

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### **100.03.04 CONFIDENTIALITY OF INFORMATION**

All individuals have the right to a confidential relationship with the Division of Medicaid. All information maintained on recipients, former recipients and denied applicants is confidential and must be safeguarded.

The Division of Medicaid (DOM) will adhere to state laws and federal regulations on the protection of the confidentiality of information about applicants/recipients. Protected information may only be disclosed without the individual's authorization for purposes directly connected with the administration of the program.

This includes:

- Establishing eligibility,
- Determining amount of medical assistance,
- Providing services for recipients, and
- Conducting or assisting an investigation, prosecution and civil or criminal proceeding related to the program.

The Division of Medicaid will also adhere to the Health Insurance Portability and Accountability Act (HIPAA) as it relates to confidentiality of information about applicants/recipients. It is DOM's policy that a valid authorization be obtained for all disclosures that are not for treatment, payment or healthcare operations, to the individual or their representative, to persons involved with the individual's care, to business associates in their legitimate duties or as required by law.

The agency has specified the agencies, persons and circumstances under which applicant or recipient information may be released without a recipient's consent. Any other exceptions are subject to prior approval of the Executive Director or Deputy Administrator of the Division of Medicaid.

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### **Protected Information**

Protected information is of two general types: eligibility/financial and medical. It includes the following information:

#### **1. Eligibility information**

- Name and address of applicants/recipients;
- Social and economic conditions or circumstances;
- Evaluation of personal information such as financial status, citizenship, residence, age and other demographic characteristics;
- Information received in connection with the identification of legally liable third-party resources;
- Information received for verifying income eligibility and benefit level.

**NOTE:** Income information verifying income eligibility and benefit level received from the Social Security Administration, the Internal Revenue Service, the Veteran's Administration, State Retirement Board or Medicare must be safeguarded according to the requirements of the agency that furnished the data.

#### **2. Medical information**

- Medical data, including diagnosis and past history of disease or disability;
- Medical services provided;
- Medical status, psycho behavioral status, and functional ability;
- Results of laboratory tests;
- Medication records.

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### **100.03.04A RELEASE OF INFORMATION WITHOUT CLIENT CONSENT**

As previously indicated, the Division of Medicaid has established the following criteria for release and use of eligibility and financial information about applicants and recipients. Except as provided below, no information regarding applicants or recipients may be released without consent unless prior approval of the Executive Director or the Deputy Administrator of the Division of Medicaid is obtained.

#### **1. Disclosure to Other Agencies**

Information concerning Medicaid applicants or recipients is subject to disclosure to agencies authorized under Titles IV-A (TANF), IV-B (Child and Family Services), IV-D (Child Support), XX (Social Services) XVI (SSI) of the Social Security Act and other agencies which are Federal or Federally assisted programs and provide assistance, in cash or in-kind, or services, directly to individuals on the basis of need, pursuant to appropriately executed data exchange agreements and other cooperative agreements between the Division of Medicaid and the applicable agency. Access is restricted to those persons or agency representatives who are subject to standards of confidentiality that are comparable to those of the Division of Medicaid.

Some agencies which have standards of confidentiality comparable to those of Medicaid and which provide assistance or services to applicants and recipients, and with whom information is exchanged for the purpose of administration of the Medicaid Program are listed below.

- Department of Human Services;
- Social Security Administration and District Offices;
- Mississippi State Department of Health and County Health Departments, only if they are a provider of Medicaid services for which the information is requested;
- State Department of Mental Health and Regional Mental Health Centers, only if they are a provider of medical services for which the information is requested;
- State Mental Hospitals and general hospitals, the Social Service Department and the reimbursement offices for providers, only as to services each provider rendered to a specific Medicaid recipient;
- Veteran's Administration, only if they are a provider of services and then only for those recipients for whom they provided the service or to confirm benefits.

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### Release of Eligibility Information Without Consent (Continued)

- Medicaid program staff in other states, when a client moves or when there is a question of dual participation or to verify the status of Medicaid in MS for an applicant in the other state.

The release of information is based on a request from the other agency and must relate to the function of the Division of Medicaid's programs and the function of the agency requesting the information. When an agency makes a request for information which that agency normally would be ascertaining for itself and which is not in behalf of the applicant or recipient, the request will be denied. Lists of information on applicants or recipients are not released to other agencies unless the release is specified in an interagency agreement.

#### **2. Disclosure to Division of Medicaid's Fiscal Agent**

Information concerning applicants and recipients may also be disclosed to the Division of Medicaid's fiscal agent for purposes of eligibility verification, claims processing and claims payment pursuant to the contract between the Division of Medicaid and the fiscal agent which provides that the fiscal agent shall be bound by the same standards of confidentiality as the Division of Medicaid.

#### **3. Disclosure Related to Third Party Liability**

Information necessary to identify third party liability (TPL) and to pursue reimbursement of Medicaid lien amounts from legally liable third parties may be made available to the recipient upon written request, to the recipient's insurance carrier upon a release of information signed by the recipient or to providers of medical services for the recipient. Any other release for TPL purposes should be cleared through the Legal Unit of the Division of Medicaid. (See NOTE below for the procedure regional offices will follow in obtaining clearance from Legal)

#### **4. Disclosure to Prosecuting Attorneys**

Information shall be provided to county and district attorneys, the US prosecuting attorney, the Office of Inspector General (OIG), Medicaid Fraud Control Unit of the Attorney General's Office or other investigative boards and agencies duly authorized by state and federal law related to abuse, suspected fraud or fraudulent receipt of Medicaid and to obtaining or enforcing medical support. **NOTE:** Before releasing any case record information to a county, district or US prosecuting attorney, the regional office will notify the Bureau of Enrollment and a manager will obtain clearance from the Legal Unit of the Division of Medicaid on the release.

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### Release of Eligibility Information Without Consent (Continued)

#### **5. Disclosure of Subpoenaed Information**

Subpoenas for recipient or applicant information may be answered as directed by the Legal Unit of the Division of Medicaid only if the recipient or applicant gives written permission for the information to be released or upon court order. The regional office will notify the Bureau of Enrollment immediately upon receipt of a subpoena and a manager will contact the Legal Unit for clearance on answering the subpoena.

#### **6. Disclosure to Providers**

Eligibility and availability of benefits may be verified for Medicaid or CHIP providers.

#### **7. Release of Information in an Emergency Situation**

If release of information is deemed necessary by the agency due to an emergency situation and time does not permit obtaining written consent before the release, the agency must notify the family or individual immediately after supplying the information.

### **Requests for Information from Non-Custodial Parents or Relatives**

Information must not be released to a child's non-custodial parent or other relative without a court order that has been cleared by state office. When a non-custodial parent/relative is seeking information and presents a court order, the regional office will notify the Bureau of Enrollment. A manager will contact Legal for clearance.

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### **100.03.04B RELEASE OF PROGRAM INFORMATION**

No Medicaid data regarding recipients, providers or services may be released without prior approval of the Executive Director, unless an established exception applies. The following program information constitutes the only established exceptions which do not require prior approval of the Executive Director:

- The annual report of the Division of Medicaid, published pursuant to state law, containing the total number of recipients, the total amount paid for medical assistance and care; the total number of applications, the total number of applications approved and denied, and similar data.
- Pamphlets, brochures and other documents prepared for distribution to the public.
- Information exchanged with other state or federal agencies pursuant to a contract or written agreement.

If requests for information are received, including requests for large quantities of pamphlets, brochures and other public information, the regional office should forward them to the Bureau of Enrollment for further action. Requests will be considered pursuant to the Access to Public Records Act, as applicable.

### **100.03.04C SAFEGUARDING CONFIDENTIAL INFORMATION**

The privacy rule protects electronic records, paper records and oral communication. Therefore, employees of the agency are responsible for safeguarding the confidentiality of recipient information in all forms to prevent unauthorized disclosure. In practical terms, this includes:

- Following password and other security procedures for systems;
- Securing cases in filing cabinets rather than leaving them in open view when not in use; and
- Discussing cases or recipients only as necessary for legitimate job-related purposes and in confidential office settings.

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### **SAFEGUARDING CONFIDENTIAL INFORMATION** (Continued)

Failure to abide by the policies and procedures regarding confidentiality of recipient and applicant information, either intentionally or unintentionally, can result in disciplinary action. Group offenses are discussed in the DOM Employee Manual under Discipline and Grievance Policies. In addition, any violation of privacy and security policies and procedures may be referred to state or federal agencies for prosecution.

#### **100.03.04D SAFEGUARD AWARENESS TRAINING**

Training on the security standards for data provided by the Internal Revenue Service (IRS) and Social Security Administration (SSA) must be conducted annually for eligibility staff in each regional office. During the training employees are instructed in office security procedures to ensure security of the data and are issued a copy of the federal penalties for unauthorized disclosure of IRS and SSA information.

A confidentiality statement for each type of data is signed by employees. The person providing the training signs and dates the confidentiality statements to certify security training for each agency's data. The signed and certified statements are forwarded to state office, where they are maintained to document compliance with IRS and SSA safeguard training requirements.