

## **6007 RECORDS MANAGEMENT**

EFFECTIVE DATE: October 2, 2024

REFERENCES: 42 U.S.C. § 290dd-2; 45 C.F.R. § 164; 45 § C.F.R 160; 42 § C.F.R. 438.3(U); A.R.S. § 41-151.16; A.R.S. § 41-151.15; A.R.S. § 41-151.14; A.R.S. § 41-151; A.R.S. § 38-421; A.R.S. § 12-2297; A.R.S. § 12-2291; AHCCCS Contract

### **PURPOSE**

This policy applies to all Division of Developmental Disabilities (Division) staff. This policy establishes requirements for the production, use, maintenance, retention, preservation, and disposal of Medical Records and non-medical Records.

### **DEFINITIONS**

1. "Business Decision" means any choice made by a business professional that determines short-term or long-term activities of an organization.
2. "Certificate of Records Destruction" means a formal document issued by a destruction service provider that records details about the destruction of confidential documents, including the time and place of the service, information about the company

that provided the service, and any witnesses to the process upon completion of the destruction process.

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. "Litigation Hold" means a directive to collect and preserve Records that may be relevant to pending or anticipated legal action.

5. "Medical Records" means all communications related to a patient's physical or mental health or condition that are recorded in any form or medium and that are maintained for purposes of evaluation or treatment, including Records that are prepared by a health care provider or by other providers, in both hard copy and electronic form. Records do not include materials that are prepared in connection with utilization review, peer review, or quality assurance activities as specified in A.R.S. § 12-2291.
6. "Member" means the same as "Client", a person receiving developmental disabilities services from the Division, as specified in A.R.S. § 36-551.
7. "Non-records" means documents that do not meet the definition of a Record and have no significant value to the Department of Economic Security.
8. "Records" means the following:
  - a. All books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media

pursuant to A.R.S. § 41-151.16, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained in the record.

- b. Includes records that are made confidential by statute.
  - c. Does not include library or museum material made or acquired solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference and stocks of publications or documents intended for sale or distribution to interested persons.
9. "Records Management" means creating and implementing systematic controls for records and information activities from the point where they are created or received through final

disposition or archival retention, including distribution, use, storage, retrieval, protection and preservation.

10. "Records Management Center" means the Division's official depository for all Medical Records.
11. "Records Retention and Disposition Schedule" means an official Division document, approved by the Arizona State Library, Archives and Public Records (ASLAPR), that lists Record types, the start point of retention, and the length of retention required by state or federal statutes, regulations, or rules.
12. "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.
13. "Substance Use Disorder" or "SUD" means a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using the substance despite significant substance-related problems such as impaired control, social

impairment, risky use, and pharmacological tolerance and withdrawal.

14. "Substance Use Disorder Record" means documentation of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education prevention, training, treatment, rehabilitation, or research, which is conducted, regulated or directly or indirectly assisted by any department of agency of the United States.

## **POLICY**

### **A. GENERAL REQUIREMENTS**

1. The Division shall establish and maintain a Records Management program.
2. The Division shall retain and maintain, the following Records in compliance with state and federal law:
  - a. Division Operations;
  - b. Division policies;
  - c. Division procedures;
  - d. Division business decisions; and

- e. Division essential functions.
3. Division employees shall maintain, preserve, and dispose of Division Records in accordance with this policy.
4. Division employees shall work with and assist the Records Management Unit in locating all Records related to a Records request.
5. Division employees shall not:
  - a. Falsify any Record;
  - b. Alter any Record outside of approved guidelines; and
  - c. Destroy any Record, without authorization from the Records Management Unit.
6. Division employees shall report to the Records Management Unit:
  - a. Unauthorized destruction, removal, or use of Records; or
  - b. The unauthorized altering of Record information.
7. Division employees shall ensure the confidentiality of Member Records for 50 years after a Member is deceased as required by the HIPAA Privacy Rule.

## **B. STORAGE**

1. The Division shall securely store Records to prevent unauthorized access, loss, theft, or destruction.
2. The Division shall store non-medical Records in the DES Records Center.
3. The Division shall store Medical Records at the Records Management Center.
4. Division employees who learn of a Member participating in the Address Confidentiality Program or part of a Litigation Hold, shall transfer all paper Records for that Member to the Records Management Center.

## **C. RECORDS RETRIEVAL**

1. Division employees shall contact the Records Management Unit to retrieve stored Medical Records.
2. Division employees shall electronically complete a Records Reference Request (J-240) through the DES Records Center Management System to retrieve stored non-medical Records.



## **D. RETENTION OF RECORDS**

1. The Division shall submit Records Retention and Disposition Schedules to ASLAPR.
2. The Division shall retain Records in accordance with the following:
  - a. Retention periods specified in the HIPAA Privacy Rule for Medical Records;
  - b. Retention periods specified in state and federal law for non-medical Records; and
  - c. The Records Retention Schedule for the Division.
3. The Division shall retain all Medicaid-related operational Records and files from the date of final payment for services under contract with Arizona Health Care Cost Containment System (AHCCCS) as follows:
  - a. For a period of five years; or
  - b. The period of time required by law; or
  - c. The period of time outlined in Records Retention Schedules.

4. The Division shall retain Records related to the following for ten years:
  - a. Grievances;
  - b. Disputes;
  - c. Litigation;
  - d. The settlement of claims for ten years after the date of final disposition or resolution that are related to:
    - i. The performance of the Division's contract with AHCCCS; and
    - ii. Costs and expenses of the Division's contract with AHCCCS to which exception has been taken by AHCCCS.
5. The Division shall retain Member Medical Records, as follows:
  - a. 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:
    - i. For at least three years after the child's 18th birthday; or

- ii. For at least six years after the last date the child received medical or health care services from the Division, whichever date occurs later.
6. If the Division's contract with AHCCCS is entirely or partially terminated, the Division shall retain Records relating to the work terminated for five years from the date of such termination.
7. The Division shall retain all Records for the maximum retention period required in this policy.

#### **E. DISPOSAL OF RECORDS**

1. The Division shall dispose of Records that are not subject to a Litigation Hold in accordance with the Records Retention Schedule.
2. The Division shall dispose of Medical Records, including Substance Use Disorder Records, in a manner that:
  - a. Ensures confidentiality of the information;
  - b. Renders the information no longer recognizable on the hard copy media associated with paper printouts; and

- c. Renders the Member's identifying information as unrecognizable and non-retrievable.
3. The Division shall obtain a Certificate of Records Destruction upon destroying Records, Medical Records, and non-medical Records.