

Legal and Policy Advisory Group

March Meeting

March 26, 2013



Agenda

Project Updates

Issue Identification and Prioritization

Next Steps

Phase 2 overall timeline

Mass HIway Phase 2 high level project schedule

Activity	Completion date
Submit IAPD to CMS	Complete
CMS approval of Phase 2 IAPD	Feb 2013
Procurement for Phase 2 services (RFP, Change Orders, Internal Development)	Feb 2013
Phase 2 infrastructure vendor selected	March 29, 2013
Phase 2 contract (or change order) executed	Apr 15, 2013
Go-live for Phase 2, Release 1 (Public Health interfaces)	Apr-Oct, 2013
Go-live for Phase 2, Release 2 (CDR, EMPI, RLS, Consent)	Oct 2013 – Mar 2014

Update – MassHlway Implementation Grants

GRANT SUMMARY

The Hlway Implementation Grant Program has been developed to fund projects to catalyze connections to the Mass Hlway by migrating existing processes away from paper-based exchanges and those exchanges using proprietary interfaces. The intent is to encourage inter-organizational collaboration on a specific process that is expected to be enhanced or accelerated by use of the Hlway. Competitive proposals will build on existing improvement efforts that impact care quality, costs, or population health.

FUNDING AVAILABLE

Budgeted at \$2 million, awards up to \$75K each

TIMELINE

Open date - Friday, 3/15
Applications due - Tuesday, 4/16
Notification of award - Friday, 5/3

Grant information - <http://www.mehi.masstech.org/hiway-implementation-grants>

Webinar Q&A - <http://www.mehi.masstech.org/implementation-grant-info-sessions>

Grant requirements - <http://www.mehi.masstech.org/implementation-grant-requirements>

Learn more about the Mass Hlway - <http://www.mehi.masstech.org/sites/mehi/files/documents/MassHlway-Overview.pdf>

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Goals for today's discussion

Goals for today's session:

1. **Describe and inventory the issues that need addressing for Hlway Phase 2**
2. **Set priorities and timing for addressing each issue**
3. **Determine the need for targeted “expert testimony” to further inform solution**

Note: Today's session is designed to tee up the issues, not to solve them yet. Facilitators will try to maintain the boundaries of the discussion so we can get to a work plan by meeting end.

Issue: Applicability of Chapter 224 HIE provisions

Issue Description: There is a great deal of health information exchange planning and deployment activity underway in Massachusetts today both public and private. We are expecting to have HIE at all levels; organization (e.g., Steward), local/community (e.g., Newburyport), regional (e.g., PVIX), statewide (e.g., MassHIway), and nationwide (e.g., Healthway). The new Massachusetts health reform law, Chapter 224, contains many provisions for health information exchange. There is confusion in the market regarding the applicability of Chapter 224.

Goals: Provide HIT Council with expert opinion regarding applicability of Chapter 224 to public and private health information exchange at all levels.

Key Questions to address:

- To which HIE activities do the Chapter 224 provisions apply? (Where are the boundaries)

Issue: Legal & policy issues related to statewide MPI/RLS

Issue Description: Phase 2 of the MassHIway includes two new services. A Master Person Index (MPI), which is used for unambiguous patient matching and patient consent enforcement, and a Record Locator Service (RLS), which is used to associate a patient with the location of his or her health records. The MPI and RLS services are essentially a database that will be maintained by an EOHHS contractor. This database will contain patient demographic information to perform its functions.

Goals: Provide HIT Council with expert opinion regarding guiderails for gathering and using patient demographic information.

Key Questions to address:

- Is patient consent required for demographic data?
- What technical scenarios can be permitted for initial load of patient demographic data (variations to be described)
- What are the permitted/prohibited uses of MPI/RLS data and by whom

Issue: Consent for query (targeted and untargeted)

Issue Description: Phase 2 of the MassHIway is expected to enable one MassHIway user to query for patient information held by another MassHIway user.

There is a need to anticipate the different ways that MassHIway queries might work and to define the rules for patient consent.

Goals: Provide HIT Council with expert opinion regarding guiderails for patient consent given anticipated phase 2 variations.

Key Questions to address:

- What are the consent requirements under the law for each of the phase 2 query use cases?

Issue: Statutorily protected HIV test result data (MGL C111 70f)

Issue Description: As part of Chapter 84 of the Acts of 2012, the legislature changed the law regarding disclosure of HIV test result data. The law requires written informed consent for the release of an individual's HIV antibody or antigen test result.

Goals: Provide HIT Council with expert opinion regarding guiderails for how MassHIway will handle HIV test results.

Key Questions to address:

- What does the law say and how is it being interpreted (e.g., By DPH, by private organizations and their legal counsel)?
- What are the technical and policy controls that may be put in place to encourage proper treatment of statutorily protected data?

Issue: Statutorily protected substance abuse treatment data (USC Title 42)

Issue Description: Title 42 part 2 requires special treatment of information regarding participation in federally assisted substance abuse programs.

Goals: Provide HIT Council with expert opinion regarding guiderails for how MassHIway will handle information regarding participation in federally assisted substance abuse programs.

Key Questions to address:

- What does the law say and how is it being interpreted (e.g., By private organizations and their legal counsel)?
- What are the technical and policy controls that may be put in place to encourage proper treatment of statutorily protected data?

Issue: HISP to HISP trust

Issue Description: It is becoming increasingly clear (as private HIE activity expands and as EHR vendors define their HIE strategies) that many (and perhaps the majority) of MassHIway participants will access HIway services through another health information services provider (HISP). MassHIway phase 1 anticipated this structure and included a participation agreement that included “delegated administration” provisions to “pass through” statewide policy and procedure requirements to the connecting HISP. However, there are many HISP variations that bring unique policy and technical complexities for establishing and maintaining trust.

Goals: Provide HIT Council with expert opinion regarding HISP to HISP trust.

Key Questions to address:

- What are the different types of HISPs that the MassHIway may need to connect to and in what priority order?
- What legal frameworks and agreements will be required to establish trust with each type of HISP?

Other issues?

What other issues will we confront as we move from phase 1 to phase 2 of the MassHIway?

- _____
- _____
- _____

Issue inventory

Issue area	Priority/ Timing	Need for expert testimony?
Applicability of Chapter 224 HIE provisions		
Legal & policy issues related to statewide MPI/RLS		
Consent for query (targeted and untargeted)		
Statutorily protected HIV test result data		
Statutorily protected substance abuse treatment data		
HISP to HISP trust		

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- Key points and recommendations synthesized and provided back to Advisory Group for final comments
- Presentation materials and notes to be posted to EOHHS website
- Next HIT Council – April 8, 2013, One Ashburton Place, 21st Floor

HIT Council meeting schedule, presentations, and minutes may be found at <http://www.mass.gov/eohhs/gov/commissions-and-initiatives/masshiway/hit-council-meetings.html>