

7003 MINIMUM NECESSARY STANDARD FOR USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

REVIEW DATE:

EFFECTIVE DATE: December 27, 2023

REFERENCES: 45 C.F.R. § 164.502; 45 C.F.R. § 164.512

PURPOSE

This policy applies to all Division of Developmental Disabilities (the Division) staff. The purpose of this policy is to outline the requirements for making reasonable efforts to limit the use and disclosure of protected health information (PHI) as permitted by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

DEFINITIONS

1. "Business Associate" means the same as in 45 CFR § 160.103.
2. "Health care operations" means the same as in 45 CFR 164.501.
3. "Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule" means the Federal Regulation that establishes national standards to protect individuals' medical records and other individual health information and applies to health plans,

health care clearinghouses, and those health care providers that conduct certain health care transactions electronically. The Rule requires appropriate safeguards to protect the privacy of individual health information and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The Rule also gives patients rights over their health information, including rights to examine and obtain a copy of their health records and to request corrections.

4. "Member" means the same as "client" as defined in A.R.S. § 36-551.
5. "Minimum Necessary Standard" means the same as referenced in 45 CFR § 164.514(d)(2)(i)(A).
6. "Payment" means the same as in 45 CFR 164.501.
7. "Protected Health Information" or "PHI" means individually identifiable health information about a Member that is transmitted or maintained in any medium where the information is:
 - a. Created or received by a:

- i. Health care provider,
 - ii. Health plan,
 - iii. Employer, or
 - iv. Health care clearinghouse.
- b. Relates to the:
- i. Past, present, or future physical or mental health condition of a Member;
 - ii. Provision of health care to a Member; or
 - iii. Payment for the provision of health care to a Member.
- c. PHI excludes information in:
- i. Education records covered by the Family Educational Rights and Privacy Act as amended, 20 U.S.C. 1232g;
 - ii. Records described at 20 USC 1232g(a)(4)(B)(IV);
 - iii. Employment records held by a Covered Entity in its role as an employer; or

iv. Regarding a person who has been deceased for more than 50 years.

8. "Treatment" means the same as in 45 CFR 164.501.

POLICY

A. The Division shall limit unnecessary or inappropriate access to PHI:

1. Through the provision of healthcare services and related healthcare operations;
2. When it is required by law to be disclosed for an audit, for health oversight and public health; and
3. For use in court or administrative law proceedings.

B. The Division shall ensure the following utilizing the Minimum Necessary Standard:

1. Uses or disclosures for treatment, payment, and health care operations (TPO);
2. Uses or disclosures requiring the member to have an opportunity to agree or object;
3. Uses or disclosures that are permitted without the Member's authorization; and

4. Uses or disclosures by Business Associates if they are not for the reasons outlined in section (D) of this policy.
- C.** The Division shall disclose only the PHI necessary to accomplish the intended purpose of the use, disclosure, or request by:
1. Identifying persons or classes of persons who need access to the PHI to accomplish their job responsibilities, and
 2. Establishing protocols that reasonably limit access to PHI.
- D.** The Division shall not utilize the Minimum Necessary Standard for the following:
1. Disclosures or requests by a health care provider for treatment.
 2. Disclosures to a Member who is the subject of the PHI.
 3. Uses or disclosures made pursuant to a Member's authorization on a HIPAA-compliant form.
 4. Uses or disclosures required for compliance with HIPAA standard transactions.
 5. Uses or disclosures required by the U.S. Department of Health and Human Services (DHHS) except when the Division has been required to provide PHI to DHHS for enforcement purposes.

6. Uses or disclosures that are required by law.