

## **4008.0.0 CONFIDENTIAL COMMUNICATIONS REQUIREMENTS**

### **4008.1.0 Purpose**

To enable Department of Human Services (DHS) clients/employees to request receiving communications of protected health information from DHS by alternative means or to an alternate locations.

### **4008.2.0 Authority**

HIPAA Standards for Privacy of Individually Identifiable Health Information 45 CFR Part 164 Section 164.522 (b) Confidential communications requirements.

### **4008.3.0 Applicability**

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 DHS Policies and Procedures Manual. Failure to comply with this rule and its reference documents <sup>may</sup> result in disciplinary sanctions as defined in Policy 1084, Employee Discipline: Conduct/Performance.

### **4008.4.0 Definitions**

4008.4.1 **Protected Health Information (PHI)** is health information which:

- A. Identifies the individual or offers a reasonable basis for identification
- B. Is created or received by a covered entity or an employer; and
- C. 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.

4008.4.2 **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.

4008.4.3 **Covered Entity (CE)** – a health plan that provides or pays the cost of medical care, a health care clearinghouse or a health care provider.

### **4008.5.0 Policy**

4008.5.1 DHS must permit clients and employees to request and must accommodate reasonable requests by clients and employees to receive communications of protected health information (PHI) from DHS by alternative means or at alternative locations. Examples of such requests may include mailing PHI to an alternate

address specified by the individual, transmission of such information to a specific phone number by facsimile, or transmission of such information via e-mail, etc.

- 4008.5.2 The Department is not required to accommodate unreasonable requests for alternate delivery of PHI. Examples of such requests may include asking for delivery of PHI by registered or certified mail or requesting that PHI be hand carried to the client to an off-site location.

#### **4008.6.0 Procedures**

The following procedures will be implemented to ensure that this policy is enforced effectively across all parts of the organization.

- 4008.6.1 The client/employee must request to receive PHI from DHS by alternate means or to an alternate location and must specify the preferred alternate means or location. Requests for alternate means of transmitting PHI or delivery to an alternate location may be made orally or in writing. Telephone requests for alternate delivery of PHI should have a second party confirmation of the client's identify and requested change. This may be accomplished by having another employee listening to the client's request or having the employee confirm the client's request after it is made.
- 4008.6.2 If the request is made orally, DHS staff must document the request and ask for the client/employee's signature.
- 4008.6.3 If the request is made by telephone or by electronic media, DHS staff must document the request and verify the identity of the requestor.
- 4008.6.4 Documented client/employee requests for alternate means of delivery or alternate locations for delivery of PHI will be filed in the client/employee record and appropriate updates will be made to the client/employee's record (case file, medical record, electronic database, etc.).
- 4008.6.5 Prior to sending any PHI to a client/employee DHS staff will review the client/employee's record to confirm whether the client/employee has requested that PHI be sent by alternate means or to an alternate location.
- 4008.6.6 DHS will forward PHI to the client in accord with the client/employee's preferred means or location when requested or to his current mailing address, as appropriate.
- 4008.6.7 DHS may terminate its agreement to deliver PHI via alternate means or to an alternate location if:
- A. The client/employee agrees to or requests termination of the alternate delivery location or method of communication in writing or orally. DHS staff must document the request or oral agreement in the client/employee's record.
  - B. Use of the alternative delivery location or method of communication is not effective (i.e. DHS is unable to contact the client/employee at the location or in the manner requested by the client/employee). In this instance, DHS must inform the client/employee that it is terminating its agreement to alternative

means or location of delivery of PHI and provide the reason(s) for termination of the agreement.

- C. DHS must retain all documentation related to requests for alternative means of delivery of PHI or alternate delivery location for PHI for a minimum period of six years.

#### **4008.7.0 Program Coordination**

4008.7.1 The DHS representative handling the client/employee request for delivery of PHI by alternate means or to an alternate location will determine (with the assistance of the client/employee) the other Divisions/Offices within DHS that may hold protected health information on the individual. When affected Divisions/Offices are determined, the representative will forward a copy of the request for alternate delivery of PHI to the privacy official of each Division/Office and to the Department's Privacy Officer.

4008.7.2 When the client/employee terminates the request for alternate delivery of PHI or it is determined that the alternate method of delivery is unreliable (i.e. mail has been returned, FAX machine number has been disconnected or has no FAX to receive messages, etc.) the representative will notify:

- A. The client/employee of the termination of alternate delivery of PHI
- B. All affected Divisions/Offices of the termination of the alternate delivery method
- C. The Department's Privacy Officer.

#### **4008.8.0 Originating Section/Department Contact**

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