

 <p>GEORGIA DEPARTMENT OF COMMUNITY HEALTH</p>	<p>Policy Number: 913</p> <p>Effective Date: April 14, 2003</p> <p>Revision Date: April 5, 2006</p>
<p>Privacy Policy</p>	<p>Verification of Identity and Authority</p>
<p>Originating Work Unit: Privacy Office</p>	<p>Category: Legal Compliance</p>

SCOPE:

This policy applies to all individuals, DCH employees, agents and contractors who perform duties in conjunction with the access, distribution, dissemination, modification and management of protected health information.

POLICY:

It is DCH's policy to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule by establishing means to verify an entity's or an individual's authority to access protected health information (PHI). DCH must verify the identity of a person requesting protected health information and the authority of any such person to have access to protected health information. DCH also must obtain any documentation, statements, or representations from the person requesting the protected health information when such documentation, statement, or representation is a condition of the disclosure.

REPORTING VIOLATIONS:

Violation of this or any other DCH Privacy Policy is to be reported to the DCH Privacy Officer.

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LEGAL AUTHORITY:

45 C.F.R. §164.514(h) Other Procedural Requirements Relating to Uses and Disclosures of Protected Health Information – Standard: Verification requirements

45 C.F.R. §164.512 (a) Uses and disclosures for which consent, an authorization or object is not required -- Standard: Uses and disclosures required by law

45 C.F.R. §164.512 (f) Uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required – Standard: Disclosures for law enforcement purposes.

45 C.F.R. §164.502 (f) Uses and disclosures of protected health information: general rules – Standard: Deceased individuals.

45 C.F.R. §164.510 (b) Uses and disclosures requiring an opportunity for the individual to agree or to object: Standard: Uses and disclosures for involvement in the individual's care and notification purposes

Final Privacy Rule, Preamble, pg. 82546-7 and pg. 82718-20 Discussion of verification of identity and authority of persons requesting PHI

SANCTIONS:

DCH will apply appropriate sanctions against members of its workforce who fail to comply with the DCH privacy policies and procedures or with the requirements of the regulations. Sanctions taken by HHS in enforcement against DCH are a separate matter.

Sanctions will be appropriate to the nature of the violation. For example, the type of sanction will vary depending on factors such as the severity of the violation, whether the violation was intentional or unintentional, and whether the violation indicated a pattern of improper use or disclosure of protected health information. Sanctions could range from warning to termination of employment with DCH.

Sanction policies will be documented so that employees are aware of what actions are prohibited and punishable. Training will be provided and expectations will be clear so individuals are not sanctioned for doing things that they did not know were inappropriate or wrong.

DCH will not impose sanctions for disclosures by whistleblowers or workforce member crime victims, where a disclosure is provided for by the privacy standards. In addition, complaints and cooperation in investigations under the privacy standards are not subject to sanctions.

For additional information, see the DCH Sanctions Policy and Procedures.

 <p>GEORGIA DEPARTMENT OF COMMUNITY HEALTH</p>	<p>Procedure Number: 913</p> <p>Effective Date: April 14, 2003</p> <p>Revision Date: April 5, 2006</p>
<p>Privacy Procedure</p>	<p>Verification of Identity and Authority</p>
<p>Originating Work Unit: Privacy Office</p>	<p>Category: Legal Compliance</p>

PURPOSE:

DCH must verify the identity of a person requesting protected health information and the authority of any such person to have access to private and confidential information. These procedures provide a means to verify authority, in accordance with the HIPAA Privacy Rule.

PROCEDURE:

DCH applies written policies and procedures, which are standard protocols, reasonably designed to verify the identity and authority of the requestor. Where documentation, statements or representations, whether oral or written, from the person requesting the protected health information is a condition of disclosure, DCH must obtain the documentation, statements or representations prior to disclosing the requested information.

DCH responsibility regarding the verification of individuals is to verify a requester's identity and confirm their authority to have access to PHI prior to disclosing the requested information. The steps involved in the authentication process listed below must be used to authenticate requesters prior to answering inquiries conveyed by telephone, fax, mail, and e-mail:

A. Member – General Authentication Process

1. Verification of identity shall require confirmation of all **three indicators** listed below:
 - a. **Member name;**
 - b. **Medicaid Identification Number or Social Security Number** (a confidential and unique numeric indicator on record);
 - c. **Date of birth, address on file, or information noted in the claims history.**
2. A member whose identity has been verified has the authority to access their PHI.

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Provider – General Authentication Process

1. Verification of identity shall require confirmation of the indicators listed below:
 - a. Verify the **Provider's name**
 - b. Verify the **Provider I.D.#**
 - c. In the event that the Provider does not supply the Provider I.D.#, ask the Provider to supply the **Provider's Tax I.D. Number or Social Security Number**. The information stated must match the information in the Provider Enrollment records of the Information System (MHN).
2. When the information above has been obtained from the requester, the DCH staff member proceeds to **verify the requestor's authority** to have the information requested by completing the following steps:
 - a. Verify the **Member's Name**,
 - b. Verify the **Member's Medicaid I.D. Number**. In the event that the requester is unable to supply the Member's Medicaid ID Number, or verify the **Member's Social Security Number**.
 - c. Verify the **(Claim) Transaction Control Number (TCN)**
 - d. In the event that the Provider is unable to supply the Claim Transaction Number (TCN), or verify the **Date of Service and Charges**.

Public Officials

Where the person requesting the protected health information is a public official, DCH may rely, if such reliance is reasonable under the circumstances, on any of the following to verify identity when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:

- If the request is made in person, presentation of an agency identification badge, other official credentials, or other proof of government status;
- If the request is in writing, the request is on the appropriate government letterhead; or
- If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government's authority or other evidence or documentation of agency, such as a contract or written notice that establishes that the person is acting on behalf of the public official.

DCH may rely, if such reliance is reasonable under the circumstances, on any of the following to verify authority when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:

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- A written statement of the legal authority under which the information is requested, or, if a written statement would be impracticable, an oral statement of such legal authority; or
- If a request is made pursuant to legal process, warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal is presumed to constitute legal authority.

Disclosure to the Secretary of Health and Human Services is required for purposes of enforcing the Privacy Rule. When protected health information is requested by the Secretary for compliance purposes, DCH must verify the identity of the requestor and the person's authority to access protected health information as would be required for any other law enforcement or oversight agency request for disclosure.

When Verification Is Not Required

If there is an imminent threat to safety, DCH may disclose private health information to prevent or lessen a serious and imminent threat to the health or safety of a person or the public if disclosure is made to a person reasonably able to prevent or lessen the threat. If these conditions are met, no further verification is needed. In emergencies, reasonable reliance on verbal representations is appropriate.

Persons Involved with an Individual's Care

Routinely, DCH will verify the identity and authority of persons assisting in an individual's care before disclosing protected health information. (See procedures for authentication of Personal Representatives, below.) Significantly, **however**, DCH may disclose protected health information to a person who calls the health plan (Medicaid, PeachCare for Kids or the State Health Benefit Plan options) on the member's behalf, in certain circumstances.

DCH may disclose to a family member, relative, or close personal friend of the individual, the protected health information (PHI) directly relevant to that person's involvement with the individual's care or payment for care. DCH also may make these disclosures to persons who are not family members, relatives, or close personal friends of the individual, provided the covered entity has reasonable assurance that the person has been identified by the individual as being involved in his or her care or payment.

DCH may disclose the relevant PHI to these persons only if the individual does not object or DCH can reasonably infer from the circumstances that the individual does not object to the disclosure; however, when the individual is not present or is incapacitated, DCH may make the disclosure if, in the exercise of professional judgment, it believes the disclosure is in the best interests of the individual.

For example:

- DCH may disclose relevant PHI to a member's daughter who has called to assist her hospitalized, elderly mother in resolving a claims or other payment issue.

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- DCH may disclose relevant PHI to a human resources representative who has called the plan with the member also on the line, or who could turn the phone over to the member, who could then confirm for the plan that the representative calling is assisting the member.
- DCH may disclose relevant PHI to a Congressional office or staffer that has faxed to the plan a letter or e-mail it received from the member requesting intervention with respect to a health care claim, which assures the plan that the member has requested the Congressional office's assistance. (See provisions regarding Public Officials, above.)

Verifying an Individual's Identity When Requesting Access to Their Own PHI

DCH is required to give an individual access to his or her protected health information, in accordance with the DCH Policy and Procedure for Individual Access. DCH is required to take reasonable steps to verify the identity of the individual making the request. (See General Authentication Procedure for Members, above.)

Verification of a Personal Representatives

DCH applies procedures for verification of identity and authority of personal representatives. For persons who represent that they have the permission of the member to request access to PHI, they will be authenticated as follows:

1. Verify the **Member Name and Medicaid I.D. Number and Birth date**;
2. Confirm the presence of appropriate **documentation** supporting the request for access to PHI, such as
 - a. Court documents (Guardianship, Custody order, Name Change, etc.)
 - b. Power of Attorney
 - c. Release of Information form or Authorization form
 - d. Designation of Personal Representative form
3. Verify the **requestor's name and last four digits of his/her social security number**, as is noted on the Authorization or other form.
4. Confirm any limitations regarding the disclosure of information to the Personal Representative
5. Once authentication has been confirmed and any limitations noted, release the minimum necessary information to resolve the request or inquiry.

Verification of Next of Kin

DCH is required to verify the identity and authority of persons requesting protected health information, including requests made in next-of-kin situations. DCH may exercise professional judgment as to whether the disclosure is in the individual's best interest when the individual is not available to agree to the disclosure or is incapacitated.

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GUIDELINES FOR RESPONSES TO REQUESTS FOR INFORMATION

The guidelines apply particularly to member inquiry units and call centers regarding the disclosure of member-specific information over the telephone. The guidelines apply to all requests for protected health information that come in over telephone lines. Many of the most likely scenarios are addressed in these guidelines. For situations not specifically addressed here, the customer service representative or other staff should use his or her discretion, taking care to protect the member's privacy and confidentiality. The staff should contact his or her supervisor or the DCH Privacy Officer for determinations if he or she is unsure whether or not to disclose information.

Guidelines are published at:

http://www.cms.gov/manuals/pm_trans/AB02094.pdf