




**Department of Finance & Administration  
Division of TennCare**

<b>Policy Number: PRIV 014</b>	
<b>Policy Subject: Records De-identification Policy</b>	
<b>Printed Name: Cynthia Beeler</b>	<b>Effective Date: 05/29/2024</b>
<b>Position: Chief Compliance and Privacy Officer</b>	
<b>Signature:</b> 	

## **I. PURPOSE**

This policy addresses the processes through which the Division of TennCare (“TennCare”) will remove from agency records, prior to disclosure, any personally identifiable information (“PII”) or protected health information (“PHI”) as required by The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) or other relevant statutes. This will also apply in any other circumstances where de-identification is necessary.

## **II. SCOPE**

The policy applies to all TennCare employees, consultants, contractors, and other persons who are under the direct or indirect control of TennCare.

## **III. POLICY**

TennCare shall de-identify records by removing specific identifiers within an enrollee’s record when required by HIPAA or other federal and state privacy laws and regulations. TennCare will provide enrollees with all the privacy rights to which they are legally entitled.

## **IV. DEFINITIONS**

Any term that is capitalized in this policy without a definition in the section below is to be defined as it appears in HIPAA.



**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 health or the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual. *See* 45 C.F.R. § 160.103.

**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.

**De-identified Protected Health Information:** Health information that does not identify an enrollee with no reasonable basis to believe that the information can be used in combination with other available information to identify the enrollee.

**De-identified Personally Identifiable Information:** Personally Identifiable Information that does not identify an enrollee with no reasonable basis to believe that the information can be used in combination with other available information to identify the enrollee.

**Enrollee:** Those 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; and, for purposes of TennCare 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.

**Individually Identifiable Health Information:** Health information that specifically identifies an enrollee, or there is a reasonable basis to believe that the health information can be used to identify an enrollee.

**Electronic Protected Health Information (ePHI):** Electronic health information (ePHI) is any PHI that is created, stored, transmitted, or received electronically.



**Limited Data Set:** PHI that excludes direct identifiers (e.g., names, address, Social Security numbers) of the individual, relatives, employers, or household members.

## **V. DISCUSSION & LEGAL BASIS**

As the Medicaid agency for the State of Tennessee, TennCare collects, receives, uses, and accesses identifiable information regarding program members. Under HIPAA, the Social Security Act, Medicaid confidentiality regulations, and other relevant federal and state statutes, TennCare is permitted to properly use this information for its program administration purposes.

Nevertheless, under some circumstances, HIPAA requires that records be de-identified prior to disclosure in order to protect the privacy rights of individuals. By removing all identifiable information, records can be de-identified so that they cannot be used alone or combined with other information to identify an enrollee. If there is no reasonable basis that the information contained within a record can be used to identify an enrollee, the information is not Individually Identifiable Health Information and may be disclosed.

TennCare and its partner agencies and contractors may use PII or PHI to create de-identified information which is not individually identifiable. If de-identified information has been re-identified in any form, it cannot be disclosed unless it is otherwise permitted or required under HIPAA or other federal and state privacy laws and regulations.

Under the HIPAA Privacy Rule, de-identification is not required for records disclosed pursuant to a proper authorization for release, a court order, a subpoena, in certain fraud investigations, and in some other circumstances. TennCare must de-identify records prior to some other disclosures, such as certain research-related disclosures, disclosures pursuant to open records requests, or other disclosures in which information may become available to the public or to unauthorized recipients.

## **VI. PROCEDURES**

TennCare follows the two specifications provided by HIPAA for the implementation of de-identification of health information:

1. Specific identifiers of the individual or of relatives, employers, or household members of the individual are removed (the Safe Harbor method); or
2. Generally accepted statistical and scientific principles and methods are applied to render information not individually identifiable, leaving a very slight risk that the information could be used alone or in combination with other information to identify an individual (the Expert Determination method).

## VI.1 The Safe Harbor Method

The first method of implementation is known as the “safe-harbor method” and applies to identifiers related to an individual, and his/her relatives, employers, and household members. This is the most commonly used method at TennCare, and the Office of General Counsel, Privacy Office, or Healthcare Informatics Office can offer guidance and assistance in implementing this process. Under this method, TennCare must remove all specific identifiers in a record, including, but not limited to:

- a. Names;
- b. All geographic subdivisions smaller than a state, including street address, city, county, precinct, ZIP code, and their equivalent geocodes, except for the initial three digits of the ZIP code if, according to the current publicly available data from the Bureau of the Census:
  - (1) The geographic unit formed by combining all ZIP codes with the same three initial digits contains more than 20,000 people; and
  - (2) The initial three digits of a ZIP code for all such geographic units containing 20,000 or fewer people is changed to 000
- c. All elements of dates (except year) for dates that are directly related to an individual, including birth date, admission date, discharge date, death date, and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older
- d. Telephone numbers
- e. Vehicle identifiers and serial numbers, including license plate numbers
- f. Fax numbers
- g. Device Identifiers and serial numbers
- h. Email addresses
- i. Web Universal Resource Locators (URLs)
- j. Social Security numbers
- k. Internet Protocol (IP) addresses
- l. Medical record numbers
- m. Biometric identifiers, including finger and voice prints
- n. Health plan beneficiary numbers
- o. Full-Face photographs and any comparable images
- p. Account numbers
- q. Certificate/license numbers

- r. Any other unique code, identifier, or information that TennCare reasonably believes could be used alone or in combination with other information to identify an individual.

In addition to the specific identifiers listed above, TennCare must also remove any information from de-identified records that it has actual knowledge could be used alone or in combination with other information to identify an individual who is a subject of the information.

## **VI.2 The Expert Determination Method**

The second method of implementation of de-identification is known as the “expert determination method.” It requires that a person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable evaluates the set of information considered for use or release and:

- a. after applying generally accepted statistical and scientific principles, determine that the risk is very small that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is a subject of the information; and
- b. documents the methods and results of the analysis that justify such determination.

This method is less frequently used at TennCare and requires prior review and approval from the Office of General Counsel.

## **VI.3 Records Re-Identification**

In certain situations, such as in recurring research or investigations requests, or for internal tracking methods, the ability to re-identify a limited data set of previously de-identified information may be necessary or beneficial. If re-identification of records is anticipated, TennCare may assign to each record a code or other means of record identification to allow information de-identified under this policy to be re-identified by TennCare staff at a later date, provided that:

- a. The code or other means of record identification is not derived from or related to information about the individual and cannot otherwise be translated to identify the individual; and
- b. TennCare does not use or disclose the code or other means of record identification for any other purpose and does not disclose the mechanism for re-identification.

The Office of General Counsel’s Privacy Office, or Healthcare Informatics Office can offer guidance and assistance in implementing this process and in generating and using unique codes for individual records.



## **OFFICE OF PRIMARY RESPONSIBILITY**

TennCare Privacy Office, Office of General Counsel (OGC)

## **RELATED POLICIES**

Information Use and Disclosure Policy  
Use of Enrollee Records in Research

## **REFERENCES**

45 C.F.R. § 160.103  
45 C.F.R. § 164.501  
45 C.F.R. § 164.502  
45 C.F.R. § 164.514  
Privacy Act of 1974 (5 U.S.C. 552a)