Department of Health Care Finance & Administration
Division of TennCare

Policy Number: PRIV 021
Policy Subject: Use and Disclosure of PHI for Law Enforcement Purposes
Approved by: [Signature]  Effective Date: 1/23/2019

PURPOSE OF POLICY

This policy provides standards governing when the Division of TennCare (TennCare) may use and disclose enrollee protected health information (PHI) for law enforcement purposes as required by The Health Insurance Portability and Accountability Act of 1996 (HIPAA).

POLICY

Any request for the use or disclosure of enrollee PHI for law enforcement purposes shall be reviewed by a member of Executive staff and the TennCare Privacy Office/Office of General Counsel.

TennCare shall cooperate fully with law enforcement officials as to use or disclosure of enrollee PHI for law enforcement purposes when permitted by HIPAA and by federal and state 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

TennCare may use or disclose enrollee PHI for law enforcement purposes to the extent that such use or disclosure is required or permitted by law and complies with and is limited to the relevant requirements of the law. TennCare may use and disclose enrollee PHI without enrollee authorization or prior consent when permitted by the following circumstances:

1. Disclosures made pursuant to process;
2. Disclosures not required by law, but permitted if limited information for identification and location of a suspect, fugitive, material witness or missing person;

3. Disclosures not required by law regarding victims of a crime;

4. Enrollee’s death resulting from criminal conduct; and,

5. Criminal conduct that occurred on the premises of TennCare.

PROCEDURE

1. All requests for the use or disclosure of enrollee PHI from a law enforcement agency or official shall be handled by the TennCare Privacy Office. Any division within TennCare or any TennCare staff person receiving a request for enrollee information from any law enforcement official shall forward the request to the TennCare Privacy Office:

   TennCare Privacy Office
   Office of General Counsel
   310 Great Circle Road
   Nashville, TN 37243
   Phone: (615) 507-6820

2. **Verification.** TennCare shall verify the identity and the authority of any law enforcement official to whom a permitted disclosure is made prior to making the disclosure of PHI.

3. Employees should immediately contact their immediate supervisors and the TennCare Privacy Office if any questions arise as to the legitimacy of a law enforcement official.

4. **Accounting of Disclosures for Law Enforcement Purposes.** Disclosures made for law enforcement purposes shall be logged and maintained by TennCare to be provided to an enrollee in the event that the individual asserts his/her right to receive an accounting of disclosures (See PRIV 008. Accounting of Disclosures of Enrollee Records). However, TennCare can temporarily suspend an individual’s right to receive an accounting of disclosures to a law enforcement official whenever a request is made by an authorized law enforcement official to suspend the accounting in the event such an accounting to the individual would be reasonably likely to impede the law enforcement activities.
5. Any questions regarding permitted uses and disclosures for law enforcement purposes should be directed to the TennCare Privacy Office.

DEFINITIONS

**Enrollee:** means 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 approved 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.

**HIPAA:** means Health Insurance Portability and Accountability Act of 1996, for which administrative simplification, privacy and security regulations are codified at 45 CFR §§ 160-164.

**Law Enforcement Official:** means an officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to 1) investigate or conduct an official inquiry into a potential violation of law; or 2) prosecute or otherwise conduct a criminal, civil or administrative proceeding arising from an alleged violation of law. For example, US attorneys, District Attorneys, FBI, TBI, MFCU and OIG.

**Protected Health Information (PHI):** means medical or health information, including non-medical facts such as address or date of birth, which identify an individual.

OFFICE OF PRIMARY RESPONSIBILITY

TennCare Privacy Office, Office of General Counsel

RELATED FORMS

None.

REFERENCES

45 CFR § 164.512
45 CFR § 164.528