
BACKGROUND

2004HSER0073-000919
Nov. 4, 2004

Ministry of Health Services

IMPROVING PRIVACY AND CONFIDENTIALITY

The Role of the B.C. Information and Privacy Commissioner

- Government frequently consulted with the Office of the Information and Privacy Commissioner in the earlier stages of this initiative.
- The B.C. Information and Privacy Commissioner subsequently undertook a review of the implications for British Columbia of the USA PATRIOT Act.
- Upon undertaking the review, the commissioner felt unable to advise the health benefit operation project as he needed to remain independent of any 'alternative delivery service' project.
- Government made its submission to the Information and Privacy Commissioner, which highlighted a plan for tough new privacy legislation and contractual solutions.
- The commissioner concluded that the USA PATRIOT Act poses some risk to privacy, however, the commissioner made it very clear, that "a ban on outsourcing would not be a practical or effective response to this risk, but that other mitigating measures should be implemented at legislative, contractual and practical levels."
- Government compared the draft MAXIMUS agreement to the commissioner's recommendations and found that the contract meets or exceeds the commissioner's recommendations.
- The contract with MAXIMUS was only signed after the ministry was assured the personal information of British Columbians is and will continue to be protected.

Privacy and Security Provisions

- Enhanced privacy and security measures are included in the contract with MAXIMUS.
- Technical protection measures:
 - Strong technology security measures will be implemented, including firewalls, encryption and physical security.
 - Special restrictions on data access and oversight/supervision requirements apply to any U.S. employees working on transition and transformation activities.
 - Data storage and access, including remote access, will be only in Canada, and can only be changed with the Province's express consent.
 - Data access will be segregated so that only the B.C. service provider (and not the Canadian or U.S. companies) has access.
 - Outbound web and e-mail access for staff will be prohibited or restricted, except as required to deliver specific services.
 - Hardware that would enable data to be copied and taken offsite, such as removable floppy drives, CD burners and USB smart drives will be restricted to designated personnel.

- Contractual protection measures:
 - Service provider policies and procedures outline all privacy and security objectives, methodologies, and disclosure requirements.
 - Within the B.C. service provider, access will be further segregated to align with specific job requirements.
 - Strict records management and retention policies will be implemented.
 - Privacy Impact Assessments will be required prior to any systems change.
 - The contract includes termination rights in the event of disclosure or privacy breach.
 - All employees who have access to MSP or PharmaCare data sign non-disclosure agreements directly with the Province.
 - Non-disclosure agreements and contract language include the requirement for the signer to notify the Province in the event that he/she becomes aware of any potential disclosure.
 - Whistleblower protection and hotline for employees to call.
- Corporate protection measures:
 - The Province has contractual rights that allow the Province to take over the operations of the B.C. company in the event of a potential disclosure of personal information.
 - All Canadian resident directors on the board of the B.C. company.
 - Creation and reference to a detailed privacy plan in the contract.
 - Service provider must have dedicated privacy and security officer who monitors compliance.
 - Contract includes liquidated damages in the event of disclosure or privacy breach in response to a requirement of a foreign country or agency.
- The agreement is fully compliant with the recent Freedom of Information and Protection of Privacy Act (FOIPPA) Amendment Act and the recommendations made by the Information and Privacy Commissioner.

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