



What Is the Health Information Exchange And How Does It Apply to Us?

The information in this document is current as of August 8, 2023, but new updates on the OHCA website may impact the links that are provided within this document.

HISTORY

In 2020, OHCA (The Oklahoma Health Care Authority) introduced the first HIE (Health Information Exchange), contracted with an out of state firm. OHCA planned to keep the HIE system within the agency itself, requiring every single health care provider in the state to adopt the new system.

In May 2021, SB574 was signed into law, formalizing this plan. Orion was the original selected platform to implement HIE in Oklahoma. However, MyHealth filed an official complaint regarding the bidding process, stating that MyHealth's bid was \$30 million less than Orion's. Ultimately, a compromise agreement was reached between the competing parties and OHCA, providing that OHCA would use the Orion platform, while gathering and processing the health data through MyHealth.

During the 2021 Legislative Session, the Legislature passed SB1369 memorializing this agreement in state statute.

The Oklahoma Health Care Authority promulgated rules to implement Oklahoma's Health Information Exchange (HIE) through OKShine using MyHealth. These original rules had to be approved by the Legislature and Governor. After a bit of a bumpy road in the Legislature, the proposed rules were sent to the Governor for his signature. This summer, Governor Stitt disapproved those rules, citing violation of the State Constitution. Subsequently, the Oklahoma Health Care Authority issued *new rules* that attempt to conform to State Constitutional requirements.

Notably, in the 2023 Legislative Session there were two separate versions of a Joint Resolution for the accompanying **OHCA Rules related to implementation of HIE**: The first, **HJR1045** was disapproved by the House and became dormant in the Senate. **SB22**, a similar Omnibus Administrative Rules Bill, passed both the House and Senate. However, Governor Stitt later officially disapproved the HIE (Health Information Exchange) rules that were contained within SB22, citing their violation of the Oklahoma Constitution.

The Oklahoma Health Care Authority subsequently developed *new rules* that sought to comply with the provisions of the Oklahoma Constitution. The new rules provide an opportunity for all health care providers and facilities to obtain an exemption. Each facility or provider *must actively apply* for the exemption. Under the new rules, all who apply for the exemption will be exempted. You may review the new rules here: <https://oklahoma.gov/ohca/okshine/exemption.html>

IS THIS LAW UNCONSTITUTIONAL?



Many have pointed out that the HIE law violates a provision in the Oklahoma Constitution that expressly prohibits any requirement forcing any providers or individuals from participating in a health plan. In November, 2010, in the general election, the voters approved a *Constitutional* referendum called The Healthcare Freedom Amendment (State Question 756). The impetus for this referendum was public concern over potential federal health care mandates. The approved Healthcare Freedom Amendment sought to allow all providers and residents to avoid forced participation in any health care plan. The effect of the Healthcare Freedom Amendment was to declare as unconstitutional any law requiring residents, employers or health care providers to participate in any health care system.

SO, WHAT ARE OKLAHOMA’S PROVIDERS REQUIRED TO DO REGARDING HIE?

Oklahoma’s HIE law, SB 1369, mandates that all licensed health care providers in the state must report health care data to MyHealth. *However, new rules issued by OHCA this summer provide an opportunity for exemption for all providers from the requirement. Everyone who applies for the exemption may be granted one, but they must actively apply.* There is no penalty in the law at present for not participating. If you choose to participate in HIE OKShine, please click the green button at the bottom left of the OKShine update through the OHCA’s website: <https://oklahoma.gov/ohca/okshine/overview.html> or through OKShine provider resources, which can be found at <https://oklahoma.gov/ohca/okshine/providers.html>

Note: *The aforementioned Oklahoma Health Care Authority (OHCA) website is expected to be updated soon, to fully reflect rules and procedures related to funding and the new HIE Rules just signed by the Governor. The information in this document is current as of August 8, 2023, but new updates on the OHCA website may impact the links that are provided within this document.*

HOW DO PROVIDERS OBTAIN AN EXEMPTION?

The Oklahoma Health Care Authority issued a new set of rules for providers to obtain an exemption. A provider may view these new rules and / or apply for an exemption through OHCA’s website at: <https://oklahoma.gov/ohca/okshine/overview.html>

As of August 8, 2023, the blue button at the bottom right of the OKShine description will connect you to the exemption application. (This may be updated or changed in the next few weeks). Even though you are granted an exemption, the OHCA rules unequivocally state that ***the exemption must be renewed annually in order to avoid losing it.***

IF I CHOOSE TO PARTICIPATE, HOW MUCH WILL IT COST?

Initial costs vary, depending upon each provider’s system, but they are generally estimated to be up to \$5,000 for the one-time connection fee required to institute interoperability with the system. In addition, an ongoing subscription fee is required to maintain access to HIE network. Such fees will be assessed based upon the type and size of each individual provider.

For offices or providers already using MyHealth, the transition should be fairly smooth and inexpensive, as My Health is already sharing medical data with compatible Electronic Medical Record (EMR) systems.



IS THERE FINANCIAL ASSISTANCE TO HELP DEFRAY THE SET-UP COST?

Yes. The Oklahoma Legislature appropriated \$30 million to the Oklahoma Health Care Authority, to be used to help individual providers defray the cost of HIE implementation. Since the Governor just signed the new HIE rules last week, Health Care Authority employees are now beginning to work on updating the website to reflect the new approved rules, exemptions, and information regarding funding to defray the costs of set-up. Some expect that the set-up fee will be at least partially covered by MyHealth, with the Health Care Authority reimbursing them directly. Others have suggested that there may be a grant application. Please continue to check the Oklahoma Health Care Authority or the links to OKShine in this document, for the latest information: <https://oklahoma.gov/ohca/okshine/overview.html>

There is no official publication or announcement of the manner in which you may obtain HIE financial assistance as of August 8, 2023. We will keep you apprised of pertinent updates as we receive notice of them.

WILL WE BE PENALIZED FOR NOT PARTICIPATING IN MY HEALTH?

There is not any specified penalty at this time. However, you must apply for the exemption annually if you choose not to participate.

ARE THERE PRIVACY CONCERNS?

Some public officials and health advocacy groups have expressed highly publicized fear of significant loss of privacy with the implementation of HIE. Some are concerned that additional requirements should be written in order to adequately ensure the privacy of health information. Watch for additional information regarding patient opt-outs.

WHAT ARE THE BENEFITS OF AN HIE?

A Health Information Exchange facilitates the sharing of individuals' health information (diagnoses, prescriptions, procedures, test results, etc.) between healthcare providers, wherever a patient finds themselves. By having improved access to such data, the intent is to provide a more coordinated means of seamlessly delivering care and improving patient outcomes. Some of the perceived benefits to the patient are believed to be reduced costs, diminished medication errors, decreased numbers of costly ER visits, and a reduction in the incidence of redundant testing. Insurance companies support it as it provides much greater access to the full realm of patient data. Individuals will not have to struggle to remember medications, dosages, allergies, and minute but crucial details of their medical history every time they go to a health care provider.