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1800 RECORDS MANAGEMENT

1801 Overview

This chapter describes the DES/DDD's responsibility for compliance with the rules, regulations, standards and procedures regarding the supervision and management of all recorded, personally identifiable information which is obtained during the application, provision of services and referral processes.

Information is presented on confidentiality, case record and documentation requirements and file storage and security.

1802 Confidentiality

Confidential Information

DES/DDD adheres to statutory, administrative rule, and Departmental requirements that all personally identifiable information obtained, and records prepared during the course of application and provision of services concerning any applicant, claimant, recipient, employer or member is to be considered confidential and privileged, unless otherwise provided by law.

This confidentiality includes members or persons involved in dependency actions, case closure of parental right actions or in any protective services action.

A.R.S. § 36-568(01); § 36-551(07); § 41-1959;
A.A.C. R6-6-102, et seq.

Confidentiality Officer

Each District Program Manager (DPM) must designate, in writing, a person as confidentiality officer and provide the name of the designee to the Assistant Director and District staff. The confidentiality officer shall completely administer and supervise the use of all personally identifiable information including storage, disclosure, retention, and destruction of this information in accordance with departmental procedures of the DES and the Department of Library, Archives and Public Records.

Confidentiality officers or their designee(s) must ensure that members/responsible persons are notified of their rights of confidentiality regarding the disclosure of personally identifiable information such as name, SSN, ASSISTS or AHCCCS I.D. This notification must occur at the time of eligibility closure and during subsequent Individual Support Plans (ISPs). Rights of confidentiality include:

- A. the right to inspect/review their own records without unnecessary delay (within 45 days) with the understanding that they may not be denied access to such records;

- B. the right to be informed of the procedures for inspecting, reviewing, and obtaining copies of their records;
- C. the right to receive one copy of their medical record free of charge annually;
- D. the right to be informed of a description of circumstances whereby, for legitimate cause, the agency may deny a request for copies of a case record, even though the record may be reviewed;
- E. the right to a listing of types and locations of records maintained and the titles/addresses of the officials responsible for such records;
- F. the right to a policy regarding written consent for release of information shall insure that personally identifiable information shall not be released outside the DES/DDD without the written and dated consent of the responsible person except as required by federal law, State statute, court order, or in the event that the health or safety of the member is in jeopardy;

Subpoenas are not court orders. Notify the Office of Compliance and Review (OCR) immediately upon receipt of a subpoena for records and forward the subpoena to that office via interoffice mail to Site Code 016F.

- G. the right to file complaints;
- H. the right to seek correction of records; and
- I. should the agency refuse to amend the records, the member or the responsible person shall have the right to a hearing. Should the hearing find favor with the agency, the member or the responsible person shall have the right to insert in the record a statement or explanation.

Consent forms must be time limited and maintained in the central case record. Those consent forms taken during intake expire in 90 days. Subsequent releases are valid for only up to six months. The person signing the consent must have the capacity to understand the nature of the consent. The consent must be voluntary and signed without coercion.

A.R.S.; § 41-1346; § 36-568(01); § 36-551(01)
A.A.C. R6-6-102

1803 Release of Information

An authorized list of persons or titles who may have access to personally identifiable information shall be maintained and available for public inspection. Consents for the release of personally identifiable information, must be:

- A. obtained from the member or responsible person in writing and dated); and
- B. maintained in the case file.

Consents for the release of information, obtained during intake, expire within ninety (90) days. Subsequent consents should be obtained on an as-needed basis, and are valid for no more than six (6) months.

Refer to this Policy Manual or more detailed information regarding forms used for informed consent.

42 CFR 483.410(c)(3)
A.R.S. § 36-568(01)
A.A.C. R6-6-104

1804 Access to Personally Identifiable Information

A Record of Access documents all requests for receipt and review of confidential information. The confidentiality officer is responsible for assuring that a Record of Access is maintained for each member in service. Requests for information by other State agencies, local or State officials, organizations conducting approved studies, advocacy groups or accrediting organizations will be honored, with **ALL** personally identifying information deleted.

While DES/DDD does not require a standardized Record of Access form, all Record of Access documents shall include:

- A. requestor's name;
- B. date information copied/sent;
- C. purpose for request;
- D. specific information released;
- E. where information was sent; and
- F. verification of consent.

A Record of Access is not required for the following:

- A. membermember/responsible person or their written designee;
- B. federally authorized members including AHCCCS and DHS staff; or
- C. direct care staff, Qualified Intellectual Disabilities Professional (QIDP)s or Support Coordinators in the performance of their job duties.

The confidentiality officer must ensure a Log Book which documents the names of persons, other than Support Coordinators or supervisors, reviewing the case record and date/time of the review is maintained. The Record of Access is typically maintained in the central case record, but may be kept in a location other than the member's master file. In such instances, the Support Coordinator shall document in the master file the required information recorded on the Record of Access (See Master Folder Access Log).

A.A.C. R6-6-103

1805 Lawful Disclosure of Confidential Information

Confidential information shall not be released by any DES/DDD or contract provider staff except as defined below:

- A. when the responsible person designates in writing to whom records/information may be disclosed;
- B. pursuant to court order;
- C. to the extent necessary to make claims on behalf of a member for public/private assistance, insurance, or health or medical assistance to which the member may be entitled;
- D. in oral/written communications between professional persons in the provision of services or the referral to services;
- E. when disclosure of otherwise confidential information is necessary to protect against a clear and substantial risk of imminent or serious injury to a member;
- F. to the superior court when a petition to establish guardianship for the person is filed;
- G. to other State agencies or bodies for official purposes. All information shall be released without the designation of the name of the member, unless such name is required by the requestor for official purposes. The State agency or body receiving such information shall regard the information as confidential and shall not release it unless a consent to release information has been obtained from the member/responsibility person;
- H. to foster parents and/or persons certified to adopt if necessary to assist in the placement with or care of a child(ren) by such persons;
- I. to an officer of the superior court, the Department or any agency required to perform an investigation, if the information is pertinent to the investigation. All information received by the officer, the Department or agency pursuant to this paragraph may be disclosed to the court but shall otherwise be maintained as confidential; and

- J. a standing committee of the legislature or a committee appointed by the President of the Senate or the Speaker of the House of Representatives may obtain the information upon written notification to the director.

Any receiver of confidential information is prohibited from using/ releasing the information except in the performance of his/her duties, as defined by statute. Any questions should be referred to the OCR.

A.R.S. § 36-568(01); § 36-29; § 8-105; § 11-2

1806 Violations and Penalties

ANY EMPLOYEE WHO UNLAWFULLY DISCLOSES PERSONALLY IDENTIFIABLE INFORMATION IS SUBJECT TO DISCIPLINARY ACTION OR DISMISSAL. KNOWN VIOLATIONS MUST BE REPORTED TO THE EMPLOYEE'S IMMEDIATE SUPERVISOR AND THE CONFIDENTIALITY OFFICER. VIOLATIONS ARE SUBJECT TO PENALTIES APPLIED BY STATUTE.

A.R.S. § 36-568(01)
A.A.C. R6-6-204

1807 Case Records

Central Case Records

DES/DDD maintains a central (main) case record for each member to whom services are provided. This record contains all pertinent information concerning services provided to an member, and is kept in a location designated by the local confidentiality officer/designee, but usually in the Support Coordinator/QIDP's office. Main case records are available to the member or responsible person upon request, verbally or written.

The Support Coordinator is responsible for making sure that all information generated regarding services to the member, is documented in the central case record. Central case records are required to contain the following:

- A. a copy of the member's ISP/Individual Education Plan (IEP);
- B. program data and progress notes;
- C. the member's identifying information and a brief social history;
- D. pertinent health/medical information;
- E. current evaluative data/assessments;
- F. authorization for emergency care, if appropriate;

- G. visitation records, if appropriate;
- H. record of financial disbursements, if appropriate;
- I. active treatment schedule (ICF/IID);
- J. resident fact sheet, if appropriate;
- K. periodic dental records, if appropriate;
- L. ICAP, if appropriate;
- M. documentation regarding the protection of member rights;
- N. an accepted diagnosis/diagnostic scheme;
- O. documentation of an evaluation that identifies the member's specific needs;
- P. reviews/modifications to the ISP/IFSP/IEP;
- Q. communication among persons involved with the member and his/her program;
- R. documentation of protection of the legal rights of each person served, staff the Department, or contract providers by recording all actions that may significantly affect these rights;
- S. documentation to furnish a basis of review, study and evaluation of overall programs provided by DES/DDD;
- T. member primary data from ASSISTS; and
- U. for members residing in a Nursing Facility(NF) placed on termination status, a primary care physician (PCP) statement that the NF does or does not continue to meet the member's needs, documentation of the member's choice of placement and the reason for non-placement in a NF placed on termination status for a new placement.

Case records, where applicable, shall contain the following additional documentation:

- A. of Arizona Long Term Care System eligibility;
- B. utilization review report;
- C. current photograph of the member;
- D. physician's statement of need;
- E. Pre-Admission Screening;

- F. psychological evaluations/social history;
- G. medication history;
- H. immunization record;
- I. incident, injury, illness and treatment reports including hospital stays;
- J. seizure reports;
- K. records of contacts/referrals, etc.;
- L. an accounting ledger;
- M. authorization for emergency care;
- N. behavioral health records as described in this Policy Manual; and
- O. other pertinent information.

Program/Service Records

Occasionally the delivery of services or a centralized recordkeeping system requires maintenance of separate program/service records. The Confidentiality Officer, Support Coordinator or QIDP is responsible for assuring that files are available at each site where the member receives services, as appropriate, that the Support Coordinator/QIDP has access to such files and that a summary of information contained in such records is entered into the member's main record. These files shall also contain:

- A. the name/address and phone number of the physician or health facility providing medical care;
- B. reports of accidents, illness, and treatments;
- C. reports of significant behavioral incidents;
- D. current medication treatment plan;
- E. a description of the member's specialized needs;
- F. a copy of the ISP/IEP;
- G. program data/progress notes;
- H. identifying information/social summary;
- I. pertinent health/medical information;

- J. current evaluative data/assessments;
- K. authorization for emergency care;
- L. visitation records;
- M. records of financial disbursements;
- N. active treatment schedule (ICF/IID);
- O. resident fact sheet; and where applicable
- P. periodic dental reports.

Each member's case record must include current consents. A medical consent signed by the member or the responsible person shall be required in the event of emergency medical care, routine medical care and special procedures.

42 CFR 483.410(c)(1)(6)
A.A.C. R6-6-202(B); R6-6-110(B)(8)(9);
R6-6-114(14)

1808 Documentation Requirements

All documentation entered into a case record must be in ink or typed, legibly written in non-technical terminology if possible and dated and signed by the person making the entry. In case of an error in documentation, cross out the error with a single line and initial it. Do not erase or use "White Out". If room remains on a Progress Note page, draw a line through the remaining spaces after your signature. Each case record shall include a legend for explaining symbols and abbreviations.

The Support Coordinator has primary responsibility for assuring that case records contain all of the required documentation, and that such documentation meets the criteria set forth in this Chapter by being complete, accurate, timely and reflective of the member's programmatic, social, medical, developmental, educational or vocational status.

1809 Records Storage and Security

Internal

Case records for members currently eligible for services from DES/DDD are considered active records. Active files may contain too much information to be confined to one case record. Overflow files may be established and utilized to store non-essential, out- dated information.

Once established, overflow files are considered inactive, and can contain progress notes, ISP's, correspondence, status reports, guardianship records, medical records, etc. The Support Coordinator, QIDP or the Confidentiality Officer must note

in the most current active record that there is an overflow(s) file and indicate where it is stored.

Although these case records can be maintained within DES/DDD in a place designated by the confidentiality officer for a period of time, the Support Coordinator/QIDP should coordinate the transfer of overflow/inactive files to the State of Arizona Records Management Center (813Z), for storage and retention. See this chapter for procedural information.

External

The Records Center is the DES official depository for inactive case records. The Records Center provides storage, retrieval and re-file services for DES.

To transfer inactive files for storage/retention, staff must:

- A. review the records retention schedule to determine that the records are appropriate for retention at this time;
- B. pack records into standard boxes 15" L X 12" W X 10" H leaving a minimum of two (2) inches of space to permit retrieval;
- C. complete a J-239, Des Records Storage Transmittal (Appendix 1800.C) and forward it to the DES Records Center at 813Z;
- D. assign a temporary box number to each box and place that number on the small side of the box, but not directly below the handles. The temporary numbers must be consecutive and continue in consecutive order for future pick-up; and
- E. upon receipt of a Records Center box number, place that number directly below the handle.

Records Retrieval

To retrieve stored records, complete a J-240, Records Reference Request and send it to DES Records Center at 813Z.

Destruction of Records

Records will be destroyed in accordance with the records retention schedule in compliance with [A.R.S. § 12-2297](#).

1810 Management and Maintenance of Records Related to the Medicaid Line of Business

The Division will maintain all records for a period of five years from the date of final payment under contract with AHCCCS unless a longer period of time is required by law.

For retention of the member's medical records, the Division will ensure compliance with A.R.S. § 12-2297 which provides, in part, that a health care provider shall retain the member's medical records according to the following:

- A. If the member is an adult, the Division will retain the member's medical records for at least six years after the last date the adult member received medical or health care services from the Division.
- B. If the member is under 18 years of age, the Division will maintain the member's medical records either for at least three years after the child's 18th birthday or for at least six years after the last date the child received medical or health care services from the Division, whichever date occurs later.

The Division will comply with the record retention periods specified in HIPAA laws and regulations, including, but not limited to, 45 CFR 164.530(j)(2).

If the Division's contract with AHCCCS is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five years from the date of any such termination. Records which relate to grievances, disputes, litigation or the settlement of claims arising out of the performance of the Division's contract with AHCCCS, or costs and expenses of the Division's contract with AHCCCS to which exception has been taken by AHCCCS, shall be retained by the Division for a period of five years after the date of final disposition or resolution thereof.