



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

Policy Number: PRIV 009	
Policy Subject: Enrollee Access to Information	
Printed Name: Andrei Dumitrescu	Effective Date: 10/17/2023
Position: Chief Compliance and Privacy Officer	
Signature: 	

PURPOSE OF POLICY

This policy addresses how the Division of TennCare (TennCare) will provide an enrollee the means to inspect and obtain copies of their Personally Identifiable Information (PII) and Protected Health Information (PHI), including electronic Protected Health Information (ePHI), pursuant to the Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and other applicable federal and state laws and regulations for as long as the information is retained.

POLICY

TennCare will timely respond to enrollee requests for access or to obtain a copy of their PII and PHI. TennCare will provide enrollees with all the privacy rights granted by federal and state laws and regulations.

DISCUSSION & LEGAL BASIS

Enrollees have the right to access and to receive a copy of their PHI or PII in TennCare's designated record set. The designated record set may include facts about enrollment, claims, payment, and case management. It may also include facts received about an enrollee's treatment, and facts used to make benefit decisions. Enrollees also have the right to access data concerning adjudicated claims (including claims data for payment decisions that are subject to appeal and provider remittances and beneficiary cost-sharing pertaining to such claims), encounter data, clinical data, and information about covered outpatient drugs in accordance with the Centers for Medicare and Medicaid Services regulations.



A person who is acting as a personal representative of an enrollee may also exercise the rights of the enrollee, including the right to inspect and/or copy PHI or PII relevant to such person's representation. Personal Representatives must submit to TennCare documents supporting their authority prior to the release of enrollee PHI or PII.

In some situations, federal laws allow information to be withheld from disclosure to, or access by enrollees. This includes information compiled in anticipation of litigation, and psychotherapy treatment notes.

PROCEDURE

1. The Records Officer or designee shall be responsible for receiving and processing requests for access to PII or PHI in coordination with the Privacy Officer.
2. TennCare will request enrollees to make this request in writing.
3. TennCare will respond within 30 days of receiving the request or earlier as required by law.
4. If TennCare is unable to take action within the designated time period, it will provide the individual with a written statement which includes the reasons for the delay and the date by which TennCare will complete its action on the request.
5. For any delay or denial, whether whole or in part, TennCare will provide a written response.
6. In lieu of access, TennCare may provide a summary of information held if the requester agrees in advance to such summary and the accompanying fees.
7. TennCare may charge a reasonable, cost-based fee for copying records or for providing a summary of information.
8. Records of requests and responses are kept by the Records Officer for the period required by privacy regulations or TennCare's retention policy.

DEFINITIONS

Designated Record Set: Medical records, financial records, health plan, and other information used to make decisions about an individual.

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 approved pursuant to Sections 1115 or 1915 of the Social Security Act., For purposes of TennCare privacy policies, the term "enrollee" 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.

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

The Privacy Act of 1974: A United States federal law, enacted December 31, 1974, and codified at 5 U.S.C. § 552a which establishes a Code of Fair Information Practice that governs the collection, maintenance, use, and dissemination of PII.

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 physical or mental health or condition of an individual, 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.

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

OFFICES OF PRIMARY RESPONSIBILITY

TennCare Privacy Office, Office of General Counsel (OGC)

REFERENCES

5 U.S.C. § 552a(d)
45 C.F.R. § 164.524
42 C.F.R. § 431.60