

PARTNERSHIP HEALTHPLAN OF CALIFORNIA
POLICY / PROCEDURE

Policy/Procedure Number: CMP30			Lead Department: Administration	
Policy/Procedure Title: Records Retention and Access Requirements			<input checked="" type="checkbox"/> External Policy <input checked="" type="checkbox"/> Internal Policy	
Original Date: 09/04/2012		Next Review Date: 05/16/2025 Last Review Date: 05/16/2024		
Applies to:	<input checked="" type="checkbox"/> Medi-Cal	<input type="checkbox"/> Healthy Kids	<input 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 type="checkbox"/> CEO <input type="checkbox"/> COO	<input type="checkbox"/> CREDENTIALING	<input type="checkbox"/> DEPT. DIRECTOR/OFFICER	
Approval Signature: Sonja Bjork, CEO			Approval Date: 05/16/2024	

I. RELATED POLICIES:

- A. CMP18 Reporting Privacy Incidents and Breach Notifications.
- B. CMP37 Requirements for Offsite Storage and Records Destruction
- C. FIN-900-100-Record Storage

II. IMPACTED DEPTS.:

All.

III. DEFINITIONS:

- A. Authorized designee: an individual given the power to act as a substitute for and make decisions on behalf of another individual
- B. Delegate: An external entity that Partnership HealthPlan of California (PHC) has given the authority to perform an activity/activities that PHC would otherwise perform as defined by the National Committee for Quality Assurance (NCQA) standards.
- C. Network Provider: Pursuant to 42 CFR 438.2 and the Medi-Cal contract by and between PHC and the Department of Health Care Services (DHCS), any provider, group of providers, or entity that has a network provider agreement with PHC or its subcontractor for the delivery, ordering, or referral of Medi-Cal Covered Services.
- D. Phaseout Period: per DHCS contract, means the period of time after the date the Operations Period or Contract extension ends. The Phase-out Period extends until all activities required during the Phaseout Period for each Service Area are fully completed.
- E. Records and documents: include, but are not limited to, physical books or records originated or prepared pursuant to performance under the contract with the Department of Health Care Services (DHCS). This includes working papers, reports submitted to DHCS, financial records, all medical records, medical records and prescription files, and other documentation pertaining to medical and non-medical services rendered to members, regardless of the manner in which the record has been stored.
- F. Subcontractor: A person or entity who enters into a subcontract with PHC. Assessing whether an entity is a Subcontractor depends on the relationship between the entities and the services being performed, not on the type of persons or companies involved. A person or entity is deemed a subcontractor if: 1) they are either a provider of health care services that agreed to furnish Covered Services to PHC Members, or 2) has agreed to perform any administrative function or service for PHC specifically related to fulfilling PHC's obligations to DHCS under the terms of the DHCS/Medi-Cal contract.

IV. ATTACHMENTS:

N/A

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V. PURPOSE:

This policy establishes requirements of Partnership Health Plan of California (PHC), a managed care organization (MCO) and its subcontractors, delegates, and/or providers for retaining and making available premises, contracts, books, documents, records, financial statements, equipment, computers, or other electronic systems, in accordance with contractual obligations and/or federal and state regulations for the purpose of any audit or investigation, of any PHC program. Such records shall be retained pursuant to requirements described under this policy.

VI. POLICY / PROCEDURE:

Policy.

A. Administration of Record Retention

1. The Chief Executive Officer (CEO) or their authorized designee, the Compliance Officer, and the Chief Information Officer are responsible for the administration of record retention processes and procedures governing related activities.

B. Record Retention Timeframes

1. Per DHCS Contract 23-30236 Exhibit A, Attachment III, 1.1.22 PHC and its subcontractors, delegates, and/or providers shall maintain records and documents in accordance with the provisions of this policy and those requirements set forth under applicable regulation as follows:
 - a. A minimum of ten (10) years from the final date of the contract period, from the date of completion of any audit, or from the date the service was rendered, whichever is later for records originated or prepared pursuant to DHCS contractual obligations ;
2. Pursuant to DHCS contract 23-30236, Exhibit A, Attachment III, Section 1.3.4 (A) PHC and its subcontractors and/or delegates shall maintain personnel records for a minimum of six (6) years following termination. Records shall include:
 - a. Annual information security, privacy, and fraud, waste and abuse training;
 - b. Records of validation checks for employee exclusion from the Office of Inspector General (OIG) System for Award Management (SAM) and List of Excluded Individuals/Entities (LEIE) databases;
 - c. Confidentiality statements and/or code of conduct attestations; and
3. Pursuant to DHCS contract 23-30236, Exhibit G, Attachment, Provision I (D) PHC and its subcontractors and/or delegates shall maintain personnel records for a minimum of three (3) years following termination. Records shall include:
 - a. Background check documentation

C. Record Retention Requirements:

1. PHC and its subcontractors, delegates, and/or providers shall retain and make available contracts, books, documents, records, and financial statements, regardless of mechanism in which the materials were produced or retained, in accordance with the provisions of this policy and those requirements set forth under applicable regulation. This includes, but is not limited to:
 - a. Member Grievance and Appeal records as required under Title 42 of the Code of Federal Regulations (CFR) Section 438.416, including:
 - i. A general description of the reason for the appeal or grievance.
 - ii. The date received.
 - iii. The date of each review or, if applicable, review meeting.
 - iv. Resolution at each level of the appeal or grievance, if applicable.
 - v. Date of resolution at each level, if applicable.
 - vi. Name of the covered person for whom the appeal or grievance was filed.
 - b. Base Data defined by 42 CFR 438.5 (c), including:

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- i. Validated encounter data
 - ii. Fee-for-service data as applicable
 - iii. Audited financial reports
- c. Medical Loss Ratio (MLR) reports as required under 42 CFR 438.8(k), including the following information for each MLR reporting year :
 - i. Total incurred claims.
 - ii. Expenditures on quality improving activities.
 - iii. Fraud prevention activities as defined in paragraph (e)(4) of the section.
 - iv. Non-claims costs.
 - v. Premium revenue.
 - vi. Taxes, licensing and regulatory fees.
 - vii. Methodology (ies) for allocation of expenditures.
 - viii. Any credibility adjustment applied.
 - ix. The calculated MLR.
 - x. Any remittance owed to the State, if applicable.
 - xi. A comparison of the information reported in this paragraph with the audited financial report required under § 438.3(m).
 - xii. A description of the aggregation method used under paragraph (i) of this section.
 - xiii. The number of member months.
- d. Data, information, and documentation as required under 42 CFR 438.604, 606, 608, 610, including:
 - i. Encounter data in the form and manner described in § 438.818.
 - ii. Data on the basis of which the State certifies the actuarial soundness of capitation rates to MCO under § 438.4, including base data described in § 438.5(c) that is generated by the MCO
 - iii. Data on the basis of which the State determines the compliance of the MCO with the medical loss ratio requirement described in § 438.8.
 - iv. Data on the basis of which the State determines that the MCO has made adequate provision against the risk of insolvency as required under § 438.116.
 - v. Documentation described in § 438.207(b) on which the State bases its certification that the MCO has complied with the State's requirements for availability and accessibility of services, including the adequacy of the provider network, as set forth in § 438.206.
 - vi. Information on ownership and control described in § 455.104 of this chapter from MCOs, entities, and subcontractors as governed by § 438.230.
 - vii. The annual report of overpayment recoveries as required in § 438.608(d)(3).
 - viii. Attestation for certification of data submitted pursuant to 42 CFR 438.604
 - ix. Administrative and management arrangements or procedures to detect and fervent fraud, waste, and abuse
 - x. Provider screening and enrollment policies, procedures, and activities
 - xi. Disclosures of prohibited affiliations as described under 42 CFR 438.610
 - xii. Disclosures of ownership and control as described under 42 CFR 455.104
 - xiii. Documentation of and policies and procedures governing treatment of recoveries of overpayments to providers
- e. Medical Records and Records or Services Rendered pursuant to Welfare and Institutions (W&I) Code § 14124.1;
- f. Disclosures of member Protected Health Information (PHI) as described under 45 CFR 164.528;
- g. Disclosures of member PHI related to substance use disorder (SUD) services pursuant to 42 CFR §2.13(d) and § 2.31(a)(4)(iii)(B)(3);
- h. Disclosures of member PHI related to mental and behavioral health services pursuant to

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California Welfare and Institutions Code § 5328.6;

- i. As applicable, documentation of member preference in sharing PHI through Health Information Exchanges which PHC facilitates or is a party to;
 - j. Documentation of subcontractor/delegate monitoring and auditing activities;
 - k. Documentation of governing body and it's sub-committee(s) meetings: regular, special, and ad hoc;
 - l. Subcontractor, delegate, support vendor, and provider agreements;
 - m. Documentation pertaining to medical and non-medical services rendered to members; and
 - n. As applicable, documentation of authorized representation or other legal authority as described under Health and Safety Code 123105(e) for any individual to act on behalf of a PHC member
2. All records required to be retained due to pending or threatened litigation or investigation shall be retained as long as the litigation or investigation is active, plus any additional retention period as required pursuant to this policy or applicable regulation.
 3. The requirement for retaining records applies to originating and receiving departments. Where multiple departments are responsible for action related to a single record, those departments should agree and document which department will be responsible for retention of the shared documentation.
 4. Where records are not created by PHC, but used in actions taken by PHC (e.g. medical records for a potential quality issue review), those records should be maintained in accordance with this policy.

D. Standards for Offsite Storage of Records Originated or Received by PHC

1. Offsite storage shall be managed pursuant to PHC policy and procedure CMP-37 PHC Requirements for Offsite Storage and Records Destruction.

E. Standards for Electronic Records

1. All electronic records, including, but not limited to, email sent or received by PHC employees, temporary employees, volunteers, interns, Board Members and PHC subcontractors and delegates in direct relation to operations as described under this policy, are considered record and must be retained according to this policy. In creating records through email, originating parties shall:
 - a. Retain messages for the required retention period, including, but not limited to, names of the sender, recipient, date/time of the message and any attachments must be retained with the message;
 - b. Comply with legal hold requirements of this policy for the retention of emails and fully cooperate with PHC management in responding to legal and PHC requests for email documentation which may be relevant to a claim, litigation or investigation; and
 - c. Refrain from use of third party email providers for PHC business, such as home/personal email accounts or web based email providers (e.g. Yahoo, Gmail). Sending PHI to a personal email account is considered a reportable privacy issue, and must be handled in accordance with PHC policy and procedure CMP-18 Reporting Privacy Incidents.

F. Subcontractor, Delegate, and Provider Agreements

1. Pursuant to DHCS Contract 23-30236 Exhibit A, Attachment III , 3.1.5 Subcontractor and Network Provider agreements shall include language that requires the entity/individual to comply with record retention provisions of this policy and/or applicable federal and state regulations or have terms and conditions that are equal to or exceed those required under this policy. Departments that enter into agreements with subcontractors, and Network Providers or providers are responsible for monitoring compliance with this policy.

G. Inspection Rights

1. Through the end of the minimum records retention period, PHC and its subcontractors,

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delegates, and/or providers, shall provide an authorized agency or its designee, with the required access to premises, contracts, books, documents, records, financial statements, equipment, computers, or other electronic systems at any time during normal business hours for audit and other investigative activities. Authorized entities shall include, but not be limited to:

- a. Centers for Medicare and Medicaid Services (CMS)
 - b. Comptroller General
 - c. Department of Health Care Services (DHCS)
 - d. Department of Managed Health Care (DMHC)
 - e. Department of Justice (DOJ)
 - f. Health and Human Services Office of Inspector General (HHS OIG)
 - g. National Committee for Quality Assurance (NCQA)
 - h. Office of the Attorney General, Division of Medi-Cal Fraud and Elder Abuse (DMFEA)
 - i. Office of Civil Rights (OCR)
2. If any regulatory agency has reason to believe that any of PHC's subcontractors, delegates, and/or providers are responsible for or a party to fraud or similar unlawful activities, those authorized agencies or their authorized designee may audit, inspect, evaluate, or inspect the subcontractor or delegate at any time.
 - a. Upon completion of an investigation by a regulatory agency, the authorized agency retains the authority to suspend or terminate a subcontractor, delegate, or provider from participation in the federal Medicaid program, including, exclusion from participation in the State Medi-Cal Program, seek recovery for overpayments, and impose sanctions, up to required termination of agreement with PHC.

H. Review and Destruction of Documents

1. PHC departments are responsible for the review and purging of records that fall outside of the minimum retention periods described under this policy and applicable regulation.
2. Requests to destroy PHC documentation described under this policy shall be made pursuant to PHC policy and procedure CMP-37 Requirements for Offsite Storage and Records Destruction.

Procedure.

A. Access to Records

1. PHC and its subcontractors, delegates, and/or providers shall provide an authorized entity with the requested and required access to premises, contracts, books, documents, records, financial statements, equipment, computers, or other electronic systems at any time during normal business hours for audit and other investigative activities.

VII. REFERENCES:

- A. 42 CFR 438.3(u)(v)
- B. 42 CFR 438.5(c)
- C. 42 CFR 438.416
- D. 42 CFR 438.8(k)
- E. 42 CFR 438.3(m)
- F. 42 CFR 438.604, 606, 608, 610
- G. 42 CFR 438.818
- H. 42 CFR 438.116
- I. 42 CFR 438.230
- J. 42 CFR 455.104
- K. 42 CFR §2.13(d) and § 2.31(a)(4)(iii)(B)(3)
- L. 45 CFR 164.528

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- M. Health and Safety Code 123105(e)
- N. Welfare and Institutions Code (WIC) § 14124.1
- O. WIC § 5328.6
- P. California Civil Code §2031.060
DHCS Contract 23-30236
- Q. Title 28 California Code of Regulations (CCR) §1300.85.1

VIII. DISTRIBUTION:

- A. PowerDMS
- B. Directors

IX. POSITION RESPONSIBLE FOR IMPLEMENTING PROCEDURE:

Compliance Officer
Chief Executive Officer

X. REVISION DATES:

Medi-Cal:

09/04/2012, 06/01/2016, 05/17/2017, 08/23/2018, 08/15/2019, 08/20/2020, 05/20/2021, 5/19/2022, 5/18/2023, 5/16/2024

PREVIOUSLY APPLIED TO:

Partnership Advantage:

CMP-30 - 09/04/2012 to 01/01/2015
CMP-31 – 06/04/2013 to 01/01/2015

Healthy Families:

CMP-30 - 09/04/2012 to 03/01/2013
CMP-31 – 06/04/2013 to 03/01/2013

Healthy Kids:

CMP-30 - 09/04/2012 to 12/31/2016
CMP-31 – 06/04/2016 to 12/31/2016