



Bureau of TennCare Policy Manual

Policy No. : HIP 06-021	
Subject: Use and Disclosure of PHI for Law Enforcement Purposes	
Approved by: <i>[Signature]</i>	Date: 3/13/2009

PURPOSE OF POLICY

This policy provides standards governing when the Bureau of TennCare (the Bureau) 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.

The Bureau 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. The Bureau will provide enrollees with all the privacy rights granted by HIPAA and by federal and state laws and regulations.

DISCUSSION & LEGAL BASIS

The Bureau 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. The Bureau 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 the Bureau.

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 the Bureau or any Bureau staff person receiving a request for enrollee information from any law enforcement official shall forward the request to the TennCare Privacy Office:

TennCare Privacy Officer
P.O. Box 20007
Nashville, TN 37202
Phone: (615) 507-6855

2. **Verification.** The Bureau 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 the Bureau to be provided to an enrollee in the event that the individual asserts his/her right to receive an accounting of disclosures (See HIP 06-008. Accounting of Disclosures of Enrollee Records). However, the Bureau 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 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 the Bureau 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 Officer, Office of General Counsel

RELATED FORMS

None.

REFERENCES

45 CFR § 164.512

45 CFR § 164.528