

Policy Number: PRIV 017

Policy Subject: Privacy Complaints Policy

Approved by: Cynthia Beeler

Position: Chief Privacy and Compliance Officer

Signature: 

Effective Date: May 27, 2025

1. PURPOSE

This policy describes how the Division of TennCare (TennCare) will address privacy complaints including those regarding the use, access, or disclosure of information as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other applicable federal and state laws and regulations.

2. SCOPE

This policy covers all TennCare information systems used, managed, provided, or operated by the state or a vendor, contractor or another organization acting on behalf of TennCare. The policy applies to all TennCare employees, consultants, contractors, and other persons who are under the direct or indirect control of TennCare and who access TennCare systems. For the purposes of this policy, all persons are described as Workforce Members.

3. POLICY

TennCare will timely respond, as outlined in the procedure below, to all complaints about unauthorized or inappropriate receipt, use, or disclosure of sensitive and restricted access information regarding its applicants, enrollees, and partners (as defined in PRIV 027 - Data and Information Systems Classification Policy) including but not limited to Personally Identifiable Information (PII), Protected Health Information (PHI), electronic Protected Health Information (ePHI), Social Security Administration provided information (SSA information), and federal tax return information (FTI) maintained by TennCare. TennCare will provide applicants and enrollees with all the privacy rights granted by HIPAA and by federal and state laws and regulations.

4. 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.

Authorized Representative: An individual or organization designated by the applicant or enrollee to act responsibly on their behalf in assisting the individual's application and renewal of eligibility and other ongoing communications with the agency. Authorized Representatives must be designated consistent with requirements of 42 C.F.R. § 435.923, by either submitting one of TennCare's Authorized Representative forms (which may include a fully executed version as included in the application for benefits), or other evidence of authority to act on behalf of the applicant or enrollee under Tennessee law.

Business Associate: A person or organization, other than TennCare's workforce, that assists TennCare with health care arrangements involving enrollee protected health information (PHI) for claims processing or administration, or for any other function or activity regulated by HIPAA.

Code Set: Any set of codes (number series or other identifying sequences) used to encode data elements, including tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes. A code set includes the codes and the description of the codes (45 C.F.R. § 162.103).

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

Encryption: Process of converting data by scrambling into a form that cannot easily be read without knowledge of the conversion mechanism (often called a key). This increases the security of an electronic transmission.

Enrollee: An individual applying for or currently enrolled in any of the programs administered by the Division of TennCare, including TennCare Medicaid, CoverKids, Medicare Savings Program, and Long-Term Services and Supports. For purposes of TennCare Privacy policies, the term "enrollee" may also be used to reference an individual who was previously an enrollee during a period for which there is a privacy request or compliance inquiry.

Federal tax information (FTI) and return information: FTI is any return or return information received by TennCare from the Internal Revenue Service (IRS) or secondary source, such as Social Security Administration. FTI includes any information created by TennCare that is derived from return or return information. A return is any tax or information return, estimated tax declaration, or refund claim (including amendments, supplements, supporting schedules, attachments, or lists) required by or permitted under the Internal Revenue Code and filed with the IRS by, on behalf of, or with respect to any person or entity. Return information, is any information collected or generated by the IRS with regard to any person's liability or possible liability under the Internal Revenue Code.

Personal representative: An individual or entity legally authorized to act on behalf of the individual enrollee, including Authorized Representatives designated under 42 CFR § 435.923.

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.

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 past, present, or future health or 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

Social Security Administration (SSA) Provided information: Records, information or data received from specific Social Security Administration (SSA) feeds, potentially including names, SSNs, addresses, amounts, and other information related to SSA benefits, and earnings information for individuals. This data is subject to Computer Matching and Privacy Protection agreements between division of TennCare and SSA, which set forth the terms and conditions for the use, disclosure, and disposition of such data.

Standard Transaction Code Set: A code set which: (i) has been developed and maintained by an American Nation Standards Institute (ANSI) accredited code set maintaining organization; and

(ii) has been designated by the Secretary of the United States Department of Health and Human Services to be the standard for transmitting a particular kind of information between parties to carry out health care activities. An example would be Health Common Procedure Coding System (HCPCS) used for medical professional services by doctors and labs.

Transaction: The transmission of information between two parties to carry out financial or administrative activities related to health care.

5. DISCUSSION & LEGAL BASIS

TennCare complies with HIPAA and other federal and state laws and regulations regarding the collection of, and response to, privacy complaints. Pursuant to HIPAA, TennCare must provide a process for individuals to make complaints against TennCare concerning the privacy of their Individually Identifiable Health Information or PHI. TennCare can receive complaints from individuals against both its policies and procedures related to the privacy of an enrollee's Individually Identifiable Health Information, and suspected breaches of unsecured PHI.

TennCare has designated the Chief Privacy and Compliance Officer, and the Privacy Office within the Office of General Counsel, as the points of contact responsible for receiving privacy complaints. TennCare must log all complaints it receives from individuals regarding the privacy of their Individually Identifiable Health Information, and suspected breaches of unsecured PHI, and retain this information for at least six (6) years from the date of their creation, or the date in which a policy or procedure subject to a complaint was last in effect, whichever is greater. TennCare will not take any retaliatory action against any individual exercising their rights established under HIPAA, or any other federal or state laws and regulation, including the filing of a privacy complaint.

6. PROCEDURES

6.1 General Privacy Complaints.

1. The TennCare Privacy Office, within the Office of General Counsel, is responsible for receiving and processing complaints and other reports of unauthorized use or

disclosure of applicant or enrollee PII or PHI by TennCare. All complaints should be submitted to:

Division of TennCare
Attention: Privacy
Office 310 Great
Circle Road
Nashville, TN 37243

The TennCare Privacy Office may also be contacted by email at Privacy.TennCare@tn.gov.*

Applicants and enrollees should be aware that confidentiality of email transmissions is not assured unless encrypted. Unencrypted emails sent by most email services (e.g. Gmail, Hotmail, Yahoo, etc.) are subject to interception by third parties, and are transmitted at the sender's risk.

**If you wish to submit a complaint via email, please contact our office first so we may respond with a secure email portal. If you submit the complaint directly via email rather than through the secure email portal, there is some risk that the personal information could be read or otherwise accessed by a third party while in transit.*

2. The applicant/enrollee or his/her Personal Representative may also make the complaint verbally by calling TennCare Connect at 1-855-259-0701.
3. Any Workforce Member who receives a complaint from an applicant or enrollee regarding their privacy rights or rights under HIPAA must provide that complaint to the Privacy Office by contacting Privacy.TennCare@tn.gov.
4. The TennCare Privacy Office will evaluate all reports. However, TennCare may also ask the applicant/enrollee or other individual to make the complaint in writing, either on paper or electronically, if feasible for the applicant/enrollee.
5. The written complaint must identify the TennCare action, and if possible, the workforce member(s), contractor, or Business Associate that is the subject of the complaint; and it must describe the act or omission which is believed to violate HIPAA, other applicable federal or state laws or regulations, or TennCare policies.
6. The TennCare Privacy Office shall evaluate all complaints. Except for good cause, the complaint should be filed within 180 days of the time the complainant knew or should have known that the alleged violation occurred.

7. The TennCare Privacy Office will send written or verbal acknowledgement of the receipt of the complaint within a reasonable time. If no contact information is available, or outreach to the available contact information is unsuccessful, the Privacy Office may close out the complaint without further response.
8. TennCare's acknowledgement of receipt may include a request for a written complaint and/or request additional information; or such requests may be sent separately. If a written complaint and/or additional information is requested, the TennCare Privacy Office may close the investigation if a response is not received within sixty (60) days or within the timeframe requested by TennCare, whichever is longer.
9. All documents and communications shall be treated as confidential and not subject to the Tennessee Open Records Act, as well as being subject to the privacy provisions of HIPAA and other applicable federal and state laws and regulations.
10. In the event of a report of unauthorized disclosure by a TennCare employee or other member of its workforce, the TennCare Privacy Office may refer the allegation to TennCare's Administration and Talent Management or other departments as appropriate, being careful to maintain the confidentiality of the investigation when possible. The outcome of any referred investigation, to include the decision whether or not to sanction any employee or workforce member, shall be considered separate and distinct from the outcome of the privacy complaint investigation conducted by the Privacy Office.
11. Written response to the complainant shall be sent after a reasonable time to permit full review, but no later than sixty (60) days if practicable. If additional information was required to complete the investigation, TennCare's response will be sent no later than sixty (60) days from when the requested information was received by TennCare. The TennCare Privacy Office will inform the complainant in writing of the reasons for any delay, indicating the time for further response.
12. TennCare shall not permit intimidation or retaliation against the applicant/enrollee or other person for:
 - a) complaining to TennCare;
 - b) complaining to the Secretary of the U.S. Department of Health and Human Services (HHS) or her/his designate; or
 - c) opposing any act or practice as unlawful if such opposition is in good faith, reasonable in manner, and does not disclose sensitive and restricted access information in violation of HIPAA or other federal and state laws and regulations.

13. TennCare will never require an applicant/enrollee to waive rights to file a complaint with TennCare, or with the Secretary of HHS.

6.2 Standard Transaction Code Set Complaints.

1. The TennCare Privacy Office shall receive complaints regarding any allegation from an applicant/enrollee, a provider, or a Business Associate that TennCare, a Business Associate, or a provider is not transmitting transactions in a manner compliant with standards established by HIPAA and other applicable federal and state laws and regulations. Such standard code set transmissions may include health care claims and encounter information, coordination of benefits, eligibility, and other prescribed transactions.
2. The requirements and timelines for responding to Standard Transaction Code Set complaints are the same as described for privacy complaints.
3. The TennCare Privacy Office shall investigate such Standard Transaction Code Set complaints in conjunction with TennCare Chief Information Officer (CIO), Electronic Data Interchange (EDI) Manager, and others, and will respond on behalf of TennCare. TennCare will attempt to respond to the complainant as soon as reasonable, and no later than sixty (60) days. If the response will be delayed beyond sixty (60) days, the TennCare Privacy Office will notify the complainant in writing of the reasons for the delay and the additional time necessary for full response.

OFFICE OF PRIMARY RESPONSIBILITY

The Division of TennCare Privacy Office, Office of General Counsel (OGC)

RELATED POLICIES

PRIV 16-008 Accounting of Disclosures of Enrollee
Records

PRIV 027 Data and Information Systems Classification
Policy

PRIV 030 Authorized Representatives in Agency
Interactions

REFERENCES:

45 C.F.R. § 160.103

45 C.F.R. § 160.306

45 C.F.R. § 162.103

45 C.F.R. § 164.501

45 C.F.R. § 164.528

45 C.F.R. § 164.530

Sections 1115 or 1915 of the Social Security Act