

Safeguarding Federal Tax Information

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS for MEDICARE & MEDICAID SERVICES
Center for Consumer Information and Insurance Oversight

Health Insurance Exchange System-Wide Meeting
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Federal Safeguards

- A State must comply with Federal privacy and security standards, including the appropriate methods for safeguarding federal information received by a State through the Data Service Hub.
- HHS is working to harmonize privacy and security standards for the types of information an Exchange, Medicaid or CHIP program might use, collect or disclose.
- HHS is partnering with Federal agencies, including SSA, DHS, and IRS, to ensure that States have adequate support and guidance regarding the privacy and security standards.

Safeguards Program

The IRS Office of Safeguards ensures the continuous confidentiality of federal tax information provided outside the IRS.

- ACA provides specific authority for IRS to provide individual tax information for use in determining eligibility for APTC, Medicaid, CHIP, and BHP I.R.C. § 6103(l)(21)
- ACA authorizes disclosure of Federal Tax Information to HHS, subject to the safeguard protections required under IRC 6103(p)(4)

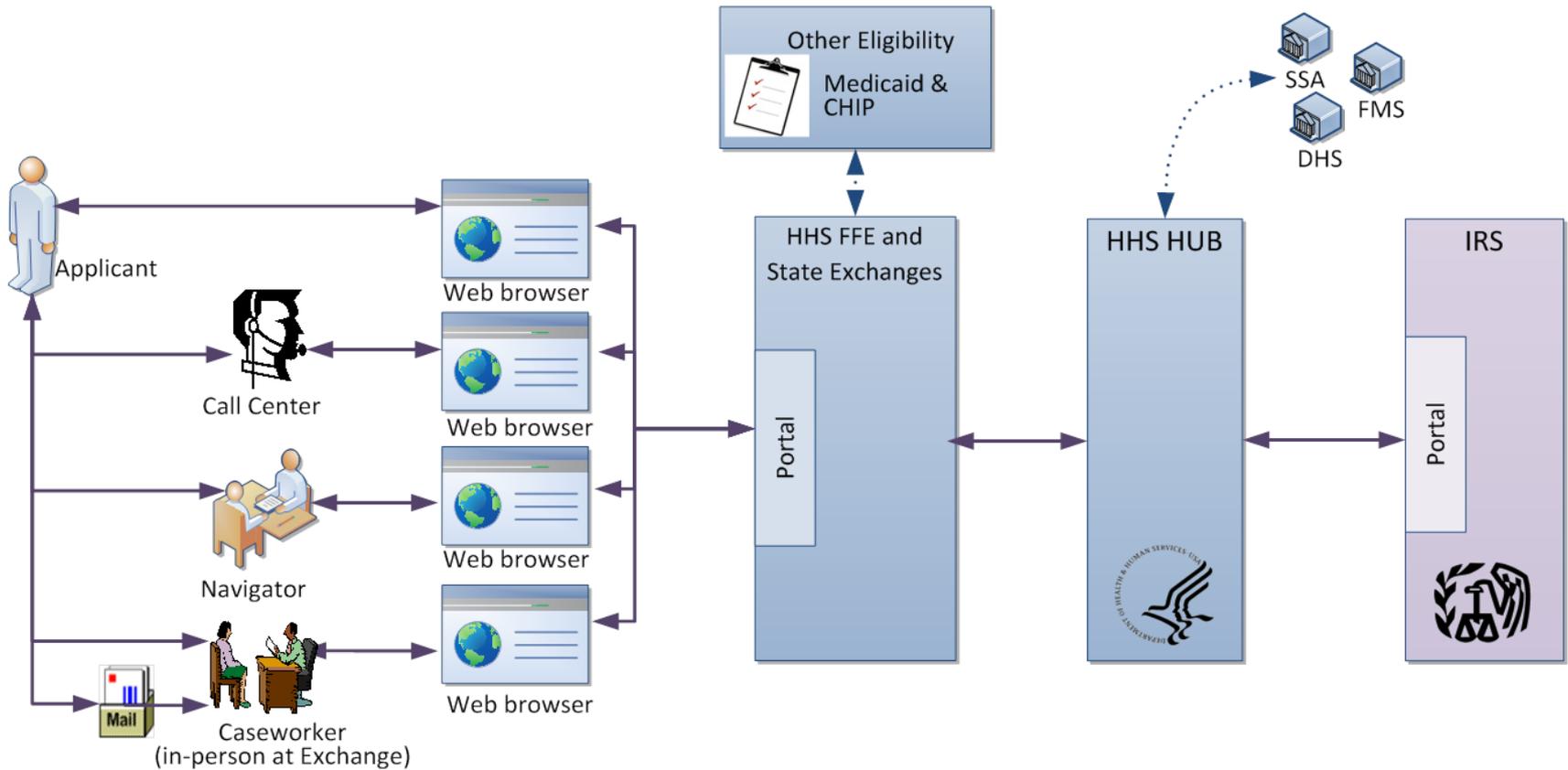
Tax Information Confidentiality Provisions

- Tax returns and return information is confidential and may not be used or disclosed except as expressly authorized by the Internal Revenue Code. (I.R.C. § 6103(a))
- Exceptions to the general rule enumerated in the statute (I.R.C. § 6103(c) – (o)) authorize IRS to release tax information to federal and state agencies to administer certain programs
- Recipient agencies must meet technical administrative, and physical safeguards as a condition of receipt. (I.R.C. § 6103(p)(4))
- The safeguard requirements protect individual privacy and ensure taxpayer confidentiality. Safeguards must be established to protect against loss, breach or misuse. Return information may be used only for specified purposes and access restricted to authorized individuals.
- I.R.C. § 6103(p) provides recordkeeping, and reporting requirements that detail the purposes for which certain disclosures were made to assist in congressional oversight.

IRS Source Data Elements Provided for Insurance Affordability Program Eligibility

- I.R.C § 6103(l)(21) authorizes the release of the following taxpayer information:
 - (i) taxpayer identity information;
 - (ii) filing status;
 - (iii) number of individuals for which a deduction under section 151 was allowed (family size);
 - (iv) modified adjusted gross income; and
 - (v) taxable year to which any such information relates or, alternatively, that such information is not available.
- Trigger for disclosure is the filing of an application for financial assistance
- Notice of Proposed Rulemaking dated April 30, 2012 proposes additional items of return information that could be disclosed: See Federal Register, vol. 77, no. 83 (77 FR 25378)

Data Flow



Safeguards Areas of Responsibilities

- IRS is partnering with CMS/CCIIO to ensure the minimum security requirements include security controls for all data, including Federal Tax Information
- Office of Safeguards is responsible for ensuring compliance with Publication 1075, *Tax Information Security Guidelines for Federal State and Local Agencies*
- Safeguards will authorize the release of Federal Tax Information to the FFE, State Exchanges, Medicaid and CHIP program with an approved Safeguard Procedures Report

Safeguards Efforts

- Support CMS/CCIIO in implementing ACA relative to the safeguarding of Federal Tax Information
- Participate in State establishment reviews and CMS/CCIIO cross-functional working teams
- Provide guidance and assistance; participate in bi-weekly calls for State Exchanges, FFE & Hub technical & program staff to discuss Federal Tax Information security related topics
- Work directly with state agencies and contractors on State-specific issues

Safeguards Efforts

- Assist in preparation of the System Security Plan (SSP) documentation and Safeguard Procedures Report (SPR)
- Work with state Medicaid and CHIP programs to secure a revised SPR covering the receipt of new MAGI Federal Tax Information
- Support build of State integrated eligibility systems through proper segregation of Federal Tax Information
- Conduct an on-site SPR/SSP verification visit prior to approval to receive Federal Tax Information

Key Tenets of Safeguarding FTI

- ▶ Recordkeeping
- ▶ Secure Storage
- ▶ Restricting Access
- ▶ Employee Awareness & Internal Inspections
- ▶ Reporting Requirements
- ▶ Disposal
- ▶ Need and Use
- ▶ Computer Security

IRS Agency Guidance

Available on CALT and irs.gov (keyword Safeguards):

- Safeguards 101: An Introduction to Safeguarding Federal Tax Information;
- Publication 1075, *Tax Information Security Guidelines for Federal, State, and Local Agencies*;
- A Safeguard Procedures Report (SPR) template that each receiving entity of FTI must file to the satisfaction of the IRS prior to the initial receipt of Federal Tax Information;
- Sample safeguard contract language from Publication 1075 (exhibit 7) that States are encouraged to use when soliciting contractor support for general services or technology services; and
- Links to IRS Disclosure Awareness Videos that explain key concepts in protecting the confidentiality of Federal Tax Information.

IRS Agency Guidance, cont.

- ▶ IRS.gov web site (keyword: Safeguards)
 - Developing ACA-specific sub-page
 - Posting Q&A to common questions
 - Posting evaluation matrixes
- ▶ Safeguards' Mailbox
 - SafeguardReports@IRS.gov

CCIIO and IRS Support

Have more questions?

- Please contact your State Officer.
 - IRS will be working through the State Officers to provide support for States relevant to protection of FTI
 - CCIIO State Officers will coordinate the appropriate subject matter experts in the Office of Information Systems (OIS) and Office of Health Insurance Exchanges (OHIE) to provide support for States relevant to the protection of all personally identifiable information, including FTI.
 - IRS Presenters: Janet Miner: Janet.R.Miner@irs.gov and Melissa Cummings-Niedzwiecki: Melissa.Cummings-Niedzwiecki@irs.gov