Marketplace Privacy and Security Requirements for Agents and Brokers Transcript

Slide	Text
1.1	Good afternoon, and welcome to Part II of Marketplace Privacy and Security Requirements for Agents and Brokers. My name is Cortney Olds of ARDX, and I am your facilitator for today. Today's session is scheduled for a total of 60 minutes.
1.2	Before we begin, please note the following keyboard commands are available. Use "P" to pause the CBT, Use "R" to resume the CBT, "K" to review the keyboard shortcuts shown on this screen, "O" to move back to the previous slide, "N" to move to the next slide, and "M" to turn the audio off and on. Click next to begin this training.
1.3	The information provided in this presentation is intended only as informal summaries of technical legal standards. It is not intended to take the place of the statutes, regulations, and formal policy guidance that it is based upon. This presentation summarizes current policy and operations as of the date it is presented. Links to certain source documents have been provided for your reference. We encourage audience members to refer to the applicable statutes, regulations, and other interpretive materials for complete and current information about the requirements that apply to them. Generally, this document is not intended for use in the State-based Marketplaces, or SBMs, that do not use HealthCare.gov for eligibility and enrollment. Please review the guidance on our Agents and Brokers Resources page at https//go.cms.gov/CCIIOAB, and also using the Marketplace.CMS.gov website to learn more. Unless otherwise indicated, the general references to 'Marketplaces' only includes Federally-facilitated Marketplaces (or FFMs) and State-based Marketplaces on the Federal Platform (SBMs-FP).
1.4	Today's agenda includes a Review of Previous Privacy and Security webinars, a Review of Requirements to Provide a Privacy Notice Statement and a Review of Required Security Controls, Key Reminders and Resources, other Marketplace Updates, and finally question and answers. I will now turn the call over to Tia Witherspoon to begin the presentation. Tia?
1.5	Thank you, Cortney, and welcome everyone to Part II of the Marketplace Privacy and Security Requirements for Agents and Brokers. Today's slides will be available on REGTAP and on our Agents and Brokers Resources web page. Please note that the slides are not available right now, but they will be coming soon. So, let's begin with the background review of the previous webinars on similar topics that you may find useful. Today's presentation is called Part II because it expands on some information presented last fall in a webinar titled 'Marketplace Privacy and Security Requirements for Agents and Brokers.' The slides from the webinar are available on our Agents and Brokers Resources web page at the link shown on this slide or under the general resources link on that Resource web page.

	This slide provides a list of topics that were covered during that presentation and I encourage you to review it to enhance your knowledge of the requirements to comply with the Marketplace Privacy and Security Standards.
1.6	So, last month, we held a webinar titled 'Compliance with Marketplace Requirements: Consideration for Agents and Brokers,' which covered several topics beyond the scope of the Privacy and Security. Those topics are listed here. If you were not able to attend that webinar, I do encourage you to review the slides from it, which are available from the Agents and Brokers Resources web page under the 'General Resources' link or by clicking on the link on this slide.
1.7	Helping consumers obtain eligibility determination and enroll in Qualified Health Plans, or QHPs, through the Marketplace, you may gain access to PII. The Marketplace definition of PII is information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual. A key component of this definition is that if it is possible to link information to an individual, this information would be considered PII even if it has not been linked to that individual. So, some common examples of PII you may encounter include things like a name, Social Security Number, an address, email and date of birth.
1.8	So, now I'd like to review the requirement for providing a Privacy Notice Statement.
1.9	This is one of the key requirements described in the Privacy and Security Agreement that you signed as a part of your annual registration to participate in the Marketplace as an Agent or Broker. Prior to collecting their PII, you must provide the consumer you assist a Privacy Notice Statement. This statement must be prominently displayed on a public-facing website, if applicable, or provided as part of the electronic and/or paper form you used to gather and/or request PII. This statement must be written in plain language and provided in a manner that is accessible and timely to people living with disabilities and who have limited English language proficiency. Please note that failure to comply with the Privacy Notice Statement requirement could result in the termination of your Marketplace Agreement and registration. So, I strongly encourage you to review the Marketplace Privacy and Security Agreement for more information about this requirement. This document is available on the Marketplace Learning Management System, or MLMS, and a little bit later in this presentation, I'll show you where you can access it, so you can refer back to it if you should need it later.
1.10	So, we get a lot of questions about where Agents and Brokers can find a model Privacy Notice Statement. So, please note that CMS does not provide a model for this and expects you to create your own statement following the specific requirements described in Appendix A, Standard to A and the Marketplace Privacy and Security Agreements. At a minimum, the statement must contain the following information: Legal authority to collect PII, Purpose of the information collection, to whom the PII might be disclosed and for what purposes, authorize uses and disclosure of any collected information, whether the request to collect PII is voluntary or mandatory under the law, and effects of non-disclosure if a consumer chooses not to provide the

	requested information. The statement should also inform your client that the information that they provide will be submitted to CMS and will be maintained in a Federal System of Records.
1.11	So, now let's review some myths and facts about the Privacy Notice Statements. So, the first myth is that your client must sign the Privacy Notice Statements.
1.12	So, this is not true. Your clients do not need to sign the Privacy Notice Statement. You simply need to provide this statement to your client by either conspicuously displaying it on the public-facing website or include it on the electronic and/or paper form used to gather and/or request PII.
1.13	So, the next myth is the Privacy Act Statement that the consumer views at HealthCare.gov satisfies the requirement that you provide your client a Privacy Notice Statement. This slide provides a brief screenshot of that statement, which your client sees if they use the Marketplace Pathway, which is also known as HealthCare.gov to submit an application.
1.14	So, this one is also not true. Your Agent or Broker Privacy Notice Statement must be tailored to describe your privacy practices and include all of the required minimum information I reviewed a few moments ago on slide 9.
1.15	Our last myth to review is that you must provide both the Privacy Notice Statement and obtain the client's consent to your assistance prior to assisting any Marketplace clients.
1.16	So, this one is true. You must provide the Privacy Notice Statement and your client must give consent prior to you collecting his or her PII or helping your client apply for financial help and/or enrolling in a Marketplace Qualified Health Plan. Please note that you may collect basic information from your client to facilitate providing assistance at a later time without meeting to provide them with the Privacy Notice Statement.
1.17	So, this slide provides a comparison between the requirements for the Privacy Notice Statement and the Consumer Consent to your system. They are not the same thing. CMS does not provide a model notice for either of these, and either one has to be signed by your client, but you do not need to provide both the Privacy Notice Statement and obtain the client's consent prior to providing the assistance with the Marketplace enrollment. If you have questions about the requirement to obtain a consumer's consent, please review the recent webinar title 'Compliance with Marketplace Requirement Considerations for Agents and Brokers.' This is the one that I mentioned at the beginning of the presentation and is linked on slide 5. That webinar provides more information on the requirement and best practices for obtaining and maintaining a record of your client's consent.
1.18	In another area I'd like to review today are the required Security Controls you need to implement to protect your client's PII throughout the year.
1.19	So, here's a list of safeguards described in Appendix A. Standard Setting in the Marketplace Privacy and Security Agreement. You and any member of your work force who have the need to access some consumer's PII to perform their duty must establish and implement controls to ensure that your client's PII is only used by or disclosed to an authorized personnel;

	protected against any reasonable anticipated threats or hazards to his confidentiality, integrity and availability, protected against any reasonably anticipated uses or disclosures that are not permitted and securely destroyed in accordance with CMS retention records.
1.20	This Privacy Standard also requires you to monitor, periodically assess and update your security controls and related systems to ensure the continued effectiveness of these controls. Additionally, you must use secure electronic interfaces when transmitting PII electronically, such as through email or uploading it to shared sites.
1.21	So, now let's review a few scenarios that illustrate the implementation of these Security Controls in an operational setting. Our first scenario is about sharing passwords. So, as your colleague, Adam has not yet set up his account and has asked you for your password so that he can access the Direct Enrollment Pathway for Best Health Insurance to assist one of his clients. So, should you provide Adam with your login credentials? The answer options are A: Yes. Adam is a member of the workforce, so it doesn't matter if he can access the client's PII that is stored in the Best Health Insurance System, and if Adam enrolls the client using your password, your NPN will be recorded on that application, so then you'll ultimately be the one who earn the commission for that enrollment. For B: No. You really should never share your password with anyone.
1.22	So, the correct answer is B. You should never share your password with anyone.
1.23	Even though Adam is a member of the workforce, he doesn't have a need for your client's PII to perform his duties. Financial considerations such as commission payments, should never supersede compliance with the Marketplace Privacy and Security Requirements.
1.24	So, our next scenario is about sharing PII via email. Your organization keeps a master database of all its Marketplace clients that contains client's names, application numbers, application history and contact information. You are finishing up another busy day during the Marketplace Open Enrollment Period and you need to send an email with this information for your clients that you assisted today Sue, who maintains the database. What steps must you take to ensure that you are protect your client's PII and you're complying with the required security controls? So, the answers options are: A: Ensure that the Privacy Notice Statement that you provide your clients explains their PII is shared with authorized members of your workforce for the purposes of maintaining contact databases. B: Attach your client's tracking spreadsheet to the email to Sue. C: Copy the row from your client's tracking spreadsheet and paste them into the body of the email to Sue. Or D: Encrypt your client's tracking spreadsheet prior to attaching it to the email to Sue.
1.25	So, the correct answers are A: Ensure that the Privacy Notice Statement that you provide your client explains that their PII is shared with authorized members of your workforce for the purposes of maintaining a contact database, and you should also D: Encrypt your client's tracking spreadsheet prior to attaching it to the email to Sue.

1.26	So, this slide has some key points to remember about using email to share PII. You should include a description of to whom PII might be disclosed, and for what purpose, in your Privacy Notice Statement. Also, you should ensure any electronic communication containing PII or other sensitive data are encrypted. This protects the data's confidentiality by scrambling the message and requiring the recipient to have a password to decrypt it. Encrypting email attachments also protects them from being compromised on unencrypted servers. We do not recommend you send passwords via email. At minimum, do not send the password in the same email as the encrypted file. Instead, we suggest that you share the email via text or phone or shared file system or have a predetermined word or phrase that both you and the recipient will know.
1.27	So, our last scenario provides more information about other safeguards you should implement as a part of the required security controls. So, Sue stores your organization's master Marketplace client database on a shared network server. Which of the following safeguards that should be implemented to ensure your clients' PII stored on this server is protected against any reasonably anticipated threats or hazards to its confidentiality, integrity and availability? So, the answer options are A: Ensure that all computers used to access the server are regularly updated with the latest security software to protect network attacks and penetration attempts. B: Limit physical access to secured areas where there are information systems that contain consumer PII to authorized personnel via appropriate authorization credentials such as identification badges, proximity card or smart cards. C: Use caution when connecting any wireless device, such as a laptop, to a public network, and only use secure trusted wireless access points. And D: Require regular and privacy and security awareness training programs for all members of your workforce to have access to client PII.
1.28	So, all of these answers are correct and examples of operational policies and procedures you should have in place to protest consumer PII.
1.29	So, now I'd like to review some key points from this presentation and highlight the Marketplace Privacy and Security Agreement that contains the requirements discussed.
1.30	So, you must provide a privacy notice statement to all of your Marketplace clients prior to collecting their PII and must tailor it to ensure it contains the required information. So, you can see slide nine, or section, or standard 2A of the Marketplace Privacy and Security Agreement for information on that. So, you must ensure your office establishes and implements operational, technical, administrative and physical safeguards that effectively protect your Marketplace clients' PII throughout the year. In addition, you must ensure that all members of your workforce who have a need for consumer PII to perform their duty strictly follow these safeguards.
1.31	So, you are hopefully already aware of each of the specific privacy standards for Agents and Brokers that are described in the Marketplace Privacy and Security Agreement, which you execute annually as part of the Marketplace registration. So, note that there are two versions of this agreement, one for Agents and Brokers who participate in the Individual Marketplace, and one for Agents and Brokers who participate in the Small Business Health Options Program, or SHOP. Both versions

	contain identical standards but have slight differences in the list of types of PII that may be collected in the list of authorized functions for the use of PII. So, I would strongly encourage you to review the privacy standards in this agreement, as well as the regulations that describe CMS's eight privacy principles, linked here, to better understand how you may and may not use any information you obtain from consumers in your role as a Marketplace Agent or Broker.
1.32	So, as I've mentioned, you must review and sign the Marketplace Privacy and Security Agreement annually as a part of the Marketplace registration requirements. However, you can access this document at any time by signing onto the MLMS via the CMS Enterprise Portal link here. This slide is where on the MLMS homepage you can find the link to access a PDF version of each agreement.
1.33	So, at this time, I'm going to turn the presentation over to my colleague, Cheryl Barton, to review some of the upcoming activities, and a few resources you may find useful for your participation in the Marketplace. Cheryl.
1.34	So, on here, I know Tia talked a lot about privacy and security, and she also mentioned a webinar that we recently hosted on compliance, but we wanted to always remind Agents and Brokers with every webinar that we have, some tips, some to dos and some don'ts, and just some things that, they should apply daily to their work on the Marketplace. So, you'll see some points to remember here on this slide, and I'll just, look at a couple of them here, obtain consent from each client you work with prior to assisting him or her, which is always key when you're working on the Marketplace with a client. And so, there's a long list of them here. Please take a look at those. One that I want to point out specifically is the last one, that says if you suspect or identify potentially fraudulent activity, you can report your concerns to the Department of Health and Human Services, the Office of Inspector General, their hotline, the Federal Trade Commission, or as always, you can reach out to our Agent and Broker email Help Desk here at CMS depending on what your situation is, and we will certainly look into your inquiry.
1.35	So, here on this slide is just a couple of links for you to, additional resources for Agents and Brokers to assist you throughout the year as you're assisting your clients on the Marketplace. Any time you have questions about specific items, you can check out the resource slides on the, within each webinar slide deck, or again you can just go directly to the Agent/Broker resources webpage, and there's a link on the page to all of these resources.
1.36	And on this slide is just another link to resources. These are much more helpful to you as we're going through the registration and training season, yeah, just winding down, that was what was on that screen, and then this screen here is just a link to some Help Desks that may be of assistance to you throughout the year as well. If you have questions while you're assisting your clients, or if you have some downtime and you've had some issues and you want to get them resolved before we get into the next go-live season, or the next Open Enrollment season, you can reach out to either one of those contacts here, which is a direct Agent/Broker partner line, which is available Monday through Sunday, 24 hours a day, and please keep in mind for that particular assistance, you have to enter your NPN in order to access that line.
1.37	So, at the bottom here is the Agent/Broker Help Desk, and I mentioned, if for some reason you did not get the invitation to the webinar that's being hosted by the assister side of the house tomorrow, here's the email address here that you can

	access and request an invitation to that webinar. We will make sure we get you that. Next slide, please.
1.38	Okay. Again, additional Help Desk information is available. That's what's on that slide, and you'll be able to see those when we download the slides to REGTAP for you.
1.39	On this screen here is just a few acronyms that we use throughout the presentation today for you to go back and forth, and if we use an acronym and you couldn't remember quite what it was, this is just listing out for you, some of the ones we did reference today during the webinar.
1.40	So, again, on behalf of CMS, I do want to thank you for your time today. We hope this information was helpful to you. Thanks again, and have a wonderful day.