




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

Policy Number: PRIV 017	
Policy Subject: Privacy Complaints Policy	
Approved by: 	Effective Date: 02/06/2018

PURPOSE OF POLICY

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.

POLICY

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

PROCEDURES

1. The TennCare Privacy Office, within the Office of General Counsel, is responsible for receiving and processing complaints and other reports about unauthorized or inappropriate use or disclosure of enrollee sensitive and restricted access information by TennCare. All complaints should be submitted to:

TennCare Privacy Office
Division of TennCare
310 Great Circle Road
Nashville, TN 37243
(615) 507-6820 or toll-free 1-866-797-9469
Fax (615) 532-7322

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

However, the enrollee should always be informed 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.

2. The enrollee or his/her personal representative may make the complaint verbally by calling the Tennessee Health Connection at 1-855-259-0701 or the TennCare Privacy Office at the above listed numbers.
3. The TennCare Privacy Office will evaluate all reports. However, TennCare may also ask the enrollee or other individual to make the complaint in writing, either on paper or electronically, if the enrollee is capable of such writing.
4. A complaint form can be made available by calling the Tennessee Health Connection at 1-855-259-0701 or the TennCare Privacy Office, or on the TennCare website at www.tn.gov/tenncare by clicking on "Members."
5. The written complaint must identify TennCare action, or if possible, its workforce member(s), contractor, or Business Associate which is the subject of the complaint, and must describe the act or omission which is believed to violate HIPAA or other applicable federal and state laws and regulations and 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 acknowledgement of the receipt of the complaint within two business days or within a reasonable time.
8. The TennCare Privacy Office, Office of General Counsel will maintain a log of all disclosures required to be recorded by HIPAA and other statutes. (See Policy PRIV 16-008 "Accounting of Disclosures of Enrollee Records"). The log and any documents related to this policy shall be maintained for the period required by the State of Tennessee's record retention policy, but for a period of not less than six (6) years from the date of the applicable request or report. All documents and communications shall be treated confidentially as legally privileged, as well as subject to the provisions of HIPAA and other applicable federal and state laws and regulations.

9. 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 internal audit section or other department as appropriate, being careful to maintain the confidentiality in the investigation.
10. Written response to the complainant shall be sent after a reasonable time to permit full review, but within thirty (30) days if practicable. The TennCare Privacy Office will inform the complainant in writing of the reasons for any delay, indicating the time for further response.
11. TennCare shall not permit any intimidating or retaliatory act against the enrollee or other person for:
 - a) complaining to TennCare;
 - b) complaining to the Secretary of the U. S. Department of Health and Human Services 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.
12. TennCare will never require an enrollee to waive rights to file a complaint with TennCare, or with the Secretary of the U.S. Dept. of Health and Human Services under 45 CFR § 160.306 as a condition of eligibility for benefits, enrollment in a health plan, or to receive treatment or related payment.
13. The TennCare Privacy Office shall receive complaints regarding any allegation from an enrollee, a provider, or a Business Associate that TennCare, a Business Associate, or a provider is not transmitting transactions appropriately. In this context, "appropriately" means consistent with standards established by HIPAA and other federal and state laws and regulations applicable to the transmission of sensitive and restricted access information. Such standard code set transmissions may include health care claims and encounter information, coordination of benefits, eligibility, and other prescribed transactions.
14. The requirements and timelines for responding to standard transactions code set complaints are the same as described for privacy complaints.
15. The TennCare Privacy Office shall investigate such standard transactions code set complaints in conjunction with TennCare CIO, EDI Manager, and others, and will respond on behalf of TennCare. TennCare will attempt to respond to the complainant as soon as reasonable, and within thirty (30) days. If the response will be delayed beyond thirty (30)

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.

DEFINITIONS

Business Associate: A person or organization, other than TennCare’s workforce, that assists TennCare with health care arrangements involving enrollee personal 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.

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 category of State of Tennessee’s Medicaid program (TennCare) and Children’s Health Insurance Program (CHIP, known as CoverKids in Tennessee) or in any Tennessee federal Medicaid waiver program pursuant to Sections 1115 or 1915 of the Social Security Act; and, for purposes of the 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.

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.

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.

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

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 physical or mental health or condition of an individual.

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 US DHHS to be the standard for transmitting a particular kind of information between parties to carry out health care activities. An example would be HCPCS (Health Common Procedure Coding System) 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.

RELATED FORMS

Complaint Form

OFFICES OF PRIMARY RESPONSIBILITY

TennCare Privacy Office, Office of General Counsel

REFERENCES

45 CFR § 160.103
45 CFR § 160.306
45 CFR § 162.103
45 CFR § 164.501
45 CFR § 164.528
45 CFR § 164.530
42 USCA § 1320d-5