ODMAP: Nontraditional Information Sources

May community-based treatment programs or naloxone distribution programs voluntarily report overdose information to ODMAP?

Response

Yes, if the program partners with a governmental agency and meets the eligibility requirements.

There is no federal law that prevents a naloxone distribution or community-based treatment program from reporting overdose incident information to ODMAP. However, pursuant to *ODMAP's Policies and Procedures*, only a nonprofit community-based program that is, or is partnered with, a governmental agency is eligible to report to ODMAP.[1] These ODMAP procedures also recommend that any partnership be limited to nonprofit community-based programs that receive funding for treatment, recovery, or harm-reduction services.[2]

A partnership between a community-based program and an ODMAP participating agency can be structured in one of two ways:

1. The community-based program reports overdose incident information to the participating agency, which then reports the information to ODMAP; or
2. The community-based program registers itself for ODMAP access through the participating agency and then reports overdose information to ODMAP directly.

To participate in ODMAP reporting, the community-based program must be able to report four pieces of information: the date/time of the incident; the approximate location (address or latitude/longitude) of the incident; the overdose type (fatal or nonfatal); and whether naloxone was administered. If the community-based program does not or cannot collect all four pieces of information, the suspected overdose incident cannot be recorded in ODMAP.

Additional Discussion

In most cases, information is submitted to ODMAP by first responders. However, first responders can report only the overdose incidents of which they are aware. Even assuming that all overdose incidents attended by first responders are reported to ODMAP, some overdose incidents will inevitably be missing from the data when first responders are not called to the scene. To the extent that community-based programs, such as substance use disorder (SUD) treatment providers or naloxone distribution programs, learn of suspected or actual overdose incidents, jurisdictions can make ODMAP data more robust if they develop the necessary partnerships to report this information. Through these partnerships, a community-based program can report the information to the partner agency (e.g., an EMS agency), and the partner agency can report it to ODMAP. In the alternative, the partner agency can give the community-based program direct access to ODMAP.

Assuming that an eligible community-based program wishes to enter into such a partnership, the question then becomes whether any applicable federal health information sharing laws prevent the arrangement. In the case of a community-based program that is neither a HIPAA-covered entity nor a Part 2 Program, the answer is no—the program is not prohibited from entering into such an arrangement. If the community-based program is a HIPAA-covered entity, HIPAA protections may be triggered; however, HIPAA does not prevent reporting overdose information to ODMAP.

In cases in which the community-based program is a Part 2 program, the analysis is somewhat different, although the outcome is the same. The privacy protections afforded by 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2 (collectively referred to as "Part 2") apply where the information to be disclosed would identify an individual as having or having had an SUD either directly, by reference to publicly available information, or through verification of such identification by another person.[3] Pursuant to Part 2, patient identifying information includes the patient's name, address, social security number, fingerprints, photograph, or similar information.[4] No potentially personally identifiable information is reported to ODMAP other than the approximate location of an overdose. However, overdose incident information in ODMAP does include the name/agency of the user that reports the information. Part 2 programs reporting to ODMAP should ensure that the program itself is not identified as the data source. The Part 2 program could also create a consent form that informs the patient that overdose incident information will be reported to ODMAP, but such a consent form is not required.

Definitions

HIPAA-Covered Entity [45 C.F.R. § 160.103]—Health plan, health care clearinghouse, or health care provider that transmits any health information in electronic form in connection with a transaction covered by HIPAA.

Part 2 Program [42 C.F.R. §§ 2.11 and 2.12(b)]—Individual or entity that: (1) holds itself out as providing, and actually provides, assessment, treatment, or referral to treatment for SUD; and (2) receives federal assistance (as defined by regulation). Most SUD treatment providers qualify as Part 2 programs.

Participating agency—An agency registered with the Washington/Baltimore HIDTA to use ODMAP. Participation in ODMAP is available at no cost to federal, state, local, and tribal law enforcement, other licensed first responders, criminal justice personnel, emergency rooms and hospital personnel, and other public health entities serving the interests of public safety and public health.

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[1] Washington/Baltimore High Intensity Drug Trafficking Areas Overdose Detection Mapping Application Program, *ODMAP Policies and Procedures*, at 2, 6 (revised March 2021), http://www.odmap.org/Content/docs/training/general-info/ODMAP-Policies-and-Procedures.pdf ("Currently, only federal, state, local, or tribal government agencies serving the interest of public health or public safety may register for ODMAP"). See also *ODMAP Frequently Asked Questions*, March 2019, at 6, http://www.odmap.org/Content/docs/training/general-info/ODMAP-FAQ.pdf (describing eligibility for ODMAP as a "governmental agency serving the interest of public health or public safety").

[2] *ODMAP Frequently Asked Questions*, at 6.

[3] 42 C.F.R. § 2.12(a)(1) (2020).

[4] 42 C.F.R. § 2.11 (2020).