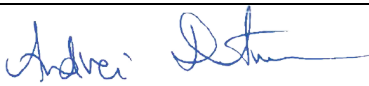




**Department of Health Care Finance & Administration
Division of TennCare**

Policy Number: PRIV 014	
Policy Subject: Records De-identification Policy	
Approved by: 	Effective Date: 8/30/2017

PURPOSE OF POLICY

This policy addresses the processes through which the Division of TennCare (“TennCare”) will remove from agency records 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.

SCOPE

This Policy applies to all TennCare employees and supporting staff in the various offices, departments, and/or divisions of TennCare.

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 granted by HIPAA and by federal and state laws and regulations.

DISCUSSION & LEGAL BASIS

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

Nevertheless, with some exceptions, 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. However, de-identified information that has been re-identified in any form cannot be disclosed except as 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 subject to a proper authorization for release, a court order, a subpoena, or in certain fraud investigations. TennCare must de-identify records prior to other disclosures such as certain research related disclosures, releases pursuant to open records requests or other disclosures in which information may become available to the public or to unauthorized recipients.

PROCEDURES FOR DE-IDENTIFICATION OF RECORDS

TennCare follows the HIPAA provided two specifications 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; OR
2. Health information is not individually identifiable if 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 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. Street address, city, county, precinct, last 2 digits of the zip code; however, the initial three digits of a zip code may remain on the information if, according to current publicly-available data from the Bureau of the Census, the geographic unit formed by combining all zip codes with the same three initial digits contains

- more than 20,000 people; and the initial three digits for all such geographic units containing 20,000 or fewer people is changed to 000
- c. Dates (except year) for birth date, admission date, discharge date, date of death
 - d. Telephone numbers
 - e. Fax Numbers
 - f. E-mail addresses
 - g. Social Security numbers
 - h. Medical Record numbers
 - i. Health plan beneficiary numbers
 - j. Account numbers
 - k. Certificate/license numbers
 - l. Vehicle serial and license plate numbers
 - m. Device identifiers and serial numbers
 - n. URLs & IP address numbers
 - o. Finger and Voice prints
 - p. Full face photographs
 - q. 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.

The second method of implementation of de-identification is known as the “expert determination method” and 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. 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. Document the methods and results of the analysis that justify such determination.

This method is less frequently used at the Division of TennCare and requires prior review and approval from the Office of General Counsel. The Office of General Counsel, Privacy Office, or Healthcare Informatics Office can offer guidance and assistance in implementing this process.

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, 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.

DEFINITIONS

De-identified protected health information: means 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.

Enrollee: means 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 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.

HIPAA: Health Insurance Portability and Accountability Act of 1996 and for which administrative simplification, privacy, and security regulations are codified at 45 Code of Federal Regulations, Parts 160-164.

Individually identifiable health information: means health information that specifically identifies an enrollee.

Limited data set: means PHI that excludes direct identifiers (e.g. names, address, social security numbers) of the individual, relatives, employers or household members.

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

Division of TennCare, Privacy and Public Records Office, Office of General Counsel

REFERENCES

- 45 CFR § 160.103
- 45 CFR § 164.501
- 45 CFR § 164.502
- 45 CFR § 164.514
- Privacy Act of 1974 (5 U.S.C. 552a)
- OMB Circular A-130
- Revision History

Revision No.	Version Date	Summary of Change	Changed By
1.1	08/15/17	Changed references from HCFA to Division of TennCare. Additional Revisions and Clarifications	Oladotun Onigbanjo, DXC