



## Health Care Finance & Administration Policy Manual

<b>Policy Number:</b> PRIV 16-016
<b>Policy Subject:</b> Amendment of Enrollee Records
<b>Approved by:</b> <i>J. B. Smith</i> <b>A30</b> <b>Date:</b> 6/3/16

### PURPOSE OF POLICY

This Policy addresses how Health Care Finance and Administration (HCFA) will respond to an enrollee request for amendment of their records created or held by HCFA as required by the Health Insurance Portability and Accountability Act or the Privacy Act.

### POLICY

HCFA shall timely respond to an enrollee's request to amend PII or PHI in accordance with the requirements of HIPAA, the Privacy Act or other applicable regulations. 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 request amendment of their personally identifiable information (PII) and protected health information (PHI) in HCFA records if they believe the information contained therein is incorrect. HCFA will respond to all requests for amendment as required by law and will maintain appropriate records of requests and their results.

While enrollees may request an amendment, the Bureau does not have to comply with the request in certain circumstances:

- a. If the information was not created by HCFA or is not part of the enrollee's records, HCFA may deny the request;
- b. If HCFA determines that the record is complete and accurate, or that the enrollee does not have a right to access the information, HCFA may deny the request;

## PROCEDURE

1. The enrollee will be notified of the right to amend his or her information in the Notice of Privacy Practices.
2. The HCFA Privacy Office will process all requests for amendment.
3. Upon receiving a request from an enrollee regarding the right to amend their PII or PHI, the Privacy Office will provide the enrollee with a copy of the Request to Amend form.
4. Requests to Amend forms should be submitted to:

HCFA Privacy Office  
310 Great Circle Road  
Nashville, TN 37243  
(615) 507-6820  
615) 734-5289 (fax)  
Privacy.Records.TennCare@tn.gov

### **Evaluating and Responding to a Request for Amendment**

1. The Privacy Office will record the date the initial request was received.
2. The Privacy Office will make a determination to accept or deny the amendment after consultation with the appropriate staff, as needed.
3. The Privacy Office shall act on the request for amendment no later than 60 days after receipt of the request.
4. If the amendment is accepted, HCFA will make the amendment and inform the enrollee within 60 days of the request.
5. If the amendment is denied, HCFA will notify the enrollee in writing of the denial within 60 days of the request.
6. If HCFA is unable to act on the request for amendment within 60 days of receipt of the request, HCFA may have one extension of no more than 30 days. The Privacy Office will notify the enrollee in writing of the extension, the reason for the extension and the date by which action will be taken.

### **Denial of Request for Amendment**

1. HCFA may deny the request for amendment in whole or in part if:
  - a. The PII or PHI was not created by HCFA (i.e., an Advance Directive).
  - b. The PII or PHI is not part of the designated record set.
  - c. The PII or PHI would not be available for inspection under the HIPAA Privacy Rule or other applicable laws and regulations.
  - d. The PII or PHI that is subject to the request is accurate and complete.
2. If the Privacy Office, in consultation with the appropriate staff, determines that the request for amendment is denied, in whole or in part, the Privacy Office will send the enrollee a timely denial notice. The denial shall be written in plain language and shall contain:
  - a. The basis for the denial;

- b. A statement that the enrollee has a right to submit a written statement disagreeing with the denial and an explanation of how the enrollee may file such statement;
  - c. A statement that, if the enrollee does not submit a statement of disagreement, the enrollee may request that HCFA include the enrollee's request for amendment and the denial with any future disclosures of the PII or PHI that is the subject of the amendment;
  - d. A description of how the enrollee may file a complaint with HCFA or to the Secretary of the U.S. Department of Health and Human Services. The description must include the name or title and telephone number of the contact person for complaints.
3. The enrollee may submit a written statement of disagreement and request an additional review of the denial.
4. If the enrollee submits a written statement of disagreement, HCFA shall review the denial and prepare a written response to the statement. HCFA shall provide a copy of the written response to the enrollee who submitted the statement.
5. The following documentation must be appended (or otherwise linked) to the PII or PHI that is the subject of the disputed amendment:
  - a. The enrollee's Request to Amend form;
  - b. HCFA's amendment denial letter;
  - c. The enrollee's statement of disagreement, if any; and
  - d. HCFA's response, if any.

#### **Future Disclosures of PII or PHI which is the Subject of the Disputed Amendment**

1. If the enrollee submitted a statement of disagreement, HCFA will disclose all information listed in item 5 above or an accurate summary of such information with all future disclosures of the PII or PHI to which the disagreement relates.
2. If the enrollee did not submit a statement of disagreement, and if the enrollee has requested that HCFA provide the *Request to Amend* form and the amendment denial letter with any future disclosures, HCFA shall include these documents (or an accurate summary of that information) with all future disclosures of the PII or PHI to which the disagreement relates.

#### **Acceptance of the Request for Amendment**

If HCFA accepts the requested amendment, in whole or in part, HCFA will take the following steps in accordance with applicable law:

1. The Privacy Office shall place a copy of the amendment in the enrollee's record or provide a reference to the location of the amendment within the body of the record.
2. The Privacy Office shall notify the relevant persons with whom the amendment needs to be shared, as identified by the enrollee on the original Request to Amend form.

3. The Privacy Office shall identify other persons, including agents, contractors, and business associates that it knows have the information, and that may have relied on, or could foreseeably rely on, such information to the detriment of the enrollee. The privacy office will inform the enrollee of, and obtain the enrollee's agreement to notify such other persons or organizations of the amendment.
4. The Privacy Office shall make reasonable efforts to inform and provide the amendment within a reasonable time to:
5. Persons identified by the enrollee as having received the information and needing the amendment;
6. Persons, including agents, contractors, and business associates, that HCFA knows have the information and may have relied, or could foreseeably rely, on such information to the detriment of the enrollee.
7. If no additional persons needing notification of the amendment are identified, the privacy office shall inform the enrollee in writing that the amendment has been accepted.

#### **Actions on Notices of Amendment from Other Entities**

If another Covered Entity notifies HCFA of an amendment to PHI it maintains, the Privacy Office shall make the amendment to the enrollee's designated record set through the process described above.

#### **DEFINITIONS**

**Covered Entity:** As defined by HIPAA, it is any entity which is:

- 1) A health plan.
- 2) A health care clearinghouse.
- 3) A health care provider who transmits any health information in electronic form in connection with a transaction.

**Enrollee:** Those currently enrolled in all categories 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; and, for purposes of the Bureau 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, for which administrative simplification, privacy and security regulations are codified at 45 CFR §§ 160-164.

**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.

#### **OFFICE OF PRIMARY RESPONSIBILITY**

HCFA Privacy and Public Records Office, Office of General Counsel

#### **RELATED FORMS**

Request to Amend Health Records

#### **REFERENCES:**

45 CFR § 160.103  
45 CFR § 164.526  
5 U.S.C. 552a  
OMB Circular A-130