

7004 ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

REVIEW DATE:

EFFECTIVE DATE: December 13, 2023

REFERENCES: 45 C.F.R. § 164.528

PURPOSE

This policy applies to all Division of Developmental Disabilities (the Division) staff. This policy establishes the Division's requirements for the accounting of Disclosures of Protected Health Information (PHI) required by the Health Information Portability and Accountability Act of 1996 (HIPAA) as outlined in 45 CFR 164.528.

DEFINITIONS

1. "Business Associate" means the same as in 45 CFR § 160.103.
2. "Disclosure" means the release, transfer, or provision of access to or divulgence in any other manner of PHI to parties outside the entity holding the information.
3. "Health care operations" means the same as in 45 CFR 164.501.
4. "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 that 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 authorization from the Responsible Person. The Rule also gives Members rights over their health information, including rights to examine and obtain a copy of their health records, and to request corrections.

5. "Member" means the same as "client" as defined in A.R.S. § 36-551.
6. "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.
- 7. "Payment" means the same as in 45 CFR 164.501.

8. "Responsible Person" means the same as in A.R.S. § 36-551.
9. "Treatment" means the same as in 45 CFR 164.501.

POLICY

- A.** The Division shall provide the Member the right to receive an accounting of Disclosures of certain Protected Health Information (PHI).
- B.** The Division shall only accept an accounting of Disclosure when requested by the Responsible Person in writing.
- C.** The Division shall track the following types of PHI Disclosures:
 1. Disclosures to a public health authority as permitted by law;
 2. Disclosures to health oversight agencies as permitted by law, including government agencies that oversee the health care system, government benefits programs requiring health information, or other government regulatory programs;
 3. Disclosures required by law, including court rules, administrative and court orders, statutes or agency rules, administrative and court subpoenas, or other lawful process;
 4. Disclosures to Business Associates that are not exempt under section (D) of this policy;

5. Disclosures made in error or in violation of the law that are not exempt from accounting; and
 6. Disclosures to law enforcement.
- D.** The Division shall not track the following PHI for accounting purposes:
1. Disclosures to carry out treatment, payment, and health care operations;
 2. Disclosures to the Member who is the subject of the Protected Health Information;
 3. Disclosures incidental to those permitted by the privacy rules;
 4. Disclosures pursuant to a HIPAA-compliant authorization;
 5. Disclosures to others involved in a Member's care or for disaster relief when the Member had an opportunity to agree or object;
 6. Disclosures made for national security or intelligence purposes as provided in the regulations;
 7. Disclosures to correctional institutions or law enforcement officials having custody of a Member if the Disclosure of the PHI is for treatment, the health and safety of other inmates, the health and safety of law enforcement staff, or the administration of the correctional institution; and

8. Disclosures when made as a limited data set.
- E.** The Division shall temporarily suspend a Member's right to an accounting of Disclosures of PHI to a health oversight agency or law enforcement agency under the following circumstances:
1. When the Division receives an oral request by the agency or entity for a suspension, the Division's Privacy Officer shall ensure it is documented:
 - a. That an accounting to the Member would likely impede the Division's activities;
 - b. The length of time of the suspension is not to exceed 30 days from the date of the oral statement, unless a written statement providing the time limit is submitted during the 30 days;
 - c. The identity of the person in the agency or entity making the statement and the agency or entity represented; and
 - d. That the right to an accounting is temporarily suspended.
 2. When the Division receives a written, dated request for a suspension of an accounting, the Division's Privacy Officer shall ensure that the following is documented:

- a. The name and identifying information of the Member who is the subject of the accounting;
 - b. A statement that such an accounting to the Member would be reasonably likely to impede the agency or entity activities;
 - c. The time for which such a suspension is required;
 - d. The official letterhead of the agency or entity requesting the suspension; and
 - e. The signature and title of the person representing the authorized agency that is requesting the suspension.
- F.** The Division shall account for Disclosures of PHI that occurred during the six years prior to the request for an accounting if the accounting is not past the retention period for documentation of the accounting for the Disclosure.
- G.** The Division's Privacy Officer shall provide a written response to a request for an accounting that contains:
- a. Date of Disclosure of PHI;
 - b. Name of the entity or person who received the PHI;
 - c. Address of the entity or person, if known;

- d. A brief description of the PHI disclosed; and
 - e. A brief statement of the purpose of the Disclosure that reasonably informs the Member of the basis for the Disclosure, or in lieu of such a statement, and a copy of the written request for Disclosure.
- H.** If, during the period covered by the accounting, the Division has made multiple Disclosures of PHI to the same person or entity for a single purpose, the Division shall ensure the accounting of Disclosure contains:
- a. The information in section (G) of this policy;
 - b. The frequency, periodicity, or number of Disclosures made during the accounting period; and
 - c. The date of the last such disclosure during the accounting period.
- I.** After receipt of the written accounting request, the Division shall either:
- 1. Provide the accounting requested; or

2. If the Division cannot provide the accounting within the 30-day timeframe provide a one-time 30-day extension letter in writing that provides:
 - i. An explanation of the delay, and
 - ii. The date by which the accounting will be provided.
- J.** The Division shall maintain documentation of the Accounting for the Disclosure in the Member's case file and retain the documentation for six years from the date of the entry.