



## COMBINED MEDICAID 101-1 Confidentiality

**Supersedes:** MA 101-1 and FMA 101-1 (07/01/04)

**Reference:** 42 CFR 431.300, .303, .305, .306; ARM 37.82.101

**Overview:** The Department of Public Health & Human Services (DPHHS) may share client information for purposes directly connected with the administration of the Medicaid programs with other federal programs and certain entitled entities. The client's confidential information may be released without notice to or permission of the client, for the following purposes:

1. Reporting child abuse and neglect to the appropriate authority (MCA 41-3-205) if it pertains to the administration of the Medicaid program;
2. Conducting child support activities; and
3. Establishing eligibility and administering (including audits, investigations, prosecutions, etc.) Medicaid programs share only the minimum amount of data necessary to gather accurate information needed.
4. Reporting elder abuse and neglect to the appropriate authority, IF it pertains to the administration of the Medicaid program, reporting only name/age, alleged abuse/abuser, and perhaps an address, but certainly no financial data.

Requests for information about current or past clients which do not meet the above criteria must be submitted in writing to the HCSD, Central Office. When there is a question about a breach of confidentiality, Central Office staff refers the request to the Office of Legal Affairs.

### **NON-AGENCY PERSONNEL:**

Non-agency employees may conduct interviews or certify applicants when specifically allowed under federal regulation (e.g., federally declared disaster). Volunteers or others who are not employed by DPHHS may not determine eligibility. However, they may assist in related activities such as:

1. Obtaining necessary information; and
2. Helping applicants complete the application form.

**Non-agency personnel are restricted from disclosing confidential information.**

### **RELEASE TO LAW ENFORCEMENT:**

No information regarding clients may be released to federal, state or local law enforcement officers without subpoena. If information is subpoenaed, contact DPHHS Office of Legal Affairs for further information and guidance.

#### **EMERGENCY SITUATIONS:**

When information is necessary to provide emergency medical care, the information must be released. As soon as possible thereafter, the client must be notified of the release of information.

#### **RELEASE TO CLIENTS:**

The client may review all information in the case file which was considered when making an eligibility determination. Privileged information, such as the name of individuals who have disclosed information about the household without the household's knowledge or the nature or status of pending criminal prosecution, may be withheld. The agency must also make available, without charge, the specific materials necessary for a household or its representative to determine whether a fair hearing should be requested or to prepare for a hearing.

Medical documentation provided from any other source cannot be shared with client. Only medical documentation that the client provided can be returned to the client.

Information gathered from DPHHS access to a query system from another agency (such as SOLQ, Dept. of Justice, MISTICS, CSED, SEARCHS, Vital Statistics, etc.) may not be released to the client for any purpose.

#### **RELEASE TO OTHERS:**

The same information that can be released to the client may be released to individuals outside the household in situations other than those already described **only** if the head of household, the spouse or other person authorized by the household provides a written HIPAA-compliant authorization to release information. HPS-402 is the Department-approved HIPAA-compliant authorization form. It is given to individuals who want to authorize release of their Medicaid records to others.

**NOTE: Certain types of information cannot be released by the Department, even with client authorization. This includes information such as birth control and psychiatric records.**

#### **AUTHORIZATION TO RELEASE INFORMATION HCS-101:**

This form is used to assist the client in obtaining information necessary to determine eligibility. HCS-101 explains the client's rights to confidentiality and gives the client the option of either authorizing or declining to authorize the release of information. As the authorization expires one year from the signature date, it must be completed at application and yearly thereafter. The client always has the right to rescind the authorization in writing. Because an individual cannot waive another's right to confidentiality, each adult household member is given the opportunity to review and sign the HCS-101.

**NOTE: Signing the HCS-101 is not a condition of eligibility.**

**Effective Date:** July 01, 2016