationship exists, while the DSA confirms *how* the data supporting that relationship is protected.**

A **DSA** is used if sensitive information is being shared across organizations that do not share the same HIPAA coverage. DSAs are likely to be required when a RWHAP recipient is requesting information from a government entity, such as the department of motor vehicles/department of driver services or Medicaid. DSA documents are usually very specific to govern the legal and technical terms of data exchange for sensitive PHI. Even if data are returned in the "flag" format (i.e., a yes or no instead of a specific PHI value such as viral load), a DSA is usually required since sensitive client information will still be sent to the organization to match and they are still using PHI to generate the response.

Examples when a DSA might be required include:

- A RWHAP Part B recipient requests residency information from the DMV (sharing PII).
- A RWHAP Part B recipient requests information from HIV surveillance (such as CD4 count or viral load) to verify HIV diagnosis (sharing PHI).
- A RWHAP Part A recipient and a RWHAP Part C-funded organization merge all their client service and eligibility records into a single, unified system (potentially sharing both PII and PHI).

An **MOU** sets the broad scope of sharing systems or resources. They will commonly be used to define the shared roles and responsibilities for a particular collaboration. They are often used for collaborations between RWHAP Parts.

Examples of when an MOU might be required include:

- A RWHAP Part A recipient works with a local Housing Opportunities for Persons with AIDS (HOPWA) program to sign a collaborative agreement to hold monthly coordination meetings.
- **A RWHAP program shares residency and housing status data** with a local HOPWA program to eliminate the need for clients to provide manual proof of address (sharing PII)
- **A RWHAP recipient queries the state HIV surveillance registry** to auto-verify a client's medical eligibility and recent viral load status (sharing PHI).

In some cases, it may be necessary to develop both a DSA and MOU. For example, if the State RWHAP Part B recipient and a RWHAP Part C recipient were to collaborate and exchange information, they may need an MOU to define the programmatic scope,

funding terms, clinical expectations, and general reporting requirements of the collaboration. Meanwhile, the DSA is necessary because RWHAP Part B is sharing client-level PHI and PII (like names, eligibility dates, and status flags) with RWHAP Part C. The DSA legally binds the RWHAP Part C organization to the high standards of confidentiality, security, and audit accountability required for RWHAP data.

Which organization develops the DSA and/or MOU?

The DSA or MOU is commonly initiated and managed by the agency that owns the data being shared.

For external organizations: The organization holding the data, such as Medicaid, HOPWA, or HIV surveillance, will likely have pre-established DSA templates. They will share this document with the RWHAP partner to review and sign.

For data sharing across RWHAP Parts: RWHAP Parts A and B are often responsible for mandating the use of a DSA or MOU template by their subrecipients to ensure consistent HIPAA and state confidentiality compliance across the jurisdiction; therefore, the RWHAP Part A or Part B recipient will be the lead on drafting either document.