



## Health Care Finance & Administration Policy Manual

<b>Policy Number:</b> PRIV 16-009
<b>Policy Subject:</b> Enrollee Access to Information
<b>Approved by:</b> <i>[Signature]</i> <b>ASD</b> <b>Date:</b> 6/3/16

### PURPOSE OF POLICY

This policy addresses how Health Care Finance and Administration (HCFA) will provide for an enrollee's right to access their personally identifiable information (PII) and protected health information (PHI) pursuant to the Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other applicable federal and state laws and regulations.

### POLICY

HCFA will timely respond to enrollee requests for access or to obtain a copy of their PII and PHI. HCFA will provide enrollees with all the privacy rights granted by federal and state laws and regulations.

### DISCUSSION & LEGAL BASIS

Enrollees have the right to access and to receive a copy of their PHI or PII in HCFA's designated record set. The designated record set may include facts about enrollment, claims, payment and case management. It may also include facts received about an enrollee's treatment, and facts used to make benefit decisions.

A person who is a personal representative of an enrollee may also exercise the rights of the enrollee, including the right to inspect and/or copy PHI or PII about the enrollee relevant to such person's representation. Personal representatives must submit to HCFA documents supporting their authority prior to the release of enrollee PHI or PII.

In some situations, federal laws allow information to be withheld from disclosure to or access by enrollees. This includes information compiled in anticipation of litigation, and psychotherapy treatment notes.

## PROCEDURE

1. The Privacy and Public Records Office or designee shall be responsible for receiving and processing requests for access to PII or PHI.
2. HCFA may require enrollees to make this request in writing.
3. HCFA will respond within 30 days for on-site PII or PHI.
4. HCFA will respond within 60 days for off-site PII or PHI.
5. For any delay or denial, whether whole or in part, HCFA will provide a written response.
6. HCFA may provide a summary of information held in lieu of access if the requester agrees.
7. HCFA may charge a fee for copying records.
8. Records of requests and responses are kept by the HCFA Privacy and Public Records Office for the period of time required by privacy regulations or HCFA's retention policy.

## DEFINITIONS

**Designated Record Set:** Medical records, financial records, health plan and other information used to make decisions about an individual.

**Enrollee:** An individual currently enrolled in any category of TennCare Medicaid and TennCare Standard, including an individual eligible for and enrolled in the TennCare program or in any Tennessee federal Medicaid waiver program pursuant to Sections 1115 or 1915 of the Social Security Act; or, for purposes of HCFA privacy policies, the term may also be used to reference one who was previously an enrollee during a period for which there is a privacy request or compliance inquiry.

**HIPAA:** Health Insurance Portability and Accountability Act of 1996 and for which administrative simplification, privacy, and security regulations are codified at 45 CFR §§ 160-164.

**Personal Representative:** An individual or entity legally authorized to act on behalf of the individual enrollee.

**The Privacy Act of 1974:** A United States federal law, enacted December 31, 1974, and codified at 5 U.S.C. 552a which establishes a Code of Fair Information Practice that governs the collection, maintenance, use, and dissemination of personally identifiable information.

**Protected Health Information (PHI):** Information that is: (i) Transmitted by electronic media; (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or

medium, including demographic information that identifies or may be used to identify an individual and that:

- (1) Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
- (2) Relates to the physical or mental health or condition of an individual.

**Personally Identifiable Information (PII)**: Information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

#### **OFFICES OF PRIMARY RESPONSIBILITY**

HCFA Privacy and Public Records Office, Office of General Counsel

#### **RELATED FORMS**

Permission to Release Information

#### **REFERENCES**

5 U.S.C. 552a (d)  
45 C.F.R. § 164.524  
OMB Circular A-130