

# Human Development Commission

## Privacy Policy

**POLICY:** Privacy Policy

**PURPOSE:** Human Development Commission (HDC) receives, generates, and maintains Confidential Information concerning Clients. The purpose of this policy is to delineate a consistent approach to use, disclosure, and maintenance of Confidential Information, including Protected Health Information (PHI), and to guard against its unauthorized use and disclosure.

### **DEFINITIONS:**

Employee: refers to a person who has a regular employment relationship with HDC.

Clients: means all participants enrolled in a Region VII Area Agency on Aging program.

External User: means a third party individual or organization receiving Confidential Information from, or on behalf of, HDC in accordance with this policy and procedure.

Confidential Information is:

- Protected Health Information as defined in this policy, and
- All other information concerning HDC, its Clients, contracted and non-contracted providers, and other entities and individuals that are generally not made available to the public or distributed outside of the organization, including but not limited to business methods, medical materials, financial information, contract terms, policies and procedures, and such information that relates to the business operations of HDC.

Protected Health Information is:

- Health and/or demographic information which is, or has been, created by or received from a health care provider, health care clearing house and/or directly ; and
- Health and/or demographic information which relates to the past, present, or future physical or mental health condition of an individual; the provision of health care to an individual; or past, present , or future payment for the provision of health care to an individual; and
- Health and/or demographic information which identifies an individual or with respect to which there is a reasonable basis to believe the information can be used to identify an individual.

Need to Know: An HDC Employee has the "need to know" if access to Confidential Information is necessary for him/her to carry out their job at HDC. An External User has the "need to know" if access to Confidential Information is necessary for the External User to perform business operations on behalf of, or at the request of, HDC, or if the disclosure of the information is being made pursuant to Client consent, or is otherwise required by law. Only those portions of Confidential Information which are necessary to perform the functions of an Employee's job or work assignment should be accessed and used, and only those portions which are necessary for the External User to perform the business operations requested by, or on behalf of, HDC should be disclosed to the External User by HDC.

Business Operations includes claims processing and/or administration, service utilization, case management, quality assurance, billing, or services in the areas of information technology, legal, actuarial, accounting, auditing, consulting, data aggregation, management, or financial analysis.

De-identified Information is information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

### **SCOPE:**

This policy applies to:

- All HDC Confidential Information, including PHI of HDC Client in any form or format, regardless of the medium of storage or transmission (e.g., paper, disk, oral, electronic transmission) which is used and or disclosed for the purposes of treatment, payment, and business operations.
- All Employees/Affiliates in departments throughout HDC.
- All External Users as defined in this policy.

Effective Date: September 26, 2013

## **PROCESS:**

Member Consent: Once an individual makes contact with HDC regarding participation on various programs, the individual agrees that his/her PHI may be used by HDC Employees to carry out treatment, payment, and business operations. In addition, the individual agrees that HDC may disclose PHI to the client's physician(s), hospitals where treatment is or may be received, other healthcare providers/provider organizations, and to other External Users, to the extent necessary for these External Users to perform business operations or activities integral to business operations. No further written or verbal consent is required to disclose PHI to External users for these purposes, except in the following

Member Access to His/Her Medical Records: Clients may review their medical records, as can authorized legal representative of Clients, upon request. Clients may also receive copies of their medical records upon written request.

Accountability: An Employee, Affiliate or External User is accountable for the protection of Confidential Information in such a manner that access to it is reasonably restricted to those with a Need to Know. External Users agree to maintain a level of confidentiality protection within their own organizations consistent with Region VII AAA.

Need to Know: Access to, use and disclosure of Confidential Information shall be on a Need to Know basis as defined in this policy and procedure.

De-identified Information: When feasible, if identification of unique individuals is not necessary in order to perform business operations, identifiers should be removed from Confidential Information so that the data set may be used in a de-identified state by Employees, Affiliates and External Users. Some examples of uses of de-identified data include data set containing individual-level information about Clients prepared for purposes of research; aggregate data used for trend analysis; and data used for actuarial purposes.

Protection of Privacy in All Settings: HDC is committed to protecting our Clients' privacy in any setting involving the care of Clients. Through provider contracts, our provider manuals and other written communications, we inform our providers about their responsibility for protecting the confidentiality of our Clients' information. Additionally, provider offices are periodically reviewed to evaluate the confidentiality of their medical record-keeping practices.

Member Complaints: HDC established complaint, grievance and appeals policies and procedures will, as applicable, be used to process and, as appropriate, remedy Client complaints regarding confidentiality.

Confidentiality Statement: Each HDC Employee must sign a confidentiality statement (see HDC Confidentiality Statement) acknowledging his/her understanding of this policy and commitment to maintain the confidentiality of information provided to him/her. A HDC employee shall not have access to Confidential Information until he/she has signed the confidentiality statement and it has been received by HDC.

Education & Training: Upon hire, and thereafter during the annual review process, the importance of maintaining the confidentiality of HDC information will be emphasized to all employees by their supervisors. As policies and procedures are developed and/or changed, Employees will be notified and trained as appropriate.

Password: All systems and databases containing Client and HDC information shall have passwords and each Employee is responsible for the security of his/her individual password. There shall be no unauthorized sharing of passwords or careless protection of one's password.

Personal Computers: Computer screens containing Confidential Information should not be left unattended. Where feasible, screen savers with the automatic time-out function should be used.

Hardcopy: Employees shall exercise reasonable efforts not to leave hardcopy materials containing Confidential Information unattended and uncovered for prolonged periods. This includes documents on desks, workspace, printer and fax machines.

Verbal Communication: To the extent possible, employees involved in discussions during work and non-work hours that involve Confidential Information shall exercise discretion to protect the privacy of such information.

Disposal: Documents for which disposal has been determined to be appropriate and which contain Confidential Information and/or PHI shall be shredded.

Authorized Disclosure: Before a request for disclosure of Confidential Information to an External User is acted on, the Employee should be certain that 1) disclosure to that External User has been authorized through a contract or confidentiality agreement which includes the type of information, requested or 2) management has determined, in such circumstance, that such an agreement is not required or 3) disclosure is for treatment, payment, or agency operation functions. If an Employee is in doubt, he/she should seek clarification from his/her supervisor.

Fax: A cover sheet containing confidentiality language shall be used when sending Confidential Information via facsimile.

Electronic Information: When electronically disclosing Confidential Information to External Users, caution shall be exercised.

Labeling: Unless otherwise evident, Confidential Information provided in hardcopy format shall be labeled as "Confidential"

Public Inquiry: All public inquiries, such as those from media, about HDC should be directed to the Executive Director.

Breaches of Confidentiality: Breaches of confidentiality by an HDC Employee shall be subject to appropriate disciplinary action, up to, and including immediate discharge.

All External Users: Unless for purposes of treatment, payment, and agency operations, External Users who receive Confidential Information shall 1) have obtained specific consent from the Client for the release of the Confidential Information, or 2) shall receive such Confidential Information pursuant to legal or regulatory mandate e.g. pursuant to a valid subpoena, or 3) sign Business Associate Agreements with HDC which, among other things, require such External Users to protect the confidentiality of the information provided, specify that such information will be used only for its intended purposes, afford assurances about External User employee access, training from time to time (see Business Associate Agreement), and such other matters as deemed acceptable to HDC. In certain circumstances, depending upon the identity of the External User, the kind of Confidential Information disclosed and the assurances received by HDC, HDC may permit disclosure of Confidential Information without an agreement as described above. Based on review of the particular circumstance, such exceptions may be granted only by the Privacy Official of HDC, unless otherwise generally excepted by the terms of this policy and procedure.

Prohibited Uses: Confidential Information disclosed under this policy may not be used by and External User for its own research purposes, to contact HDC Clients for marketing or fund raising, or for any purpose other than explicitly permitted in this policy.

Redisclosure: Any Confidential Information disclosed to an External User by HDC may not be publicized, published, released or furnished to a third party by an External User without prior written consent from HDC. Where permission is granted by HDC to the External User to release PHI and/or other information to a third party, HDC will require that the External User have a contract or Business Associate Agreement with the third party that has confidentiality language equivalent to the agreement between HDC and the External User. The External User must furnish HDC with a copy of the Business Associate Agreement(s) or contract between itself and the third party.

Breaches of Confidentiality: External Users must immediately notify HDC of an unauthorized release of Confidential and Protected Health Information or other breach of its obligation under a Business Associates Agreement. External Users understand that breaches of confidentiality may result in loss of access privilege from HDC.

Disclosures for the Care of an Individual Member- HDC may, without necessity of a business associate agreement, disclose PHI and other Confidential Information about a Client to a licensed physician, medical practitioner, hospital, nursing facility, clinic, other medically-related facility, or other organization or institution that has knowledge about the health of a Client, for health care purpose including, but not limited to, current treatment planning and preventive care, or completion of a specific transaction such as evaluation medical necessity and utilization management functions.

Other Disclosures: Confidential Information may be disclosed to other types of External Users pursuant to this policy and procedure without specific written Member consent, to perform Agency Operations on behalf of HDC. These functions may include, but are not limited to, claims processes, billing, legal, actuarial, accounting, addition, consulting, or financial analysis. Confidential Information and PHI may be disclosed to External Users for purposes other than Agency Operation only upon specific written consent by the Client or authorized legal representative of the Client, or as otherwise permitted or required by law.