

	PCHP HIPAA Privacy and Confidentiality Piedmont Community Health Plan	
	Name:	PCHP.PV.111 Uses and Disclosures of PHI - General Rules
	ID Number:	PCHP.PV.111
	Start Date:	02/01/2016
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	Approved By:	Garland Morton/CentraNotes

Body

Policy Name: Uses and Disclosures of PHI – General Rules

Scope: Entire Piedmont workforce

Purpose: To ensure that use and disclosure of Protected Health Information (PHI) is made consistent with applicable laws, regulations and health information standards, and to ensure that any disclosures of a member's PHI to family members, other relatives, close friends or other persons designated by the member are appropriate.

Definitions & Acronyms:

CMS: Centers for Medicare & Medicaid

CFR: Code of Federal Regulations

PBM: Pharmacy Benefit Manager

HIPAA: Health Insurance Portability and Accountability Act of 1996

HITECH: Health Information Technology for Economic and Clinical Health Act

PHI: Protected Health Information

Piedmont: "Piedmont" collectively refers to Piedmont Community Health Plan (PCHP), Piedmont Community HealthCare (PCHC) and any future entities that are owned, affiliated with and/or operated by Piedmont.

Policy:

1. **When written Authorization IS NOT required:** Piedmont may use or disclose PHI without written authorization or the opportunity for the individual to agree or object under certain circumstances as described in the Notice of Privacy Practices, including:
 - A. If requested by the member or legal personal representative **verified by employees through policy and procedure PCHP.PV.112.**
 - B. Treatment: To help manage a member's health care treatment.
 - C. Payment: To pay for member's health services.
 - D. Operations:
 - 1). To run our organization (i.e., using health information to develop better services for member).
 - 2). To administer our member's plan (a company contracts with us to provide a health plan, and we provide the company with certain statistics to explain the premiums we charge).
 - E. To help with public health and safety issues such as:
 - 1). Preventing disease;
 - 2). Helping with product recalls;
 - 3). Reporting adverse reactions to medications;
 - 4). Reporting suspected abuse, neglect or domestic violence;

- 5). Preventing or reducing a serious threat to anyone's health or safety.
 - F. For health research (some research does require authorization).
 - G. To comply with the law, and comply with health oversight activities, i.e. audits, civil/criminal/administrative investigations, inspections, etc. (i.e., if state or federal laws require it, including with the Department of Health and Human Services if it wants to see that we are complying with federal privacy law).
 - H. To respond to organ and tissue donation requests and work with a medical examiner or funeral director.
 - I. To address workers' compensation inquiries.
 - J. To respond to specific government requests pursuant to 45 CFR §164.512(k), such as:
 - 1). Military and Veterans Affairs
 - 2). NSA
 - 3). Protective Services/Secret Service
 - 4). Correctional institutions and other custodial situations.
 - K. To respond to lawsuits and legal actions, judicial and administrative proceedings (i.e., in response to a court or administrative order, or in response to a subpoena).
 - L. To Law Enforcement requests: Piedmont may disclose limited PHI to law enforcement following guidance suggested in 45 CFR §164.512(f)(2), (f)(3), (f)(4), and (f)(5) as follows:
 - i. For identification and location purposes: in order to identify or locate a suspect, fugitive, material witness, or missing person.
 - ii. Victims of a crime: In order to notify of a possible victim of a crime if the following criteria are met:
 - (a) The individual agrees to the disclosure; or
 - (b) The covered entity is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that: (A) The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim; (B) The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and (C) The disclosure is in the best interest of the individual as determined by the covered entity, in the exercise of professional judgment.
 - iii. Criminal conduct and/or death on premises: provided that suspected criminal activity has occurred on Piedmont's place of business
2. **When members have the opportunity to agree or object to disclosure:** Members have an opportunity to agree or object to certain disclosures.
- A. If the member objects to the disclosure of their PHI to anyone specifically authorized to receive PHI, the objection must be clearly noted in their medical records.
 - B. The member can let us know their preference on how we share information with their family, close friends, or other persons involved in their healthcare that are identified by the member. Piedmont staff will assess the member's willingness to share information in front of the member's family, friends or others involved in the member's care, by either:
 - 1). asking the family, friends or others to leave, and/or
 - 2). obtain permission from the member to speak in front of family members or others.
 - C. They can tell us their preference on sharing information in a disaster relief situation.
 - D. If they are not able to tell us their preference, for example if they are unconscious, Piedmont may disclose the minimum necessary PHI if:
 - 1). The member has not previously objected to the disclosure as noted in the medical record,
 - 2). Piedmont determines, in exercising professional judgment, disclosure is in the best interest of the member.
- E. Deceased individuals: Piedmont employees are permitted to disclose PHI about a decedent to a family

member, or other person who was involved in the individual's health care or payment for care prior to the individual's death, unless doing so is inconsistent with any prior expressed preference of the deceased individual that is known to Piedmont.

- 1). This may include disclosures to spouses, parents, children, domestic partners, other relatives, or friends of the decedent, provided the information disclosed is limited to that which is relevant to the person's involvement in the decedent's care or payment for care.
 - 2). Piedmont must comply with all other requirements of the Privacy Rule regarding PHI of deceased individuals for a period of 50 years following the death of the individual.
3. **When written Authorization IS required:** Piedmont will never use or disclose PHI in the absence of a valid written authorization for:
- 1). Marketing purposes
 - 2). Sale of Information
 - 3). Research and Fundraising
 - 4). Disclosures to attorneys or other third parties that are not otherwise permitted or required by law
 - 5). Sensitive PHI including:
 - i. Mental Health Information
 - ii. Confidential HIV-Related Information
 - iii. Alcohol or substance abuse information
 - iv. Genetic information
4. **Condition of Services:** Piedmont cannot condition Treatment, Payment, Enrollment, or Eligibility on the member providing an authorization unless a specific exception applies under 45 CFR §164.508(b)(4).
5. Disclosure of PHI will be centralized through the Compliance Officer. In some instances, the Compliance Officer will need to track information that is disclosed. All disclosures designated as trackable must be approved by the Compliance Officer to enable Piedmont to provide an accounting of disclosures when requested.

PROCEDURE

1. Receiving requests for PHI.

- A. Staff members receiving requests for PHI will make reasonable efforts to identify and verify that the requesting party is entitled to receive such information. (See Policy PCHP.PV.112 – Verification of Identity and Authorization for Release of Information).
- B. The following requests for PHI must be forward to the Compliance Officer **and/or designee** for tracking purposes:
 - 1). Health and Human Services (The Secretary)
 - 2). If required by law:
 - i. If related to child abuse, neglect or domestic violence;
 - ii. For judicial and administrative proceedings pursuant to a subpoena or court order;
 - iii. For law enforcement purposes, unless suspended;
 - 3). For certain public health activities;
 - 4). For health oversight activities such as Food and Drug Administration, unless suspended;
 - 5). For certain research purposes;
 - 6). To avert a serious threat to health or safety;
 - 7). For specialized government functions;
 - 8). For worker's compensation;
 - 9). For certain marketing or fundraising;
 - 10). About decedents or for cadaveric organ donation;
 - 11). Disclosures not permitted by law.

2. Responding to requests for PHI.

- A. If the use or disclosure does not require a written authorization, Piedmont must not use or disclose more than the minimum PHI required to meet the request (see policy PCHP.PV.113).
 - B. If the use or disclosure requires a written authorization, Piedmont must not use or disclose the PHI unless the request for disclosure is accompanied by a valid authorization.
 - C. If the authorization is valid, the Compliance Officer will disclose the requested PHI to the requester. Only the PHI specified in the authorization will be disclosed.
 - D. Each authorization will be maintained in the member's file for a minimum of 6 years (or longer as required by other federal or state laws).
 - E. In the event that Piedmont discloses PHI about an individual believed to be the victim of abuse, neglect, or domestic violence as required by law, the Compliance Officer will notify the individual that the disclosure has been made except when Piedmont:
 - 1). Reasonably believes informing the individual would place him/her at risk of serious harm; or
 - 2). If informing a personal representative, reasonably believes the personal representative is responsible for the abuse, neglect or other injury.
3. All requests and disclosures of PHI should be recorded in the member's case notes.
4. The Compliance Officer will record trackable uses and disclosure of PHI on the Disclosures Report database (see Policy PCHP.PV.123 – Members' Rights to Accounting of Disclosure of PHI and Policy PCHP.PV.136 – Accounting for Disclosures of PHI).

Equipment: None

Forms and Letters: None

Reference(s): 45 CFR § 164.502, 164.506, 164.508, 164.510, 164.512

Interdisciplinary Review: None

Policy History:

Date	Revision No.	Reason for Change	Sections Affected
04/14/2003	NEW		All
09/23/2013	1.0	<ul style="list-style-type: none"> • Updated policy to new format. • Provided more detailed clarification and included changes/updates from the HIPAA Omnibus Rule Effective 9/23/13. 	All
2/6/2016	1.1	<ul style="list-style-type: none"> • Converted to Centra Format 	
6/30/2016	2.0	<ul style="list-style-type: none"> • Reviewed for compliance with Phase 2 Audit Protocol Policy 1 language addition – A,G,J,L • Policy 2 language addition – B, E • Policy 4 	

Document Link Manager

No Documents Linked No Documents Linked

Attachment Manager

No Attachments
