

## **7008 NOTICE OF PRIVACY PRACTICES FOR PROTECTED HEALTH INFORMATION**

EFFECTIVE DATE: 3/13/2024

REFERENCES: 45 C.F.R. § 164.520

### **PURPOSE**

This policy applies to all Division of Developmental Disabilities (the Division) staff. This policy outlines the requirements for the Notice of Privacy Practices (the Notice) of Protected Health Information as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

### **DEFINITIONS**

1. "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.
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 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.

4. "Member" means the same as "client" as defined in A.R.S. § 36-551.
5. "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.
- 6. "Payment" means the same as in 45 CFR 164.501.
- 7. "Responsible Person" means the parent or guardian of a minor with a developmental disability, the guardian of an adult with a developmental disability or an adult with a developmental

disability who is a member or an applicant for whom no guardian has been appointed.

8. "Treatment" means the same as in 45 CFR 164.501.
9. "Use" means the sharing, employment, application, utilization, examination, or analysis of PHI within the entity that maintains such information.

## **POLICY**

- A.** The Division shall provide the Notice of Privacy Practices (the Notice) to Members receiving services from the Division annually and upon request.
- B.** The Division shall ensure the Notice:
  1. Outlines the Uses and Disclosures of Protected Health Information (PHI),
  2. Notifies the Member of their rights regarding PHI, and
  3. Notifies the Member of the Division's legal duties with respect to PHI.
- C.** The Division shall Use or Disclose PHI in a manner consistent with the Notice.

- D.** The Division shall ensure the Notice is written in plain and simple language that Members, employees, or personal representatives can easily read and understand.
- E.** The Division shall promptly revise the Notice whenever there is a material change to:
1. The Uses or Disclosures,
  2. The Member's rights,
  3. The Division's legal duties, or
  4. Other privacy practices stated in the Notice.
- F.** Except when required by law, the Division shall not implement a material change to any term of the Notice prior to the effective date of the material change.
- G.** The Division shall ensure the Notice of Privacy Practices contains:
1. The following statement as a header or otherwise prominently displayed:  
  
"THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY."

2. A description of the types of Uses and Disclosures that the Division is permitted to make for treatment, payment, and health care operations and include at least one pertinent example.
3. A description of all other purposes for which the Division is permitted or required to Use or Disclose PHI without the Member's written authorization.
4. A statement that if a Use or Disclosure for any purpose is prohibited or significantly limited by another applicable law, the description of such Use or Disclosure shall reflect the more stringent law.
5. A statement that other Uses and Disclosures will be made only with the Member's written authorization and that the Member may revoke such an authorization at any time.
6. A statement of the Member's rights with respect to PHI and a brief description of how the Member may exercise these rights, as follows:

- a. The right to request restrictions of certain Uses and Disclosures of PHI, including a statement that the Division is not required to agree to a requested restriction.
  - b. The right to receive communications of PHI confidentially.
  - c. The right to inspect and copy PHI.
  - d. The right to request an amendment to PHI.
  - e. The right to receive an accounting of applicable Disclosures of PHI; and
  - f. The right of a Member, including an individual who has agreed to receive the Notice electronically, to obtain a paper copy of the Notice from the Division upon request.
7. A statement that the Division is required by law to maintain the privacy of PHI.
  8. A statement of the Division's legal duties and privacy practices with respect to PHI.
  9. A statement that the Division shall abide by the terms of the Notice currently in effect.

10. A statement that the Division reserves the right to change the terms of the notice and how it will provide a revised notice, along with the date the Notice goes into effect.
  11. A statement that the Member has a right to file a complaint with the Division Privacy Officer, including their name and telephone number, and with the Secretary of the Department of Health and Human Services if a Member believes their privacy rights have been violated.
  12. A statement that the Member will not be retaliated against if they file a complaint.
- H.** The Division shall document compliance with the Notice requirements by retaining copies of the Notices issued by the Division and, if applicable, any written acknowledgments of receipt of the Notice or documentation.