



Bureau of TennCare

Policy Manual

Policy No: HIP 06-011	
Subject: Public Records Requests (Media)	
Approval: <i>D. J. [Signature]</i>	Date: 3/16/2009

PURPOSE OF POLICY

This policy addresses how the Bureau of TennCare (the Bureau) will respond to Tennessee media requests for access to or copies of Public Records maintained by the Bureau.

POLICY

The Bureau of TennCare shall timely respond to Public Records Requests (PRR) by Tennessee media pursuant to Tennessee's Public Records Law, including T.C.A. § 10-7-503 (2005). Media PRRs shall be received by the Bureau's Director of Public Affairs and/or Communication Manager. The PRRs shall be processed in conjunction with the TennCare Privacy Office. Requests may be sent to:

Director of Public Affairs
Bureau of TennCare
P.O. Box 20007
Nashville, TN 37202

DISCUSSION & LEGAL BASIS

Enrollee medical and individually identifying information or other Protected Health Information (PHI) is not subject to public records requests. Enrollee PHI is confidential except as use or disclosure is permitted by HIPAA and other federal and state privacy rules.

As provided by Tenn. Comp. R. & Regs. 1200-13-11-.01(2) (205), the Bureau shall make records available for inspection during normal business hours upon request. However, in the event the Bureau determines that considerable effort shall be required to locate or assemble records in a suitable work area, the Bureau will coordinate with the requester to make the records available for inspection within a reasonable time. Such decision rests solely with the Bureau.

Media requests shall be treated as media inquiries and responded to at the Bureau's discretion pursuant to the Media Communications Policy.

It is the policy of TennCare to respond, pursuant to Tennessee's public records law, only to requests by journalists who are Tennessee citizens. Interstate journalist and media organization requests shall be treated as media inquiries rather than as a PRR; such requests shall be documented and will be responded to at the Bureau's discretion.

PROCEDURE

1. The TennCare Director of Public Affairs will receive a public records request (PRR) from the requesting media organization. Any Bureau staff person receiving a PRR shall forward it to the TennCare Director of Public Affairs.
2. The Director of Public Affairs will discuss the PRR at the time of request with the media requester to clarify the nature of the request and will discuss the Bureau's timeframe for response.
3. The Director of Public Affairs will simultaneously provide a copy of the Media PRR to the TennCare Privacy Office in the Office of General Counsel for tracking and support in fulfillment. Media inquiries not constituting Public Records Requests will be fulfilled by the Bureau's Director of Public Affairs without any involvement of the TennCare Privacy Office except as requested.
4. The Bureau response shall be tracked and reviewed for privilege and compliance with the Public Records Law by the TennCare Privacy Officer or other attorney in the Office of General Counsel. Steps of records tracking shall be maintained in a desktop procedure separate from this policy.
5. When the available public records are ready, the Director of Public Affairs will arrange a convenient time for inspection, or will otherwise respond to the requester.
6. Copies will be provided as requested. Tennessee journalist, news and media organizations shall be notified of any copy fees or estimated cost of writing special program(s) written to compile applicable records. Copies of records shall be released to Tennessee journalists or media organizations only upon receipt of appropriate fees, as described by Tenn. Comp. R. & Regs. 1200-13-11.01 (2005).

DEFINITIONS

Confidential Record or Confidential Public Record: means any record which has been designated confidential by law or statute and includes information or matters or records considered privileged and any aspect of which access by the general public has been generally denied.

Individually Identifying Information: means the home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual.

Media: as used in this policy includes news reporters, editors, newspaper journalists, radio, television, and other news organizations serving the general public.

Media Inquiry(ies): those inquiries which are not subject to the use or disclosure of Public Records.

Protected Health Information (PHI): means information about an individual's health and medical history. PHI can also include non-medical facts like address or date of birth, which identify an individual. The Bureau may sometimes refer to PHI as "health facts" in enrollee materials.

Public Records: means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.

Public Records Request (PRR): means any request for public records which is so identified by the requester or by the TennCare Privacy Office.

Requester: means any person or organization which is requesting the release of Bureau records.

OFFICES OF PRIMARY RESPONSIBILITY

Office of TennCare Director of Public Affairs
TennCare Privacy Officer, Office of General Counsel

RELATED FORMS

Media Communications Policy

REFERENCES

In addition to any cited above:

T.C.A. §10-7-101 *et seq.*, particularly T.C.A. § 10-7-503 and T.C.A. § 10-7-504

T.C.A. §4-5-201 *et seq.*, (2005)

Tenn. Op. Atty. Gen. No. 01-132, 2001 WL 1048622 (Tenn. A.G.) Opinion that persons not citizens of Tennessee may be denied access to public records.

Tenn. Op. Atty. Gen. No. 99-067, 1999 WL 238963 (Tenn. A.G.) Such denial is not a violation of the privileges and immunities clause of the U.S. Constitution.