

4001.0.0 NOTICE OF PRIVACY PRACTICES

4001.0.1 This establishes instructions to all DHS offices, facilities, programs and workforce members (entities) regarding the provision of a Notice of Privacy Practices to all clients.

4001.0.2 This rule applies to all DHS employees. DHS offices, facilities, programs and workforce members are directed to follow all applicable policies and procedures found in the Health Insurance Portability and Accountability Act (HIPAA) Policies and Procedures Manual. Failure to comply with this rule and its reference documents will result in disciplinary sanctions as defined by the HIPAA Policy and Procedures Manual and in Policy 1084, Employee Discipline: Conduct/Performance.

4001.1.0 Authority

4001.1.1 HIPAA Standards for Privacy of Individually Identifiable Health Information 45 CFR Part 164 Section 164.520 Notice of Privacy Practices for Protected Health Information. To issue instructions to all DHS offices, facilities, programs and workforce members (“entities”) regarding the Department’s obligations relating to the implementation of HIPAA, 42 U.S.C. §§ 1320d-1329d-8, and regulations promulgated thereunder, 45 CFR Parts 160 and 164.

4001.1.2 DHS will make available a copy of DHS Pub 407, Notice of Privacy Practices, to any client applying for or receiving services from DHS, or a copy of Pub 408 to any client applying for or receiving health care services from DHS or from the Division of Health.

4001.2.0 Definitions

4001.2.1 Protected Health Information (PHI) - is health information which:

- Identifies the individual or offers a reasonable basis for identification
- Is created or received by a covered entity or an employer; and
- Relates to past, present, or future
 - Physical or mental health or condition
 - Provision of health care or
 - Payment for health care

or has been electronically transmitted or electronically maintained by a covered entity and includes such information in any other form.

4001.2.2 Workforce Members - employees, volunteers, trainees, and other persons whose conduct, in the performance of work for DHS, its offices, programs or facilities, is under the direct control of DHS, regardless of whether they are paid by the entity.

4001.2.3 Covered Entity (CE) – a health plan that provides, or pays the cost of medical care, a health care clearinghouse, or a health care provider.

4001.2.4 Treatment, Payment and Operations (TPO):

- Treatment – the provision, coordination, or management of health care and related services, consultation between providers relating to an individual, or referral of an individual to another provider for health care.
- Payment – activities undertaken to obtain or provide reimbursement for health care, including determinations of eligibility or coverage, billing, collection activities, medical necessity determinations and utilization review.
- Operations – functions such as quality assessment and improvement activities, reviewing competence or qualifications of health care professionals, conducting or arranging for medical review, legal services and auditing functions, business planning and development, and general business and administrative activities.

4001.3.0 Policy

An individual has a right to adequate notice of the uses and disclosures of his/her PHI that may be made by or on behalf of a CE, and of the individual's rights and the CE's legal duties with respect to his/her PHI.

4001.4.0 Notice of Privacy Practices

4001.4.1 DHS will make available a copy of the DHS Pub 407, Notice of Privacy Practices, to any client applying for or receiving services from DHS.

4001.4.2 The Notice of Privacy Practices shall contain all information required under federal regulations regarding the notice of privacy practices for protected health information under HIPAA.

4001.4.3 Where DHS acts in the capacity of a health care provider as defined by HIPAA, DHS will seek to acquire a signed DHS Notice of Privacy Practices Acknowledgement of Receipt, from each client.

4001.4.3 Provision of Notice: Department facilities and programs must provide individuals with the notice, and obtain the individual's written acknowledgement of receipt, or document attempts to obtain such acknowledgement, no later than the date of the first service delivery. The receipt of acknowledgement will be maintained in the client file or casehead file. Additionally, the notice in effect (original notice or any subsequent revisions) must be prominently posted at each DHS County Office and copies must be available for individuals at the County Office or upon request. .

4001.4.4 The privacy notice will also be posted on the DHS website and available electronically from the website.

4001.4.5 Revisions to Notice: DHS will promptly revise and distribute the privacy notice whenever there is a material change to the uses or disclosures, the individual's rights, the CE's legal duties, or other privacy practices described in the notice. Except when required by law, a material change to any term may not be implemented prior to the effective date of the notice reflecting the change.

4001.4.6 Documentation Requirements: DHS will retain copies of notices issued for a period of at least six years from the later of the date of creation or the last effective date and each facility and program will retain documentation of individuals acknowledgement of receipt, or refusal to acknowledge receipt, of the privacy notice for a period of at least six years.

4001.5.0 Attachments to Policy

- Notice of Privacy Practices Acknowledgement of Receipt Form
- Notice of Privacy Practices

4001.6.0 Originating Section/Department Contact

Office of Chief Counsel
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