

PARTNERSHIP HEALTHPLAN OF CALIFORNIA

POLICY / PROCEDURE

Policy/Procedure Number: CMP-13 (Formerly ADM-11)			Lead Department: Administration	
Policy/Procedure Title: Permitted Use, Disclosure, and Minimum Necessary Use of Member Information			<input checked="" type="checkbox"/> External Policy <input checked="" type="checkbox"/> Internal Policy	
Original Date: 04/01/2003		Next Review Date: 11/21/2025 Last Review Date: 11/21/2024		
Applies to:	<input checked="" type="checkbox"/> Medi-Cal	<input type="checkbox"/> Healthy Kids	<input checked="" type="checkbox"/> Employees	
Reviewing Entities:	<input type="checkbox"/> IQI	<input type="checkbox"/> P & T	<input type="checkbox"/> QUAC	
	<input type="checkbox"/> OPERATIONS	<input type="checkbox"/> EXECUTIVE	<input type="checkbox"/> COMPLIANCE	<input type="checkbox"/> DEPARTMENT
Approving Entities:	<input type="checkbox"/> BOARD	<input checked="" type="checkbox"/> COMPLIANCE	<input type="checkbox"/> FINANCE	<input type="checkbox"/> PAC
	<input checked="" type="checkbox"/> CEO <input type="checkbox"/> COO	<input type="checkbox"/> CREDENTIALING	<input type="checkbox"/> DEPT. DIRECTOR/OFFICER	
Approval Signature: Sonja Bjork, CEO			Approval Date: 11/21/2024	

I. RELATED POLICIES:

- A. ADM-01 Release of Information and California Public Records Act Requirements
- B. CMP-10 Confidentiality
- C. CMP-18 Reporting Privacy Incidents and Breach Notifications
- D. CMP-30 Records Retention and Access Requirements
- E. IT013 Workforce Security
- F. IT045 HIE, Privacy, Security, and Standards
- G. IT051 Inbound and Outbound Data Governance
- H. MCUP3125 Gender Dysphoria/Surgical Treatment
- I. MCDN9002 Cultural and Linguistics Program

II. IMPACTED DEPTS.:

All.

III. DEFINITIONS:

- A. Gender identity: per National Committee for Quality Assurance (NCQA) health equity accreditation standards, means an individual's innermost concept of self and experience of gender, which may be different from the sex assigned at birth.
- B. Protected Health Information (PHI): all individually identifiable health information that is transmitted electronic media, maintained in any electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR section 160.103, additionally, includes SOGI and Real data.
- C. Race/ethnicity and language (REAL) data: refers to member's self-identified and reported REAL information, which may be collected by Partnership directly as self-reported from the individual or reported via state eligibility and enrollment data
- D. Sexual orientation: per NCQA health equity accreditation standards, means an inherent or immutable and enduring emotional, romantic or sexual attraction or nonattraction to individuals of the same and/or other genders
- E. Sexual orientation and gender identity (SOGI) data: refers to member's self-identified SOGI information, which may be collected by Partnership directly from the individual or known via health record data
- F. Individually identifiable health information: health information, including demographics information collected from an individual, that is created or received by Partnership and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the

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individual, as set forth under 45 CFR section 160.103.

IV. ATTACHMENTS:

N/A.

V. PURPOSE:

This policy describes the permitted uses and disclosures of PHI, defines the scope of a member's right to receive an accounting of disclosures by Partnership HealthPlan of California (PHC), and describes the conditions under which Partnership shall control access to and request, use, or disclosure of PHI.

VI. POLICY / PROCEDURE:

A. Policy.

1. Permitted Uses and Disclosures in accordance with DHCS Medi-Cal Contract 23-30236, Exhibit G, Business Associate Addendum (7-7.1):
 - a. Pursuant to the HIPAA Privacy Rule permitted uses and disclosures of Protected Health Information (PHI) are limited to the following:
 1. Use and disclosure by Partnership HealthPlan of California ("PHC") as necessary for treatment, payment, or healthcare operations activities as a covered entity. (Pursuant to 45 CFR §164.502(a)(1)(ii) and §164.506(c).)
 2. Disclosures to a public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions. (Pursuant to 45 CFR § 164.512(b)(1)(i).)
 3. Department of Health Care Services, Centers for Medicare and Medicaid Services, the Department of Managed Health Care, Managed Risk Medical Insurance Board, or other health oversight agency. (Pursuant to 45 CFR § 164.512(d).)
 4. Disclosures for public health activities, or Food and Drug Administration (FDA) recalls. (Pursuant to 45 CFR § 164.512(b)(1)(iii).)
 5. Disclosures to a workers' compensation plan, or for workplace surveillance related to a workers' compensation investigation or study.
 6. Disclosures to an investigating health oversight agency, public authority, or retained attorney investigating an allegation of unlawful conduct or violation of professional or clinical standards. (45 CFR § 164.502(j)(1))
 7. To a law enforcement official in the case of a workforce member who is a victim of a criminal act and the disclosure is the minimum necessary information about the suspected perpetrator of the crime. (45 CFR § 164.502(j)(2))
 8. Disclosures about victims of abuse, neglect, or domestic violence. (Pursuant to 45 CFR § 165.512(c).)
 9. Disclosures required by law enforcement purposes. (Pursuant to 45 CFR § 164.512(f).)
 10. Disclosures pursuant to judicial and administrative proceedings. (Pursuant to 45 CFR § 164.512(e).)
 11. Disclosures to organ procurement, banking, or transplantation for the purpose of facilitating organ, eye or tissue donation and transplantation. (Pursuant to 45 CFR § 164.512(h).)
 12. Disclosures to funeral directors as needed, and to coroners or medical examiners as required by law. (Pursuant to 45 CFR § 164.512(g).)

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13. Uses and Disclosures to avert a serious threat to health or safety. (Pursuant to 45 CFR § 164.512(j).)
14. To a public or private entity authorized by law or by its charter to assist in disaster relief efforts, for the purpose of coordinating with such entities. (45 CFR § 164.510(b)(4))
15. Disclosures if the individual is deceased, to a family member or other persons who were involved in the individual's care or payment prior to the individual's death, unless doing so is inconsistent with any known prior expressed preference of the individual. (Pursuant to 45 CFR § 164.510(b)(1).)
16. Disclosures to the individual. (Pursuant to 45 CFR § 164.524.)
17. Disclosures to a business associate, pursuant to a Business Associate Agreement. (Pursuant to 45 CFR § 164.502(e).)
- b. Required disclosures
 1. Pursuant to the HIPAA Privacy Rule, Partnership is required to disclose PHI to the US Department of Health & Human Services when it is undertaking a compliance investigation or review or enforcement action. (45 CFR § 164.502(a)(2))
2. Accounting of Disclosures
 - a. Pursuant to 45 CFR 164.528, upon a member's request, Partnership shall provide an accounting of PHI Disclosures released for a time period not to exceed six (6) years.
 - b. Disclosures excluded from accounting include disclosures:
 - 1) To carry out treatment, Payment and Health care Operations;
 - 2) To individuals of PHI about them;
 - 3) Incidents to a Use or Disclosure otherwise permitted or required;
 - 4) Pursuant to an authorization;
 - 5) To person involved in the individuals care or other notification purposes as provided in 45 CFR section 164.510;
 - 6) For national security or intelligence purposes;
 - 7) To correctional institutions or law enforcement officials;
 - 8) As part of a limited data set; or
 - 9) That occurred prior to the compliance date for Partnership.
 - c. For the facility's directories, as applicable disclosure of PHI is not limited to hard-copy information and may include any information disclosed by other means, such as verbally, electronic data release, or by facsimile.
 - d. Partnership shall temporarily suspend a member's right to receive an accounting of disclosure pursuant to a request from a health oversight agency, or law enforcement official if:
 - 1) Partnership receives a written statement from such agency or official that an accounting to the member would be reasonably likely to impede the agency's activities, and specifying the time for which a suspension is required; or
 - 2) A health oversight agency, or law enforcement official, provides a verbal statement to Partnership, in which case Partnership shall:
 - a) Document the statement, including the identity of the agency, or official, making the statement;
 - b) Temporarily suspend the member's right to an accounting of disclosures subject to the statement; and
 - c) Limit the temporary suspension to no longer than thirty (30) days from the date of the oral statement, unless Partnership received a written request for suspension.

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3. Minimum Use in accordance with DHCS Medi-Cal Contract 23-30236, Exhibit G, Business Associate Addendum (9.2):

- a. Partnership shall maintain appropriate physical, technical, and administrative safeguards to control access to members' health information stored in paper files or stored electronically in Partnership's information systems as provided in 45 CFR section 164.514.
- b. Members of Partnership's workforce shall make every reasonable effort to control unauthorized access to, and to only request, disclose, or use the minimum necessary data to complete health care operations or to carry out any request for member health-related information related to those activities which are for purposes directly connected with the administration of Partnership programs.
- c. Levels of access to information resources for each workforce member shall be based on their organizational role and allowable on a "need to know" basis. Use and disclosure of PHI shall be limited to the minimum amount necessary in order to carry out the job functions of the individual.

4. Use of SOGI/ReaL Data in Medical Decisions

- a. Partnership member disclosure of race/ethnicity, language, gender identity, sexual orientation, and pronoun data does not negatively affect how we make decisions about Medi-Cal benefits or impact member access to covered services. To learn more about how Partnership considers gender identity in our decision-making process, see our policy MCUP3125 Gender Dysphoria/Surgical Treatment

B. Procedure.

1. Accounting of Disclosures:

- a. A member may request an accounting of disclosures of his or her PHI that Partnership released, in the six (6) years prior to the date of the request (or lesser time, if requested), by submitting a Request for an Accounting of Disclosure Form to Regulatory Affairs & Compliance Unit (RAC).
- b. RAC shall:
 - 1) Provide the member with a request for an Accounting of Disclosures Form by U.S. Mail, or direct the member to the online form; and
 - 2) Assist the member in completing the form, if necessary.
- c. RAC shall review a member's request for an accounting of disclosure from members enrolled in the Health Network in coordination with the Health Network, or other Business Associate, as appropriate.
- d. Partnership must provide the member with a written accounting of the disclosures that meet the following requirements:
 - 1) Except as otherwise provided in Sections VI.2.b or 2.d. of this policy, the accounting must include Disclosures of PHI that occurred during the six (6) years, or shorter time period as designated on the member's request, prior to the date of the request for an accounting, including disclosures to or by Partnership's Business Associates.
 - 2) Except as otherwise provided in Section VI.B.1.e of this policy, the accounting must include for each disclosure:
 - a) The date of the disclosure;
 - b) The name of the entity, or person, who received the PHI, and if known, the address of such

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- entity or person;
- c) A brief description of the PHI disclosed; and
- d) A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or in lieu of such statement, a copy of a written request for a disclosure.
- e. If, during the period covered by the accounting, Partnership has made multiple Disclosures of PHI to the same person or entity for a single purpose under 45 CFR section 164.502(a)(2)(ii) or 164.512m the accounting with respect to such multiple disclosures, may provide:
 - 1) The information required by Section VI.B.d.2 of this policy for the first disclosure during the accounting period requested by the member;
 - 2) The frequency, periodicity, or number of disclosures made during the accounting period requested by the member; and
 - 3) The date of the last such disclosure made during the accounting period requested by the member.
- f. RAC shall act on the member's requests pursuant to timeframes established under 45 CFR 164.528 and as follows:
 - 1) Provide the member with the accounting within sixty (60) calendar days after the receipt of the request; or
 - 2) For an extension, the RAC shall, within the sixty (60) calendar days, extend the time by no more than thirty (30) calendar days.
 - a) For an extension, the RAC shall, within the sixty (60) calendar days after receipt of the request, provide the member with a written statement of:
 - i. The reasons for the delay (i.e., why the PHI accounting will not be prepared within sixty (60) calendar days) and
 - ii. The date by which the accounting will be provided;
 - b) RAC shall complete the request within the extended time period. PHC may have only one extension of the time for action on a request for an accounting.
- g. Documentation
 - 1) RAC shall document the request in the RAC tracking database that shall include, but not be limited to:
 - a) Date of request;
 - b) Name of person who processed the request; and
 - c) Date the accounting was released to member.
 - 2) RAC shall maintain a copy of the PHI accounting provided to the member for ten (10) years from the date the request is received and in compliance with Partnership policy and procedure CMP-30 Records Retention and Access Requirements.
- h. Partnership shall provide the member with the first request for an accounting in any twelve (12) month period at no charge. Partnership may charge the member a reasonable, cost-based fee for each future request within the twelve (12) month period, provided that Partnership informs the member in advance of the fee, and offers the member a chance to withdraw, or modify, the request to avoid, or reduce, the fee.
- i. Minimum Use Pursuant to 45 CFR 164.514 when using or disclosing protected health information of Partnership members, make reasonable efforts to limit the amount of information to the "minimum necessary" amount to accomplish the intended purpose.
- j. When requesting protected health information from a provider, do not request the entire medical record of the member unless it is necessary to accomplish the intended purpose.
- k. The "minimum necessary" restriction does not apply to the following uses or disclosures:

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- 1) Disclosures to, or requests by the member who is the subject of the information;
- 2) Disclosures to, or requests by, a health care provider for treatment purposes;
- 3) Disclosures made with the member's authorization;
- 4) Disclosures to the Secretary of Health and Human Services to demonstrate compliance with Federal privacy regulation;
- 5) Uses or disclosures required by law.

VII. REFERENCES:

- A. 45 CFR 164.502, 164.506, 164.510, 164.512, 164.514, 164.525, 164.528
DHCS contract 08-85215, Exhibit G, Business Associate Addendum

VIII. DISTRIBUTION:

- A. PowerDMS
B. Directors

IX. POSITION RESPONSIBLE FOR IMPLEMENTING PROCEDURE:

Privacy Officer

X. REVISION DATES:

Medi-Cal

01/11/2005, 06/18/2010, 12/06/2011, 12/04/2012, 03/26/2013, 12/01/2015, 12/06/2016, 02/22/2018, 05/16/2019, 05/21/2020, 02/18/2021, 12/02/2021, 11/17/2022, 11/16/2023, 11/21/2024

PREVIOUSLY APPLIED TO:

Partnership Advantage:

CMP-13 – 06/01/2006 to 01/01/2015

Healthy Families:

CMP-13 – 10/01/2010 to 03/01/2013

Healthy Kids

CMP-13 – 1/1/2006 to 12/01/2016