

1
2 **7006 RIGHT TO REQUEST AMENDMENT OR CORRECTION OF**
3 **PROTECTED HEALTH INFORMATION**

4 EFFECTIVE DATE: xx/xx/2023

5 REFERENCES: 45 C.F.R. § 164.526

6 **PURPOSE**

7 This policy applies to all Division of Developmental Disabilities (the Division)
8 staff. The objective of this policy is to outline the requirement when a
9 Member requests an amendment of their Protected Health Information (PHI)
10 as permitted by the Health Insurance Portability and Accountability Act of
11 1996 (HIPAA).

12 **DEFINITIONS**

- 13 1. "Day" means a calendar day, unless otherwise specified.
- 14 2. "Designated Record Set" means a group of records maintained
15 by the provider that contains the following:
- 16 a. Medical and billing records maintained by a provider,
17 b. Case and medical management records, or
18 c. Any other records used by the provider to make medical
19 decisions about the Member.

- 20
21 3. "Health Insurance Portability and Accountability Act (HIPAA)
22 Privacy Rule" means the Federal Regulation that establishes
23 national standards to protect individuals' medical records and
24 other individual health information that applies to health plans,
25 health care clearinghouses, and those health care providers that
26 conduct certain health care transactions electronically. The Rule
27 requires appropriate safeguards to protect the privacy of
28 individual health information and sets limits and conditions on
29 the Uses and Disclosures that may be made of such information
30 without authorization from the Responsible Person. The Rule also
31 gives Members rights over their health information, including
32 rights to examine and obtain a copy of their health records, and
33 to request corrections.
- 34 4. "Member" means the same as "client" as defined in A.R.S. §
35 36-551.
- 36 5. "Protected Health Information" or "PHI" means individually
37 identifiable health information about a Member that is

- 38
39 transmitted or maintained in any medium where the information
40 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);

- 41
42 iii. Employment records held by a Covered Entity in its
43 role as an employer; or
44 iv. Regarding a person who has been deceased for more
45 than 50 years.
- 46 6. "Responsible Person" means the parent or guardian of a minor
47 with a developmental disability, the guardian of an adult with a
48 developmental disability or an adult with a developmental
49 disability who is a member or an applicant for whom no guardian
50 has been appointed.

51 **POLICY**

52 **A. THE RIGHT TO AN AMENDMENT**

- 53 1. The Division shall allow Members the right to request that
54 changes be made in their Protected Health Information (PHI)
55 maintained in the designated record set if the Members believe
56 the information is inaccurate or incorrect.
- 57 2. The Division shall only amend or correct PHI that was originally
58 created by the Division.

- 59
60 3. The Division shall ensure the requests for amendments be in
61 writing and state what medical information needs to be amended
62 or corrected, the time period of the documentation, and the
63 reason why this is being requested.
- 64 4. The Division's Privacy Officer shall provide a response to accept
65 or deny the request for amendment within 60 days of receipt.
- 66 5. The Division may extend the time frame by no more than 30
67 days if the Division is unable to respond within the time frame
68 specified in subsection (4) and provide the Member with a
69 written statement of the reasons for the delay and the date by
70 which the Division will complete its action on the request.

71 **B. ACCEPTING THE AMENDMENT**

- 72 1. When the Division's Privacy Officer accepts the requested
73 amendment, in whole or in part, the Division shall:
- 74 a. Make the amendment to the PHI.
- 75 b. Promptly inform the Member in writing that the
76 amendment is accepted.

77
78 c. Make reasonable efforts to notify and provide the
79 amendment to persons the Division knows have previously
80 received the information.

81 2. If the Division denies part of the amendment request, the
82 Division shall follow the requirements of section (C) of this
83 policy.

84 **C. DENYING THE AMENDMENT**

85 1. The Division shall deny requests for amendment of member PHI
86 a record that is the subject of the request under the following
87 circumstances:

88 a. The request is not part of the designated record set.

89 b. The request was not created by the Division unless the
90 Member provides a reasonable basis to believe that the
91 originating entity is no longer available to act on the
92 request.

93 c. The request is not available to be inspected because the
94 PHI is:

95 i. Psychotherapy notes,

- 96
97 ii. PHI compiled in reasonable anticipation of litigation,
98 or
99 iii. It is accurate and complete.
- 100 2. When the Division denies the request for amendment, in whole
101 or in part, the Division shall provide the Member within 30 days,
102 written denial in plain language that contains:
- 103 a. The basis for the denial as stated in subsection (1) of this
104 section.
- 105 b. The Member’s right to submit a written statement
106 disagreeing with the denial and how to file such a
107 statement.
- 108 c. A statement that if the Member does not submit a
109 statement of disagreement, they may request in writing, at
110 any time, that the Division provide the Member’s request
111 for amendment and the denial along with any future
112 disclosure of the PHI that is the subject of the denied
113 amendment.

- 114
115 d. A description of how the Member may complain to the
116 Division pursuant to complaint procedures, including the
117 name or title and telephone number of the contact person
118 or office designated to receive such complaints.
- 119 3. The Division shall provide the Member with a written rebuttal to
120 the Member's statement of disagreement within 30 days of
121 receiving the written rebuttal.

122 **D. RECORDKEEPING**

- 123 1. The Division shall identify the PHI in the designated record set
124 that is the subject of the disputed amendment and link the
125 following to the designated record set:
- 126 a. The Member's request for an amendment;
127 b. The Division's denial of the request;
128 c. The Member's statement of disagreement, if any; and
129 d. The Division's rebuttal, if any.
- 130 2. The Division shall document the titles of persons responsible for
131 receiving and processing requests for amendments by Members
132 and retain the documentation in the Member's case file.

- 133
134 **E. NOTIFICATION OF AMENDMENT FROM ANOTHER HEALTH CARE**
135 **PROVIDER**
136 Upon notification of an amendment from another health care provider,
137 the Division shall amend the PHI in the designated record set.

Draft Policy for Public Comment