

## **4001.0.0 NOTICE OF PRIVACY PRACTICES**

4001.0.1 This establishes instructions to all DHS offices, facilities, programs and workforce members (entities) regarding the provision of a Notice of Privacy Practices to all clients.

4001.0.2 This rule applies to all DHS employees. DHS offices, facilities, programs and workforce members are directed to follow all applicable policies and procedures found in the Health Insurance Portability and Accountability Act (HIPAA) Policies and Procedures Manual. Failure to comply with this rule and its reference documents will result in disciplinary sanctions as defined by the HIPAA Policy and Procedures Manual and in **Policy 1084, Employee Discipline**.

### **4001.1.0 Authority**

HIPAA Standards for Privacy of Individually Identifiable Health Information 45 CFR Part 164 Section 164.520 Notice of Privacy Practices for Protected Health Information. To issue instructions to all DHS offices, facilities, programs and workforce members (“entities”) regarding the Department’s obligations relating to the implementation of HIPAA, 42 U.S.C. §§ 1320d-1329d-8, and regulations promulgated thereunder, 45 CFR Parts 160 and 164.

### **4001.2.0 Definitions**

4001.2.1 Protected Health Information (PHI) - individually identifiable information relating to past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual.

4001.2.2 Workforce Members - employees, volunteers, trainees, and other persons whose conduct, in the performance of work for DHS, its offices, programs or facilities, is under the direct control of DHS, regardless of whether they are paid by the entity.

4001.2.3 Covered Entity (CE) – a health plan that provides, or pays the cost of medical care, a health care clearinghouse, or a health care provider.

4001.2.4 Treatment, Payment and Operations (TPO):

- Treatment – the provision, coordination, or management of health care and related services, consultation between providers relating to an individual, or referral of an individual to another provider for health care.
- Payment – activities undertaken to obtain or provide reimbursement for health care, including determinations of eligibility or coverage, billing, collection activities, medical necessity determinations and utilization review.
- Operations – functions such as quality assessment and improvement activities, reviewing competence or qualifications of health care professionals, conducting or

arranging for medical review, legal services and auditing functions, business planning and development, and general business and administrative activities.

#### **4001.3.0 Policy**

An individual has a right to adequate notice of the uses and disclosures of his/her PHI that may be made by or on behalf of a CE, and of the individual's rights and the CE's legal duties with respect to his/her PHI.

#### **4001.4.0 Notice of Primacy Practices**

4001.4.1 DHS will make available a copy of the **DHS Pub 407**, Notice of Privacy Practices, to any client applying for or receiving services from DHS.

4001.4.2 The Notice of Privacy Practices shall contain all information required under federal regulations regarding the notice of privacy practices for protected health information under HIPAA.

4001.4.3 Where DHS is a CE, DHS will seek to acquire a signed DHS **XXXX**, Notice of Privacy Practices Acknowledgement of Receipt, from each client.

4001.4.4 Provision of Notice: Department facilities and programs must provide individuals with the notice, and obtain the individual's written acknowledgement of receipt, or document attempts to obtain such acknowledgement, no later than the date of the first service delivery. The receipt of acknowledgement will be maintained in the client file or casehead file. Additionally, the notice in effect (original notice or any subsequent revisions) must be prominently posted at each DHS County Office and copies must be available for individuals at the County Office or upon request. .

4001.4.5 The privacy notice will also be posted on the DHS website and available electronically from the website.

4001.4.6 Revisions to Notice: DHS will promptly revise and distribute the privacy notice whenever there is a material change to the uses or disclosures, the individual's rights, the CE's legal duties, or other privacy practices described in the notice. Except when required by law, a material change to any term may not be implemented prior to the effective date of the notice reflecting the change.

4001.4.7 Documentation Requirements: DHS will retain copies of notices issued for a period of at least six years from the later of the date of creation or the last effective date and each facility and program will retain documentation of individuals acknowledgement of receipt, or refusal to acknowledge receipt, of the privacy notice for a period of at least six years.

**4001.5.0 Attachments to Policy**

- Notice of Privacy Practices Acknowledgement of Receipt Form
- Notice of Privacy Practices

**4001.6.0 Originating Section/Department Contact**

Office of Chief Counsel  
Donaghey Plaza South  
P. O. Box 1437, Slot S260  
Little Rock, AR 72203-1437  
Telephone: (501) 682-8934

**4004.0.0 MITIGATION OF VIOLATIONS OF PRIVACY RIGHTS**

**4004.1.0 Duty to mitigate violations of privacy rights guaranteed under HIPAA**

As required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Department of Human Services (DHS) shall mitigate any known harmful effect(s) of uses or disclosures of Protected Health Information made by DHS or its business associates in violation of HIPAA or DHS policy related to privacy rights granted by HIPAA. (45 CFR § 164.530 (f))

**4004.2.0 Mitigation**

Mitigation means taking all appropriate actions listed below if a DHS Client's HIPAA privacy rights have been violated.

- A. Notifying any unintended or unauthorized recipient(s) of Protected Health Information (including by e-mail or fax) and requesting them to disregard, keep confidential, not reveal, and discreetly dispose of said information.
- B. Investigating the causes of the disclosure.
- C. Taking corrective action, including:
  - 1. Sanctioning personnel for unauthorized use or disclosure of client information in accordance with DHS Policy.
  - 2. Training or retraining as necessary.
  - 3. Correcting faulty processes.

**4004.3.0 Originating Section/Department Contact**

Office of Chief Counsel  
Donaghey Plaza South  
P. O. Box 1437, Slot S260  
Little Rock, AR 72203-1437  
Telephone: (501) 682-8934

## **4005.0.0 DHS PROTECTED HEALTH INFORMATION COMPLAINT PROCEDURE**

This policy establishes Department of Human Services (DHS) procedures to complain to DHS or to the Secretary of the Department of Health and Human Services regarding violations of privacy rights granted under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Privacy Rules found at 45 CFR Parts 160 and 164. This policy is applicable to all DHS clients and their legal representatives.

### **4005.1.0 Privacy Rights Under HIPAA Generally**

DHS clients and their legal representatives (DHS clients) have certain rights guaranteed under HIPAA pertaining to the safeguarding of the privacy of their Protected Health Information (PHI) retained by or created by DHS and its agencies. The legal representatives of DHS clients may exercise these rights on behalf of the DHS client they represent. References to clients therefore includes legal representatives of clients. These rights generally include the following:

- 4005.1.1 Use and disclosure of a client's PHI by DHS and its agencies will be limited to those who have a need to know, and the amount of PHI disclosed will be the minimum necessary to accomplish the purpose of the communication. (See DHS Policy No. XXXX)
- 4005.1.2 Clients have the right to request restrictions on the use and disclosure of their PHI during activities of treatment, payment of claims, and operations. (See DHS Policy No. XXXX)
- 4005.1.3 Clients may request DHS to send their information to a certain address and package it in a certain way or send it by a certain medium. (See DHS 4008)
- 4005.1.4 Clients have the right to inspect and copy their PHI. (See DHS Policy No. XXXX)
- 4005.1.5 Clients have the right to request DHS amend their patient information. (See DHS Policy No. XXXX)
- 4005.1.6 Clients have the right to request and receive an accounting of disclosures of their PHI. (See DHS 4001)
- 4005.1.7 Clients have the right to receive a written copy of the DHS Notice of Privacy Practices. (See DHS Policy XXXX)
- 4005.1.8 Clients have the right to request that DHS not disclose their PHI to certain parties. (See DHS Policy No. XXXX)
- 4005.1.9 Clients have the right to file complaints regarding violations by DHS of their privacy rights granted to them and created by HIPAA. (See DHS Policy 4005)
- 4005.1.10 Clients have the right to require that DHS refrain from any activity that may intimidate, threaten, coerce, discriminate against them for exercising their rights under HIPAA. (See DHS Policy No. XXXX)

#### **4005.2.0 Client's Right to File a Complaint for Violation of HIPAA Privacy Rights**

Any client or legal representative of a client may complain to DHS or the United States Department of Health and Human (DHHS) services of violations by DHS of the client's privacy rights granted by HIPAA.

#### **4005.3.0 Requirements for Filing a Complaint**

All Complaints must meet the following requirements:

- A. A Complaint must be made in writing, either on paper or electronically.

The Complainant may use the DHS Complaint form for convenience or may personally compose his or her complaint in his or her own words. DHS will recognize complaints filed in either form.

- B. A Complaint must name the covered entity that is subject of the complaint and describe the acts or omissions believed to be in violation of HIPAA privacy rights.

- C. A Complaint must be filed within 180 days of when the complainant knew or should have known that the act or omission complained of occurred, unless this time limit is waived by either DHS or DHHS for good cause shown.

#### **4005.4.0 Filing the Complaint**

Complaints made in accordance with the previous section may be made to the following persons:

- A. DHS Privacy Officer: (state of Arkansas)

DHS Privacy Officer  
Department of Human Services  
P.O. Box 1437, Mail Slot \_\_\_\_\_  
Little Rock, Arkansas 72203-1437  
Ph: 1 800 XXX XXXX

- B. U.S. Secretary of Department of Health and Human Services (federal)

**U.S. Department of Health and Human Services**  
**Office for Civil Rights**  
Medical Privacy, Complaint Division  
200 Independence Avenue, SW  
HHH Building, Room 509H  
Washington, D.C. 20201  
Phone: 866-627-7748  
TTY: 886-788-4989 Email: [www.hhs.gov/ocr](http://www.hhs.gov/ocr)

**4005.5.0 Investigating the Complaint**

4005.5.1 The DHS Privacy Officer shall investigate each complaint submitted to him or her, and report his or her findings to the complainant in writing within 60 days from the date the complaint was received.

4005.5.2 The DHS Privacy Officer will document all complaints and their disposition, if any, in the Complainant's DHS file, and in a separate file for Complaints made pursuant to privacy and confidentiality rights.

**4005.6.0 Originating Section/Department Contact**

Office of Chief Counsel  
Donaghey Plaza South  
P. O. Box 1437, Slot S260  
Little Rock, AR 72203-1437  
Telephone: (501) 682-8934

## **4006.0.0 HIPPA PRIVACY REQUIREMENTS IN THE USE OF EMAIL AND FACSIMILE SERVICES**

### **4006.1.0 Purpose**

4006.1.1 Electronic mail (E-mail), Internet access, and Facsimile (Fax) services are made available to DHS staff for the purpose of facilitating the conduct of DHS business and enabling the efficient communication of information and data.

4006.1.2 These services must be used by DHS staff in a manner that conforms to all applicable state and federal laws, regulations and policies. Each DHS employee is responsible for ensuring the privacy of Protected Health Information (PHI).

### **4006.2.0 Email Procedures**

4006.2.1 **Approved Methods of Conveyance:** All email messages, containing Protected Health Information (PHI)(as defined below) and sent by DHS staff to destinations within the state's email system, must be sent using the encrypted WebAccess email interface. Sending of email messages, containing PHI, to destinations outside the state's email system is not secure and is prohibited; such messages must be sent by Fax, employing the privacy safeguards outlined in 1091.4.0 below. Conveyance of large electronic files requires secure media sharing (password protected files on disk or CD) or conveyance by a secure transfer protocol; consult with Office of Systems & Technology for assistance.

4006.2.2 **Content Requirements:** Any E-mail message generated by DHS staff that contains PHI shall conform to the following requirements:

4006.2.3 **E-mail Subject Line:** For messages containing PHI, the subject line shall state, in whole or in part, "CONTAINS PROTECTED INFORMATION".

4006.2.4 **E-mail Addressees:** E-mail messages may be sent, copied, or forwarded *only* to those persons who have a *need to know* the patient information. Global, group, or broadcast addresses *should not be used* when sending E-mail messages that contain PHI. The purpose of this requirement is to avoid inadvertent disclosure to addressees who lack a need to know the Protected information.

4006.2.5 **E-mail Message:** At the bottom of the message the following privacy warning must be displayed: "Confidentiality Notice: The information contained in this email message and any attachment(s) is the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to whom this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying or distribution this transmission is STRICTLY PROHIBITED. The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return and delete the message and attachment(s) from your system."

- 4006.2.6 **Minimum necessary content:** E-mail messages containing PHI shall contain only the *minimum necessary* information to accomplish the purpose of the communication.
- 4006.2.7 **Unsecured Email Requirements:** When originating messages in the state's unsecured email system (ie. Not WebAccess), users are required to review messages, and attachments, and must expunge all information that may be defined as PHI. Such review is required not only for messages authored by the user but also for forwarded messages and all the messages in the forwarded strings.
- 4006.2.8 **User Hard Drives:** Hard drives must also be protected from PHI disclosure. Use of Personal Folders (Microsoft Outlook) creates a file on the local hard drive which may be exposed to the Internet through the use of file sharing applications (eg. Napster, Swapnut, Gnutilla, etc.) and the efforts of malicious hackers. Installation of third party file sharing applications is prohibited. DHS employees must expunge PHI from Personal Folders in their Outlook account.
- 4006.3.0 Fax Procedure**
- 4006.3.1 **Approved Methods of Conveyance:** All Fax messages, containing Protected Health Information (PHI)(as defined below) and sent by DHS staff to any destination, must be safeguarded for confidentiality and privacy in accordance with federal and state law, and must employ privacy safeguards outlined in this section. Faxes may be sent only to a specific person for whom such release has been determined to be authorized. It should be established, by prior telephone contact, that a specific person is present to receive the transmitted fax.
- 4006.3.2 **Content Requirements:** Fax messages shall utilize a cover sheet with the word CONFIDENTIAL appearing in bold letters near the top of the form. Further, all such Faxes must include a statement regarding prohibition of disclosure of identifying PHI. The statement shall read as follows:
- Prohibition of Redisclosure: This information has been disclosed to you from records that are confidential. You are prohibited from using the information for other than the stated purpose; from disclosing it to any other party without the specific written consent of the person to whom it pertains; and are required to destroy the information after the stated need has been fulfilled, or as otherwise permitted by law. A general authorization for the release of medical or other information is not sufficient for this purpose.*
- 4006.4.0 Protected Health Information Defined – HIPAA (Health Insurance Portability and Accountability Act of 1996)**
- 4006.4.1 Protected Health Information (PHI) is health information which: (1) Identifies an individual or offers a reasonable basis for identification; (2) Is created or received by a covered entity or an employer; and (3) Relates to past, present, or future physical or mental health condition, provision of health care, or payment for health care; And which has been electronically transmitted or electronically maintained by a covered entity and includes such information in any other form. To be PHI, the information must (1) relate to a person's physical or mental health, the provision of health care, or the

payment of healthcare; (2) Identify, or could be used to identify, the person who is the subject of the information; (3) Be created or received by a covered entity; (4) Be transmitted or maintained in any form or medium, electronic, written, or oral.

4006.4.2 **Examples of PHI:** First and last names; Geographic subdivisions smaller than a state, including street address, city, county, precinct, zip code; Dates, including birth date, admission date, discharge date, date of death, all ages over 89; Telephone numbers, fax numbers, e-mail addresses; Social Security numbers; Medical record numbers; Health plan beneficiary numbers; Account numbers; Certificate/license numbers; Vehicle identification numbers, serial numbers, driver's license number, license plate number; Device identifiers and serial numbers; Web Universal Resource Locators (URLs); Internet Protocol (IP) address numbers; Biometric identifiers, including finger and voice prints; Full face photographic images and any comparable images; Any other unique identifying number, characteristic, or code.

#### 4006.5.0 **Discipline for Violation of Policy**

Supervisors will follow DHS Policy 1084, Employee Discipline, to determine the appropriate discipline for conduct violations and imposing disciplinary actions.

#### 4006.6.0 **Department Contact**

Any questions concerning this DHS policy should be directed to:

Office of Chief Counsel  
Donaghey Plaza South  
P. O. Box 1437, Slot S260  
Little Rock, AR 72203-1437  
Telephone: (501) 682-8934

## **4007.0.0 DE-IDENTIFIED PROTECTED HEALTH INFORMATION/FREEDOM OF INFORMATION ACT**

The Department of Human Services (DHS) has established a uniform method and system for responding to requests for access to or copies of records as required under the Arkansas Freedom of Information (FOI) Act codified beginning at Ark. Code Ann. 25-19-104. As established under DHS policy DHS 1053.4.0 some information is exempt from disclosure and specifically, DHS policy 1053.4.13 exempts disclosure if “Other state and federal laws prohibit disclosure of client identifying information.” The Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects disclosure of Protected Health Information or (PHI) and also necessitates the need to de-identify PHI.

### **4007.1.0 Definition**

4007.1.1 Protected Health Information (PHI) is health information which:

- Identifies the individual or offers a reasonable basis for identification
- Is created or received by a covered entity or an employer; and
- Relates to past, present, or future
  - Physical or mental health or condition
  - Provision of health care or
  - Payment for health care

AND has been electronically transmitted or electronically maintained by a covered entity and includes such information in any other form. To be PHI, the information must:

- Relate to a person’s physical or mental health, the provision of health care, or the payment of healthcare
- Identify, or could be used to identify, the person who is the subject of the information
- Be created or received by a covered entity
- Be transmitted or maintained in any form or medium
  - Electronic
  - Written, or
  - Oral

4007.1.2 DHS’s policy is to de-identify PHI to meet FOI requests received by the department. This policy adheres to 45 CFR Part 164 Section 164.502 (d) and Section 164.514 (a) and (b) addressing de-identification of Protected Health Information (PHI).

### **4007.2.0 Definition**

4007.2.1 De-identified PHI is health information from which identifiers have been removed so that the health information is no longer identifiable to any individual.

4007.2.2 Individual identifiers that would be removed or redacted to de-identify PHI include, without limitation, the following:

A. Names

All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census:

1. The geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and
2. The initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000.

B. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death, and ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older

C. Telephone numbers

D. Fax numbers

E. Electronic mail addresses

F. Social security numbers

G. Medical record numbers

H. Health plan beneficiary numbers

I. Account numbers

J. Certificate/license numbers

K. Vehicle identifiers and serial numbers, including license plate numbers

L. Device identifiers and serial numbers

M. Web Universal Resource Locators (URL's)

N. Internet Protocol (IP) address numbers

O. Biometric identifiers, including finger and voice prints

P. Full face photographic images and any comparable images

Q. Any other unique identifying number, characteristic, or code, except as permitted to re-identify protected health information; and

4007.2.3 Once health information is properly de-identified, there no longer exists a reasonable probability the information could be used alone or in combination with other information to identify any individual who is the subject of the information.

**4007.3.0 Usage**

4007.3.1 PHI shall be de-identified when the source of the data request is outside of DHS operations or the source is required to comply with a FOI request.

4007.3.2 If anyone within DHS is unsure if PHI has been de-identified according to HIPAA guidelines then that person should seek approval from the DHS privacy officer.

4007.3.3 Failure to comply with this policy will result in disciplinary action as defined in Policy 1084, Employee Discipline.

**4007.4.0 Department Contact**

Office of Chief Counsel  
Donaghey Plaza South  
P. O. Box 1437, Slot S260  
Little Rock, AR 72203-1437  
Telephone: (501) 682-8934

## **4008.0.0 CONFIDENTIAL COMMUNICATIONS REQUIREMENTS**

### **4008.1.0 Purpose**

To enable Department of Human Services (DHS) clients/employees to request receiving communications of protected health information from DHS by alternative means or to an alternate locations.

### **4008.2.0 Authority**

HIPAA Standards for Privacy of Individually Identifiable Health Information 45 CFR Part 164 Section 164.522 (b) Confidential communications requirements.

### **4008.3.0 Applicability**

This rule applies to all DHS employees. DHS offices, facilities, programs and workforce members are directed to follow all applicable policies and procedures found in the DHS Policies and Procedures Manual. Failure to comply with this rule and its reference documents may result in disciplinary sanctions as defined in Policy 1084, Employee Discipline.

### **4008.4.0 Definitions**

#### **4008.4.1 Protected Health Information (PHI) is health information which:**

- Identifies the individual or offers a reasonable basis for identification
- Is created or received by a covered entity or an employer; and
- Relates to past, present, or future
  - Physical or mental health or condition
  - Provision of health care or
  - Payment for health care

AND has been electronically transmitted or electronically maintained by a covered entity and includes such information in any other form. To be PHI, the information must:

- Relate to a person's physical or mental health, the provision of health care, or the payment of healthcare
- Identify, or could be used to identify, the person who is the subject of the information
- Be created or received by a covered entity
- Be transmitted or maintained in any form or medium
  - Electronic
  - Written, or
  - Oral

4008.4.2 **Workforce Members** - employees, volunteers, trainees, and other persons whose conduct, in the performance of work for DHS, its offices, programs or facilities, is under the direct control of DHS, regardless of whether they are paid by the entity.

4008.4.3 **Covered Entity (CE)** – a health plan that provides, or pays the cost of, medical care, a health care clearinghouse, or a health care provider.

#### **4008.5.0 Policy**

4008.5.1 DHS must permit clients and employees to request and must accommodate reasonable requests by clients and employees to receive communications of protected health information (PHI) from DHS by alternative means or at alternative locations. Examples of such requests may include mailing PHI to an alternate address specified by the individual, transmission of such information to a specific phone number by facsimile, or transmission of such information via e-mail, etc.

4008.5.2 The Department is not required to accommodate unreasonable requests for alternate delivery of PHI. Examples of such requests may include asking for delivery of PHI by registered or certified mail, or requesting that PHI be hand carried to the client to an off-site location.

#### **4008.6.0 Procedures**

The following procedures will be implemented to ensure that this policy is enforced effectively across all parts of the organization.

A. The client/employee must request to receive PHI from DHS by alternate means or to an alternate location and must specify the preferred alternate means or location. Requests for alternate means of transmitting PHI or delivery to an alternate location may be made orally or in writing. Telephone requests for alternate delivery of PHI should have a second party confirmation of the client's identify and requested change. This may be accomplished by having another employee listening to the client's request or having the employee confirm the client's request after it is made.

1. If the request is made orally, DHS staff must document the request and ask for the client/employee's signature.
2. If the request is made by telephone or by electronic media, DHS staff must document the request and verify the identity of the requestor.
3. Documented client/employee requests for alternate means of delivery or alternate locations for delivery of PHI will be filed in the client/employee record and appropriate updates will be made to the client/employee's record (case file, medical record, electronic database, etc.).

B. Prior to sending any PHI to a client/employee, DHS staff will review the client/employee's record to confirm whether the client/employee has requested that PHI be sent by alternate means or to an alternate location.

- C. DHS will forward PHI to the client in accord with the client/employee's preferred means or location when requested or to his current mailing address, as appropriate.
- D. DHS may terminate its agreement to deliver PHI via alternate means or to an alternate location if:
  - 1. The client/employee agrees to or requests termination of the alternate delivery location or method of communication in writing or orally. DHS staff must document the request or oral agreement in the client/employee's record.
  - 2. Use of the alternative delivery location or method of communication is not effective (i.e. DHS is unable to contact the client/employee at the location or in the manner requested by the client/employee). In this instance, DHS must inform the client/employee that it is terminating its agreement to alternative means or location of delivery of PHI and provide the reason(s) for termination of the agreement.
- E. DHS must retain all documentation related to requests for alternative means of delivery of PHI or alternate delivery location for PHI for a minimum period of six years.

#### **4008.7.0 Program Coordination**

4008.7.1 The DHS representative handling the client/employee request for delivery of PHI by alternate means or to an alternate location will determine (with the assistance of the client/employee) the other Divisions/Offices within DHS that may hold protected health information on the individual. When affected Divisions/Offices are determined, the representative will forward a copy of the request for alternate delivery of PHI to the privacy official of each Division/Office and to the Department's Privacy Officer.

4008.7.2 When the client/employee terminates the request for alternate delivery of PHI, or it is determined that the alternate method of delivery is unreliable (i.e. mail has been returned, FAX machine number has been disconnected or has no FAX to receive messages, etc.), the representative will notify:

- A. The client/employee of the termination of alternate delivery of PHI
- B. All affected Divisions/Offices of the termination of the alternate delivery method
- C. The Department's Privacy Officer.

#### **4008.8.0 Originating Section/Department Contact**

DHS Privacy Official  
Donaghey Plaza South  
P. O. Box 1437, Slot S201  
Little Rock, AR 72203-1437  
Telephone: (501) 682-8650

## **4008.0.0 CONFIDENTIAL COMMUNICATIONS REQUIREMENTS**

### **4008.1.0 Purpose**

To enable Department of Human Services (DHS) clients/employees to request receiving communications of protected health information from DHS by alternative means or to an alternate locations.

### **4008.2.0 Authority**

HIPAA Standards for Privacy of Individually Identifiable Health Information 45 CFR Part 164 Section 164.522 (b) Confidential communications requirements.

### **4008.3.0 Applicability**

This rule applies to all DHS employees. DHS offices, facilities, programs and workforce members are directed to follow all applicable policies and procedures found in the DHS Policies and Procedures Manual. Failure to comply with this rule and its reference documents may result in disciplinary sanctions as defined in Policy 1084, Employee Discipline.

### **4008.4.0 Definitions**

#### **4008.4.1 Protected Health Information (PHI) is health information which:**

- Identifies the individual or offers a reasonable basis for identification
- Is created or received by a covered entity or an employer; and
- Relates to past, present, or future
  - Physical or mental health or condition
  - Provision of health care or
  - Payment for health care

AND has been electronically transmitted or electronically maintained by a covered entity and includes such information in any other form. To be PHI, the information must:

- Relate to a person's physical or mental health, the provision of health care, or the payment of healthcare
- Identify, or could be used to identify, the person who is the subject of the information
- Be created or received by a covered entity
- Be transmitted or maintained in any form or medium
  - Electronic
  - Written, or
  - Oral

4008.4.2 **Workforce Members** - employees, volunteers, trainees, and other persons whose conduct, in the performance of work for DHS, its offices, programs or facilities, is under the direct control of DHS, regardless of whether they are paid by the entity.

4008.4.3 **Covered Entity (CE)** – a health plan that provides, or pays the cost of, medical care, a health care clearinghouse, or a health care provider.

#### **4008.5.0 Policy**

4008.5.1 DHS must permit clients and employees to request and must accommodate reasonable requests by clients and employees to receive communications of protected health information (PHI) from DHS by alternative means or at alternative locations. Examples of such requests may include mailing PHI to an alternate address specified by the individual, transmission of such information to a specific phone number by facsimile, or transmission of such information via e-mail, etc.

4008.5.2 The Department is not required to accommodate unreasonable requests for alternate delivery of PHI. Examples of such requests may include asking for delivery of PHI by registered or certified mail, or requesting that PHI be hand carried to the client to an off-site location.

#### **4008.6.0 Procedures**

The following procedures will be implemented to ensure that this policy is enforced effectively across all parts of the organization.

- A. The client/employee must request to receive PHI from DHS by alternate means or to an alternate location and must specify the preferred alternate means or location. Requests for alternate means of transmitting PHI or delivery to an alternate location may be made orally or in writing. Telephone requests for alternate delivery of PHI should have a second party confirmation of the client's identify and requested change. This may be accomplished by having another employee listening to the client's request or having the employee confirm the client's request after it is made.
  - 1. If the request is made orally, DHS staff must document the request and ask for the client/employee's signature.
  - 2. If the request is made by telephone or by electronic media, DHS staff must document the request and verify the identity of the requestor.
  - 3. Documented client/employee requests for alternate means of delivery or alternate locations for delivery of PHI will be filed in the client/employee record and appropriate updates will be made to the client/employee's record (case file, medical record, electronic database, etc.).
- B. Prior to sending any PHI to a client/employee, DHS staff will review the client/employee's record to confirm whether the client/employee has requested that PHI be sent by alternate means or to an alternate location.

- C. DHS will forward PHI to the client in accord with the client/employee's preferred means or location when requested or to his current mailing address, as appropriate.
- D. DHS may terminate its agreement to deliver PHI via alternate means or to an alternate location if:
  - 1. The client/employee agrees to or requests termination of the alternate delivery location or method of communication in writing or orally. DHS staff must document the request or oral agreement in the client/employee's record.
  - 2. Use of the alternative delivery location or method of communication is not effective (i.e. DHS is unable to contact the client/employee at the location or in the manner requested by the client/employee). In this instance, DHS must inform the client/employee that it is terminating its agreement to alternative means or location of delivery of PHI and provide the reason(s) for termination of the agreement.
- E. DHS must retain all documentation related to requests for alternative means of delivery of PHI or alternate delivery location for PHI for a minimum period of six years.

#### **4008.7.0 Program Coordination**

4008.7.1 The DHS representative handling the client/employee request for delivery of PHI by alternate means or to an alternate location will determine (with the assistance of the client/employee) the other Divisions/Offices within DHS that may hold protected health information on the individual. When affected Divisions/Offices are determined, the representative will forward a copy of the request for alternate delivery of PHI to the privacy official of each Division/Office and to the Department's Privacy Officer.

4008.7.2 When the client/employee terminates the request for alternate delivery of PHI, or it is determined that the alternate method of delivery is unreliable (i.e. mail has been returned, FAX machine number has been disconnected or has no FAX to receive messages, etc.), the representative will notify:

- A. The client/employee of the termination of alternate delivery of PHI
- B. All affected Divisions/Offices of the termination of the alternate delivery method
- C. The Department's Privacy Officer.

#### **4008.8.0 Originating Section/Department Contact**

DHS Privacy Official  
Donaghey Plaza South  
P. O. Box 1437, Slot S201  
Little Rock, AR 72203-1437  
Telephone: (501) 682-8650

# ARKANSAS DEPARTMENT OF HUMAN SERVICES

## Access to Records Request Form

*(For use by DHS clients requesting access to records.)*

Client Name: \_\_\_\_\_ Client ID #: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
 \_\_\_\_\_ Case Head: \_\_\_\_\_  
 Record Holder: \_\_\_\_\_ Type of Record: \_\_\_\_\_  
 Location of Record: \_\_\_\_\_

If you are asking for access to your records or the records of a person for whom you are the custodian or personal representative, please consider the following:

- You may ask to access, look at or get information that is in DHS records.
- DHS cannot give you access to psychotherapy notes.
- DHS may deny you access to information if someone other than a health care provider gave it to DHS. Such information cannot be disclosed under the Arkansas Freedom of Information Act.
- You will have an answer to your request within 30 days. If the information is not at this location, you will have an answer within 60 days. If there are delays in getting you the answer, you will be told. The delay will not be more than 30 days. You will receive an answer in writing.

I am asking for access to information for myself or for someone for whom I am the custodian or legal guardian for the following time period:

From: \_\_\_\_\_ To: \_\_\_\_\_  
 Print Name: \_\_\_\_\_

\_\_\_\_\_  
Signature Date

<b>FOR DHS USE</b>		
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Delayed
Comments: _____		
_____		
_____		
DHS Representative Signature		Date

*(See other side for client rights information)*

# **ARKANSAS DEPARTMENT OF HUMAN SERVICES**

## **Access to Records Request Form**

*(For use by DHS clients requesting access to records.)*

### **Your Right to Access Information:**

- You have a right to request access, look at or get information about yourself or for someone who is in your custody or for whom you are the personal representative that is in DHS records.
- You may be charged a fee, if you have accessed the same information within the past year.
- Your request may be denied if professionals involved in the case believe that access to the information could be harmful to you or others.
- The reviewer must decide, within a reasonable time, whether to approve or deny your request. You will get an answer in writing. The answer will include the reason for the decision.

You have a right to file a privacy complaint:

Individuals can file privacy complaints with either DHS or with the U.S. Department of Health and Human Services, Office for Civil Rights.

Privacy complaints may be directed to any of the following:

#### **Arkansas Department of Human Services**

DHS Privacy Official  
P.O. Box 1437 Mail Slot S201  
Little Rock, Arkansas 72203-1437  
Phone: 500-682-8650  
Email: [Privacyofficial@mail.state.ar.us](mailto:Privacyofficial@mail.state.ar.us)

#### **U.S. Department of Health and Human Services, Office for Civil Rights**

Medical Privacy, Complaint Division  
200 Independence Avenue, SW  
HHH Building, Room 509H  
Washington, D.C. 20201  
Phone: 866-627-7748  
TTY: 886-788-4989  
Email: [www.hhs.gov/ocr](http://www.hhs.gov/ocr)

<p>This document is available in other languages and alternate formats that meet the guidelines for the Americans with Disabilities Act (ADA). Contact DHS at: Phone 501-582-8920, TDD 501-682-8933 or Fax 501-682-8884.</p>
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**ARKANSAS DEPARTMENT OF HUMAN SERVICES**  
**Termination of Alternate Delivery of PHI**

*Date*

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*Mailing Address*

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*Mailing Address*

---

*Mailing Address*

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Re: *HR#*

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Dear Mr./Ms. *Name*

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Your request for alternate delivery of your protected health information has been terminated. Attempts to deliver your protected health information in the manner that you requested have been unsuccessful as indicated below:

- Mail sent to the alternate address that you provided has been returned as undeliverable.
  - The telephone number to your facsimile machine has been disconnected.
  - There is no operable facsimile machine at the telephone number that you provided for delivery.
  - E-mail sent to the address that you provided has been returned as undeliverable.
  - Other reason as follows: \_\_\_\_\_
- 
- 

*You have a right to file a privacy complaint concerning the termination of alternate delivery of your protected health information. Individuals can file privacy complaints with either DHS or with the U.S. Department of Health and Human Services, Office for Civil Rights. Privacy complaints may be directed to any of the following:*

DHS Privacy Official  
Arkansas Department of Human Services  
PO Box 1437, Slot S201  
Little Rock, Arkansas 72201-1437  
Phone: 501-682-8650  
Fax: 501-682-6836  
TDD: 501-682-7958  
Email: [PrivacyOfficial@mail.state.ar.us](mailto:PrivacyOfficial@mail.state.ar.us)

**U.S. Department of Health and Human Services**  
**Office for Civil Rights**  
Medical Privacy, Complaint Division  
200 Independence Avenue, SW  
HHH Building, Room 509H  
Washington, D.C. 20201  
Phone: 866-627-7748  
TTY: 886-788-4989 Email: [www.hhs.gov/ocr](http://www.hhs.gov/ocr)

Sincerely,

*DHS Representative Signature*  
\_\_\_\_\_  
*Title*  
\_\_\_\_\_

# ARKANSAS DEPARTMENT OF HUMAN SERVICES

## Confidential Communications

(For requests to receive protected health information via an alternate means or to receive protected health information at an alternate location.)

Client Name: \_\_\_\_\_ Client ID #: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
\_\_\_\_\_ Case Head: \_\_\_\_\_  
Record Holder: \_\_\_\_\_ Date of Request: \_\_\_\_\_  
Location of Record: \_\_\_\_\_

I am a client or a legal representative of a client of the Department of Human Services.

I am an employee or legal representative of an employee of the Department of Human Services.

To maintain confidentiality of health information that I may request from the Department of Human Services, I request that all protected health information concerning myself or any other individuals that I am legally entitled to represent be sent to me as follows:

1. By mail to the following address: \_\_\_\_\_
2. By mail, using a plain envelope with no return address, to the following address: \_\_\_\_\_
3. By facsimile (FAX) to the following phone number: \_\_\_\_\_
4. By e-mail to the following address\*: \_\_\_\_\_
5. By other means as follows: \_\_\_\_\_

\* If e-mail is the selected mode of delivery for protected health information, the Department of Human Services cannot guarantee the security of the information transmission.

I understand that the Department of Human Services must accommodate reasonable requests for alternate delivery of my protected health information to me. I also understand that DHS may terminate this accommodation at my request or if the delivery method that I have specified does not prove to be an effective means for delivery of my protected health information.

\_\_\_\_\_  
Signature of Client/Employee or Client/Employee's Legal Representative

\_\_\_\_\_  
Date

### FOR DEPARTMENT OF HUMAN SERVICES INTERNAL USE ONLY

Date Request Received \_\_\_\_\_

Alternate Delivery Means Annotated in record.

\_\_\_\_\_  
DHS Representative Signature

\_\_\_\_\_  
Date

Copy To (Privacy Officer and all other Divisions/Office who hold client/employee PHI):

<input checked="" type="checkbox"/> DHS Privacy Officer	<input type="checkbox"/> DHS Office of Administrative Services	<input type="checkbox"/> DHS Office of Chief Council
<input type="checkbox"/> DHS Office of Fiscal Management	<input type="checkbox"/> DHS Office of Systems & Technology	<input type="checkbox"/> Division of Aging and Adult Services
<input type="checkbox"/> Division of Child Care and Early Childhood Education	<input type="checkbox"/> Division of Children and Family Services	
<input type="checkbox"/> Division of County Operations	<input type="checkbox"/> Division of Developmental Disabilities Services	<input type="checkbox"/> Division of Medical Services
<input type="checkbox"/> Division of Mental Health Services	<input type="checkbox"/> Division of Services for the Blind	<input type="checkbox"/> Division of Volunteerism
<input type="checkbox"/> Division of Youth Services		

# ARKANSAS DEPARTMENT OF HUMAN SERVICES

## Confidential Communications

*(For requests to receive protected health information via an alternate means or to receive protected health information at an alternate location.)*

### Confidential Communications

- You have the right to request that protected health information held by the Department of Human Services be delivered to you in a confidential manner.
- When you request information from the Department of Human Services, it will normally be mailed to you by first class mail to the current address reflected in your record.
- By completing this form, you may request that the Department of Human Services deliver your protected health information by a different method such as facsimile or e-mail or you may request that the Department of Human Services deliver your protected health information to a different address or with special handling.
- The Department of Human Services must permit clients to request and must accommodate reasonable requests by clients to receive communications of protected health information (PHI) from DHS by alternative means or at alternative locations.
- The Department of Human Services will make reasonable accommodations to deliver your protected health information to you by the means or to the location that you have requested until you terminate the request or the until the Department determines that the method of delivery is unreliable.

*You have a right to file a privacy complaint concerning the termination of alternate delivery of your protected health information. Individuals can file privacy complaints with either DHS or with the U.S. Department of Health and Human Services, Office for Civil Rights. Privacy complaints may be directed to any of the following:*

Arkansas Department of Human Services  
**Privacy Officer**  
PO Box 1437, Slot S201  
Little Rock, Arkansas 72201-1437  
Phone: 501-682-8650  
Fax: 501-682-6836 Email: [PrivacyOfficer@mail.state.ar.us](mailto:PrivacyOfficer@mail.state.ar.us)

### U.S. Department of Health and Human Services, Office for Civil Rights

Medical Privacy, Complaint Division  
200 Independence Avenue, SW  
HHH Building, Room 509H  
Washington, D.C. 20201  
Phone: 866-627-7748  
TTY: 886-788-4989 Email: [www.hhs.gov/ocr](http://www.hhs.gov/ocr)

This document is available in other languages and alternate formats that meet the guidelines for the Americans with Disabilities Act (ADA). Contact DHS at:  
Phone 501-582-8920, TDD 501-682-8933 or Fax 501-682-8884.

**ARKANSAS DEPARTMENT OF HUMAN SERVICES**

**COMPLAINT**

**Violation by DHS of HIPAA Privacy Rights**

1. The person filing this Complaint (the Complainant) is: (check the appropriate box below)

Complainant:

- The DHS Client whose privacy rights were violated (Client fills out Number 2 below, skips Number 3 below, and continues with Number 4 below).
- The Personal Representative of the DHS client whose privacy rights were violated (Personal Representative fills out the information in **both** Number 2 and Number 3 below and continues with Number 4 below)

2. Information about DHS Client (Client)

**DHS Client Information: (this is the person whose privacy rights were violated)**

Name (printed): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone Numbers:

Work: \_\_\_\_\_ Home: \_\_\_\_\_ Other: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ ID Number: \_\_\_\_\_ Record Number: \_\_\_\_\_

3. Information about DHS Client's Personal Representative (if Personal Representative is filing this Complaint).

**Personal Representative Information:**

Name (printed): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone Numbers:

Work: \_\_\_\_\_ Home: \_\_\_\_\_ Other: \_\_\_\_\_

Relationship to Client: \_\_\_\_\_

**Please describe below your authority to represent this Client and attach documentation of your authority to represent this client.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ARKANSAS DEPARTMENT OF HUMAN SERVICES**

**COMPLAINT**

**Violation by DHS of HIPAA Privacy Rights**

4. The Complainant hereby submits this Complaint to the office of the DHS Privacy Officer.

DHS Privacy Officer  
Department of Human Services  
P.O. Box 1437, Mail Slot S201  
Little Rock, Arkansas 72203-1437

5. Complainant reserves the right to file a separate complaint on the same set of facts presented in this Complaint with the U.S. Department of Health and Human Services Office for Civil Rights.

**U.S. Department of Health and Human Services**  
**Office for Civil Rights**, Medical Privacy, Complaint Division  
200 Independence Avenue, SW  
HHH Building, Room 509H  
Washington, D.C. 20201

Phone: 1 866 627 7748    TTY: 886-788-4989    Email: [www.hhs.gov/ocr](http://www.hhs.gov/ocr)

6. DHS violated Client’s privacy rights guaranteed under the federal law entitled “Health Insurance Portability and Accountability Act of 1996” (HIPAA) and the regulations promulgated pursuant to that law.

**Identify the person who violated Client’s privacy rights, and the date it occurred:**

- A. DHS Office that violated Client’s privacy rights: \_\_\_\_\_  
B. Person who violated Client’s privacy rights (if known): \_\_\_\_\_  
C. Date Client’s rights were violated (approximate date is OK): \_\_\_\_\_

**NOTE: This Complaint must be filed within 180 days from the time Client or Client’s Personal Representative knew or should have known that Client’s HIPAA privacy rights were violated.**

**Description of the privacy rights violation:**

Describe how Client’s privacy rights were violated: (attach additional sheets if needed)

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**ARKANSAS DEPARTMENT OF HUMAN SERVICES**

**COMPLAINT**

**Violation by DHS of HIPAA Privacy Rights**

- 7. Complainant requests the following relief from DHS:
  - A. That DHS investigate the allegations made in this Complaint; and
  - B. That DHS deliver to Complainant a written report of the results of the investigation not more than sixty (60) days from the date DHS receives this Complaint; and
  - C. That DHS correct the violations of Client’s rights; and
  - D. That DHS take action to prevent similar violations in the future.
- 8. The Complainant affirms that the information stated in this Complaint is true and correct to the best of Complainant’s information, knowledge and belief.

**Note: Only the Complainant, who is either the Client or the Client’s Personal Representative, signs this Complaint.**

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Client’s Name (Printed)

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Client’s Signature

---

Date

**OR:**

---

Personal Representative’s Name (Printed)

---

Personal Representative’s Signature

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Date