

5/4/2015

North Carolina Homeless Management Information System

Participation Agreement between Michigan Coalition Against Homelessness and

Participating Agency: _____

This agreement is entered into on _____ (dd/mm/yy) between the Michigan Coalition Against Homelessness, hereafter known as "MCAH," and _____ (agency name), hereafter known as "Agency," regarding access and use of the North Carolina Homeless Management Information System, hereafter known as "NC HMIS."

I. Introduction

The NC HMIS, a shared human services database, allows authorized personnel at homeless and human service provider agencies throughout the State of North Carolina to enter, track, and report on information concerning their own clients and to share information, subject to appropriate inter-agency agreements, on common clients.

NC HMIS' goals are to:

- Improve coordinated care for and services to homeless persons in the State of North Carolina,
- Provide a user-friendly and high quality automated records system that expedites client intake procedures, improves referral accuracy, and supports the collection of quality information that can be used for program improvement and service-planning, and
- Meet the reporting requirements of the U.S. Department of Housing and Urban Development (HUD), and other funding organizations as needed.

In compliance with applicable state and federal requirements regarding client/consumer confidentiality and data security, the NC HMIS is designed to collect and deliver timely, credible, quality data about services and homeless persons or persons at risk for being homeless. The Michigan Coalition Against Homelessness (MCAH) administers the NC HMIS through a Memorandum of Understanding with the North Carolina Governance Committee.

II. MCAH Responsibilities

1. MCAH will provide the Agency 24-hour access to the NC HMIS data-gathering system, via internet connection, exclusive of outages due to maintenance conducted by Bowman or to outages resulting from factors out of MCAH's reasonable control, such as interruptions in service from third-party providers.
2. MCAH will provide model Privacy Notices, Client Release forms and other templates for agreements that may be adopted or adapted in local implementation of NC HMIS functions.
3. MCAH provides direct training and support for Local System Administrators (LSAs) and indirect support for agencies as needed with the expectation that the LSAs and designated Agency staff will take responsibility for conveying this information to all Agency Staff using the system.
4. Through a mix of recorded trainings and Live Webcasts, MCAH will provide both initial training and periodic updates to that training for all aspects of the System as well as specific

HUD initiatives. Training Libraries are established so that LSAs and Agency Staff may access training as they need information.

5. MCAH will provide basic support and technical assistance through the Help Desk (i.e., general trouble-shooting and assistance with standard report generation). Access to this basic technical assistance will normally be available from 9:00 AM. to 5:00 PM. on Monday through Friday (with the exclusion of holidays). MCAH will also use its best efforts to respond to System outages and other emergencies during non-standard hours.
6. The Help Desk is normally accessed in coordination with the LSA. If the LSA is not available or if the LSA has made prior arrangements, any users may access the Help Desk.
7. MCAH routinely communicates Systems issues through the "System's News" located on the sign-in screen on ServicePoint. Users are alerted to new News Items and are expected to read those items and share information as relevant.
8. MCAH will not make public reports on client data that identify specific agencies or persons, without prior agency (and where necessary, client) permission. Public reports otherwise published will be limited to presentation of aggregated data within the NC HMIS database.
9. MCAH's publication practice will be in accordance with applicable law and be governed by policies established by relevant committees operating at the NC HMIS level for statewide analysis and will include qualifiers such as coverage levels or other issues necessary to clarify the meaning of published findings.
10. MCAH's Responsibilities may change from time to time resulting from the Annual Contract Review process. All changes must be approved by the Governance Committee.

III. Privacy and Confidentiality

A. Protection of Client Privacy

1. The Agency will comply with all applicable federal and state laws regarding protection of client privacy.
2. The Agency will comply specifically with Federal confidentiality regulations as contained in the *Code of Federal Regulations, 42 CFR Part 2*, regarding disclosure of alcohol and/or drug abuse records.
3. The Agency will comply specifically with the *Health Insurance Portability and Accountability Act of 1996, 45 C.F.R., Parts 160 & 164*, and corresponding regulations established by the U.S. Department of Health and Human Services.
4. The Agency will comply with all privacy rules specified in *North Carolina General Statutes Chapter 75, the Identity Theft Protection Act, North Carolina General Statutes Chapter 122C, Article 3, North Carolina General Statutes Chapter 130A, North Carolina General Statutes Chapter 7B, North Carolina Federal Statutes Chapter 108A*.
5. The Agency will comply with all policies and procedures established by NC HMIS pertaining to protection of client privacy.

B. Client Confidentiality

1. The Agency agrees to provide a copy of NC HMIS' *Privacy Notice* (or an acceptable Agency-specific alternative) to each consumer. The Agency will provide a verbal explanation of the NC HMIS and arrange for a qualified interpreter/translator in the event that an individual is not literate in English or has difficulty understanding the *Privacy Notice* or associated Consent Form(s).

2. The Agency will not solicit or enter information from clients into the NC HMIS database unless it is essential to provide services or conduct evaluation or research.
3. The Agency will not divulge any confidential information received from the NC HMIS to any organization or individual without proper written consent by the client, unless otherwise permitted by applicable regulations or laws.
4. The Agency will ensure that all persons who are issued a User Identification and Password to the NC HMIS abide by this *Participation Agreement*, including all associated confidentiality provisions. The Agency will be responsible for oversight of its own related confidentiality requirements.
5. The Agency agrees that it will ensure that all persons issued a User ID and Password will have demonstrated mastery by passing required Certification Tests for NC HMIS training on “Privacy and Confidentiality” (all users) , “Securing Client Records” (all users); and “Establishing Visibility” (for Agency Administrators), prior to activation of their User License. Training must be updated annually.
6. The Agency agrees that those granted Agency Administrator systems access must first become a Certified NC HMIS Agency Administrator through training provided by NC HMIS designated trainers.
7. The Agency acknowledges that ensuring the confidentiality, security and privacy of any information downloaded from the system by the Agency is strictly the responsibility of the Agency. Agencies should be especially vigilant about data that includes personally identifying information.
8. Persons serving in the capacity of Local and State System Administrators are not allowed to download or archive “named” data. Specifically they are not allowed to run reports and download the include client names for purposes of notifying Agency. Agency Administrators will be instructed to directly run any reports that include the client’s name.

C. Inter-Agency Sharing of Information

1. The Agency acknowledges that all forms provided by NC HMIS regarding client privacy and confidentiality are shared with the Agency as generally applicable models that may require specific modification in accord with Agency-specific rules. The Agency will review and revise (as necessary) all forms provided by NC HMIS to assure that they are in compliance with the laws, rules and regulations that govern its organization.
2. The Agency agrees to develop a plan for all routine sharing practices with partnering Agencies and document that plan through a fully executed *Qualified Service Organization Business Associate Agreement*, hereafter known as a *Sharing QSOBAA(s)*.
3. The Agency acknowledges that informed client consent is required before any identified client information is shared with other Agency’s in the System. The Agency will document client consent on the NC HMIS *Client Release of Information & Sharing Plan form*.¹
4. If the client has given approval through a completed NC HMIS *Client Release of Information & Sharing Plan form*, the Agency may elect to share information according to *Sharing QSOBAA(s)* that the Agency has negotiated with other partnering agencies in NC HMIS.
- 5.
6. Agencies with whom information is shared are each responsible for obtaining appropriate consent(s) before allowing further sharing of client records.

¹ NCHMIS *Client Release of Information & Sharing Plan form* provided by the MCAH.

7. The Agency acknowledges that the Agency, itself, bears primary responsibility for oversight for all sharing of data it has collected via the NC HMIS including review and approval of their agency's System Visibility Set-up and the electronic Release of Information.
8. The Agency agrees to place all *Client Release of Information & Sharing Plan* forms related to the NC HMIS in a file to be located at the Agency's business address and that such forms will be made available to the MCAH for periodic audits. The Agency will retain these NC HMIS-related *Release of Information* forms for a period of 7 years, after which time the forms will be discarded in a manner that ensures client confidentiality is not compromised.
9. The Agency acknowledges that the individual record of clients who choose not to authorize sharing of information must be closed by following NC HMIS procedures for "Securing Client Records".
10. The Agency acknowledges that clients who choose not to authorize sharing of information cannot be denied services for which they would otherwise be eligible.

D. Custody of Data

1. The Agency acknowledges, and MCAH agrees, that the Agency retains ownership over all information it enters into the NC HMIS.
2. In the event that the NC HMIS Project ceases to exist, member Agencies and any applicable Continuums of Care ("CoCs") will be notified and provided reasonable time to access and save client data on those served by the agency, as well as statistical and frequency data from the entire system. Thereafter, the information collected by the centralized server will be purged or appropriately stored.
3. In the event that MCAH ceases to exist, the custodianship of the data within NC HMIS will be transferred by NORTH CAROLINA GOVERNANCE COMMITTEE to another organization for continuing administration, and all NC HMIS member Agencies will be informed in a timely manner.

IV. Data Entry and Regular Use of NC HMIS

1. The Agency will not permit User ID's and Passwords to be shared among users.
2. If a client has previously given the Agency permission to share information with multiple agencies, beyond basic identifying information and non-restricted service transactions, and then chooses to revoke that permission with regard to one or more of these agencies, the Agency will contact its partner agency/agencies and explain that, at the client's request, portions of that client record will no longer be shared. The Agency will then "lock" those portions of the record, impacted by the revocation, to the other agency or agencies.
3. If the Agency receives information that necessitates a client's information be entirely removed from the NC HMIS, the Agency will notify MCAH. MCAH will work with the Agency, sharing partners, and Bowman to remove the record from the data set. Agencies are asked to explore a variety of options for closing records and that they will only request actual removal of a record as a last resort.
4. The Agency will enter all minimum required data elements as defined for all persons whose data is captured on the System by the U.S. Department of Housing and Urban Development (HUD). Beyond basic HUD requirements (known as the UDEs), other funding sources may also issue minimum data entry standards.

5. The Agency will enter data in a consistent manner, and will strive for real-time, or close to real-time, data entry. All data entry must be complete within 15 days of collection from the client.
6. The Agency will not knowingly enter inaccurate information into NC HMIS and shall be solely responsible for any claims or damages relating to the provision of inaccurate information.
7. The Agency acknowledges that once that *Client Release of Information* expires, any new information entered into the database will be closed to sharing. Information entered before the date of the expired release will continue to be available to the sharing partners.
8. The Agency acknowledges that a fully executed Client Release of Information & Sharing Plan form, permits it to share restricted client information with select agencies in compliance with the Agency's approved Confidentiality Policies and Procedures.
9. The Agency will prohibit anyone with an Agency-assigned User ID and Password from entering offensive language, profanity, or discriminatory comments based on race, color, religion, national origin, ancestry, handicap, age, sex, and sexual orientation.
10. The Agency will utilize the NC HMIS for business purposes only.
11. The Agency will keep updated virus protection software on Agency computers that access the NC HMIS.
12. Transmission of material in violation of any United States Federal or State regulations is prohibited.
13. The Agency will not use the NC HMIS with intent to defraud the Federal, State, or local government, or an individual entity, or to conduct any illegal activity.
14. The Agency agrees that the NC HMIS or the local Continuum of Care Planning Committee may convene local or regional User Meetings to discuss procedures, updates, policy and practice guidelines, data analysis, and software/ hardware upgrades. The Agency will designate at least one specific Staff member to regularly attend User Meetings.
15. The Agency agrees to review at least quarterly its usage of the HMIS and report to the local System Administrator, the NC HMIS Help Line at 517-485-6536, any concerns with data quality (data is accurate), data completeness (all the clients are entered and data is complete on the required forms), reporting (reports reflect accurately the data entered), system performance (speed), and security and/or privacy set-up and compliance.
16. The Agency will incorporate procedures for responding to client concerns regarding use of NC HMIS into its existing Grievance Policy. While appeals to the NC HMIS should not be considered part of the formal process, a copy of any HMIS-related grievance, and the Agency's response, must be submitted to the MCAH Project Manager within 5 days of completion of completion of the agencies response. Any complaint that involves a breach of information must be reported their NC HMIS System Administrator immediately to insure the recorded has been closed. A full report must be made to the NC HMIS Director within 5 working days. The Director will work with staff to confirm any breaches and to implement corrective action. Any confirmed privacy breaches of information will be reported to the North Carolina Governance Committee.
17. Notwithstanding any other provision of this *Participation Agreement*, the Agency agrees to abide by all policies and procedures relevant to the use of NC HMIS that MCAH publishes annually. Policies and Procedures are posted on the MCAH NC HMIS WEB Site at www.NCHMIS.org . MCAH will notify LSAs of updates in the Policies and Procedures as well as publish an "Alert" to all users on the System News. Agencies should maintain a copy of the current Policy and Procedure in the records.

V. Publication of Reports

1. The Agency agrees that it may only release aggregated information generated by the NC HMIS that is specific to its own services.
2. The Agency acknowledges that the release of aggregated information will be governed through policies established by relevant committees operating at the NC HMIS level for statewide analysis and at the CoC level for community-level analysis. Such information will include qualifiers such as coverage levels or other issues necessary to fully explain the published findings.
3. The Agency acknowledges that NORTH CAROLINA GOVERNANCE COMMITTEE or MCAH or both will be preparing de-identified research data sets to support research and planning. All research and publication of data shall be preapproved through the Governance Committee or follow Governance Committee policies for research and publication of data.

De-identification will involve the masking or removal of all client identifying or potential identifying information such as the name, Unique Client ID, SS#, DOB, and address.

Geographic analysis will be negotiated to restrict sample sizes of any data pools that are small enough to inadvertently identify a client by other characteristics or combination of characteristics.

Programs used to match and/or remove identifying information will not allow a re-identification process to occur.

CoCs will be provided a complete description of each Study being implemented and the data elements required. Agencies may opt out of the Study through a written notice to their local System Administrator and to MCAH.

VI. Database Integrity

1. The Agency will not share assigned User ID's and Passwords to access the NC HMIS with any other organization, governmental entity, business, or individual.
2. The Agency will not intentionally cause corruption of the NC HMIS in any manner. Any unauthorized access or unauthorized modification to computer system information, or interference with normal system operations, will result in immediate suspension of services, and, where appropriate, legal action against the offending entities.

VII. Indemnity and Hold Harmless

1. The MCAH and NORTH CAROLINA GOVERNANCE COMMITTEE, the LOCAL CONTINUUM OR CARE (COC), AND THE LOCAL SYSTEM ADMINISTRATOR (LSA) AGENCY make no warranties, expressed or implied. The Agency, at all times, will indemnify and hold MCAH/NORTH CAROLINA GOVERNANCE COMMITTEE/LOCAL COC/LSA AGENCY and their respective directors, officers, shareholders, members, managers, partners, employees, contractors and agents harmless from any damages, liabilities, claims, and expenses (including costs and reasonable attorneys' fees) asserted by any third party against any of the foregoing and resulting from or related to the Agency's (including its directors,

officers, shareholders, members, managers, partners, employees, contractors and agents) or client's use of the NC HMIS; or arising from any acts, omissions, neglect, or fault of the Agency or its agents, employees, licensees, or clients; or arising from the Agency's failure to comply with laws, statutes, ordinances, or regulations applicable to it or the conduct of its business; or arising from any the breach by the Agency, its its agents, employees, licensees of any covenant or obligation under this Agreement.

2. The Agency specifically agrees that the Agency will defend, indemnify and hold MCAH/NORTH CAROLINA GOVERNANCE COMMITTEE/LOCAL COC/LSA AGENCY and their respective directors, officers, shareholders, members, managers, partners, employees, contractors and agents harmless from and against any claims that clients' privacy has been violated in some respect, directly or indirectly, through the use or misuse of the NC HMIS.
3. The Agency agrees that it will restrict the use of any and all client information as provided in applicable laws and the Agency assumes full responsibility for ensuring the appropriateness of using and relying upon the client information stored in, generated or provided by the NC HMIS in view of all attendant circumstances, indications, and contraindications. Accordingly, the Agency specifically agrees that the Agency will defend, indemnify and hold MCAH/NORTH CAROLINA GOVERNANCE COMMITTEE/LOCAL COC/LSA AGENCY and their respective directors, officers, shareholders, members, managers, partners, employees, contractors and agents harmless from and against any claims arising out of or related to client information stored in, generated or provided by the NC HMIS.
4. This Agency will also hold MCAH/NORTH CAROLINA GOVERNANCE COMMITTEE/LOCAL COC/LSA AGENCY and their respective directors, officers, shareholders, members, managers, partners, employees, contractors and agents harmless for loss or damage resulting in the loss of data due to delays, nondeliveries, mis-deliveries, or service interruption caused by Bowman Information Systems, by the Agency's or other member agency's negligence or errors or omissions, as well as natural disasters, technological difficulties, and/ or acts of God.
5. The Agency agrees to keep in force a comprehensive general liability insurance policy with combined single limit coverage of not less than five hundred thousand dollars (\$500,000). Said insurance policy shall include coverage for theft or damage of the Agency's NC HMIS-related hardware and software, as well as coverage of Agency's indemnification obligations under this agreement.
6. Provisions of Section VII shall survive any termination of the Participation Agreement.

VIII. Limitation of Liability

EXCEPT AS EXPRESSLY STATED HEREIN, MCAH/ NORTH CAROLINA GOVERNANCE COMMITTEE/LOCAL COC/LSA AGENCY DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE NC HMIS IS PROVIDED "AS IS". MCAH/ NORTH CAROLINA GOVERNANCE COMMITTEE/LOCAL COC/LSA AGENCY DOES NOT REPRESENT OR WARRANT THAT THE NC HMIS SHALL OPERATE SECURELY OR WITHOUT INTERRUPTION. MCAH/ NORTH CAROLINA GOVERNANCE COMMITTEE/LOCAL COC/LSA AGENCY MAKES NO WARRANTIES REGARDING THE EFFECTIVENESS OF THE NC HMIS AND MAKES NO REPRESENTATION

AS TO RESULTS OF ITS USE. THE AGENCY IS RESPONSIBLE FOR DETERMINING WHETHER THE NC HMIS WILL ACHIEVE THE AGENCY'S DESIRED RESULTS. THE AGENCY ACKNOWLEDGES THAT IT HAS NOT ENTERED INTO THIS AGREEMENT IN RELIANCE UPON ANY WARRANTY OR REPRESENTATION EXCEPT THOSE SPECIFICALLY SET FORTH HEREIN. MCAH/ NORTH CAROLINA GOVERNANCE COMMITTEE/LOCAL COC/LSA AGENCY SHALL NOT BE LIABLE TO THE AGENCY FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES OR LIABILITY, WHETHER ARISING IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY, UNDER THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LIABILITY AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

IX. Terms and Conditions

1. The parties hereto agree that this agreement is the complete and exclusive statement of the agreement between parties and supersedes all prior proposals and understandings, oral and written, relating to the subject matter of this agreement.
2. The Agency shall not transfer or assign the License or any rights or obligations under the *Participation Agreement* without the written consent of MCAH.
3. This agreement shall remain in force until revoked in writing by either party, with 30 days advance written notice. The exception to this term is if allegations or actual incidences arise regarding possible or actual breaches of this agreement. Should such situations arise, the NC HMIS may immediately suspend the License, including access to the NC HMIS until the allegations are resolved in order to protect the integrity of the system.
4. This agreement may be modified or amended by written agreement executed by both parties with 30 days advance written notice.
5. The parties agree that the North Carolina Governance Committee is a third-party beneficiary of this contract and may enforce the terms and provisions of this contract as applicable. Further, the terms, conditions and agreements contained in this *Participation Agreement* may not be changed without the express written consent of NORTH CAROLINA GOVERNANCE COMMITTEE.
6. MCAH may assign this *Participation Agreement*, or NORTH CAROLINA GOVERNANCE COMMITTEE may cause MCAH to assign this *Participation Agreement*, upon due notice to the Agency.

IN WITNESS WHEREOF, the parties have entered into this Agreement:

AGENCY:

By: _____

Title: _____

Date: _____

MCAH:

NC HMIS _____

By: _____
Barbara Ritter

Title: NC HMIS Project Director

Date: _____

North Carolina Homeless Management Information System

ASSURANCE

_____ (Name of Agency) assures that the following fully executed documents will be on file and available for review.

- The Agency's Board Approved Confidentiality Policy.
- The Agency's Grievance Policy, including a procedure for external review.
- The Agency's official *Privacy Script/Notice* for NC HMIS clients.
- Executed NC HMIS *Client Release of Information & Sharing Plan* forms.
- Certificates of Completion* for required training for all NC HMIS System Users.
- A fully executed *User Agreement* for all NC HMIS System Users.
- A copy of any NC HMIS *Sharing Qualified Service Organization Business Associate Agreement* -- or Coordinated Services Agreements -- that define sharing agreements between partnering agencies.
- A copy of the *Administrative QSOBAA Data Use Agreement* between MCAH, the Local System Administrator Agency and the Participating Agency.
- A current Agency-Specific NC HMIS *Policy and Procedure Manual*.

By: _____

Title: _____

Signature: _____

Date: _____