DATE: December 29, 2017

TO: REGIONAL CENTER DIRECTORS, ADMINISTRATORS, CHIEF COUNSELORS, AND SYSTEM OPERATORS

SUBJECT: TECHNICAL BULLETIN #474
Updated Data Breach Reporting Requirements

This technical bulletin notifies Regional Centers of the updated breach reporting requirements as indicated in the Regional Center Master Contract, Exhibit F – Statement of Assurances for the Protection of Protected Health Information.

In order to maintain compliance with Federal (45 CFR §164.410) and State (California Civil Code Section(s) 1798.29(e) and 1798.82(f)) Laws, beginning January 1, 2018, Regional Centers will be responsible for reporting “business associate” data breaches to DDS and to the U.S. Department of Health & Human Services (“HHS”), Office of Civil Rights (“OCR”). Additionally, if a breach affects over 500 individuals, the Regional Centers must report the breach to the State of California Department of Justice, Office of the Attorney General. The URL’s to these sites can be found on the DDS “Links and Resources” web page; http://www.dds.ca.gov/HIPAA/LinksResources.cfm.

Attached is a flow diagram that outlines the required tasks for breach reporting. The updated tasks are identified with bold outline and blue font. If you have any questions, please contact Elizabeth Hibbert at (916) 654-2120, or e-mail privacy@dds.ca.gov

This technical bulletin is also posted on the http://www.dds.ca.gov/AST/Home.cfm website.

Sincerely,

Becky Pipoly, Interim Deputy Director
Information Technology Division

“Building Partnerships, Supporting Choices”
Regional Centers Data Breach Reporting Requirements

1. Start
2. Regional Center (RC) discovery or notification of a breach (or potential breach) of PHI/PII?
   - Yes: Regional Center notifies Federal Department of Health & Human Services, Office of Civil Rights
   - No: Was the data encrypted?
3. Was the data encrypted?
   - Yes: Notify DDS within 72 hours of discovery of the breach. Send breach report (DS 5340B) and a copy of notification letter to ISO@dds.ca.gov
   - No: Does the data breach involve a Business Associate?
4. Does the data breach involve a Business Associate?
   - Yes: Regional Center notifies State of California, Department of Justice, Office of Attorney General
   - No: Does the data breach involve more than 500 individuals?
5. Does the data breach involve more than 500 individuals?
   - Yes: DDS notifies Federal Department of Health & Human Services, Office of Civil Rights
   - No: DDS notifies State of California, Department of Justice, Office of Attorney General
6. Non-Breach No reporting necessary

End Breach Reporting

December 2017