



**COMMUNITY
HEALTH NETWORK**
of Connecticut

POLICY AND PROCEDURES

SUBJECT: Privacy- Member Authorizations

P&P #	DATE ISSUED	DATE REVIEWED	DATE REVISED
CMPL102	04/14/03		
REPLACES POLICY #	DATE RETIRED		

Date Compliance Officer

Date Chief Executive Officer

PURPOSE:

Federal and Connecticut State laws place certain restrictions on how an individual’s health information may be used and disclosed. The Health Insurance Portability and Accountability Act (HIPAA) requires Community Health Network Of Connecticut (CHNCT) to obtain written permission from a member before using or disclosing his or her Protected Health Information (PHI) for purposes other than what is allowed or required by the Rule or other applicable Federal or CT State laws.

The Privacy Rule permits covered entities to disclose PHI without authorization for certain purposes. However, CT State and Federal Medicaid laws require Community Health Network Of Connecticut (CHNCT) to only disclose member information for purposes related to administration of the program. When CT State law is more restrictive than what is permitted in the Privacy Rule, CHNCT will not disclose PHI without a valid written authorization from the member. CHNCT has developed this policy to provide guidance to employees and ensure compliance with applicable CT State and Federal laws and regulations when disclosing Protected Health Information (PHI) for various purposes. It also explains the different authorization requirements in the Privacy Rule and CT State law.

POLICY:

CHNCT is permitted to use or disclose PHI for treatment, payment or health care operations purposes (administration of the HUSKY programs) and may use or disclose all PHI when required by law or court order without obtaining an authorization from the member. When disclosure of PHI is not related to treatment, payment or healthcare operations and is not required by law or court order, CHNCT employees will obtain a valid written authorization from the member. CHNCT’s Member Authorization form has been developed for this purpose; it has been modeled after the CT Department of Social Services’ (DSS) authorization form and meets the standards of a valid authorization. CHNCT members are allowed to revoke an authorization at any time.

DEFINITIONS:

- I. Disclosure:** The release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.
- II. Member:** For those members who are under the age of 18, the head of household must sign the authorization on the member’s behalf (unless the member is emancipated). For those members 18 and

older, the member must sign the authorization.

- III. **Protected Health Information (PHI):** Individually identifiable health information (including demographic information) that has been transmitted or maintained in any medium. It is created or received by certain participants in the health care industry, relates to the health of an individual or payment for health services, and either identifies the individual or provides a “reasonable” basis to believe the information can identify the individual.
- IV. **Use:** With respect to individually identifiable health information, the sharing, employment, application, utilization, examination or analysis of such information within an entity that maintains such information.

PROCEDURE:

I. When an Authorization is NOT Required

- a. Federal and CT State Medicaid laws and regulations permit disclosures of member information for purposes of administration of the program, which DSS must adhere to. As the business associate of DSS, CHNCT must also adhere to these guidelines, as applicable. Such purposes do not require an authorization from the member and include:
 - i. Establishing eligibility;
 - ii. Determining the amount of medical assistance;
 - iii. Providing services for members; and
 - iv. Conducting or assisting an investigation, prosecution, or civil or criminal proceeding relating to the administration of the program.
- b. CT State law does permit disclosures of member information for certain purposes, which are also permitted in the Privacy Rule. Examples of when an **authorization would not be required** include:
 - i. Uses and disclosures for treatment, payment or health care operation purposes (see policy *CMPL105: Uses and Disclosures for Treatment, Payment or Health Care Operations*);
 - ii. Disclosures to the member for PHI regarding that member;
 - iii. Disclosures that are court-ordered or otherwise required by law (see policy *CMPL106: Uses and Disclosures Required by Law*);
 - iv. Uses and disclosures for public health release (see policy *CMPL107: Disclosing PHI for Public Health Release*);
 - v. Uses and disclosures about victims of abuse, neglect or domestic violence (see policy *CMPL106: Uses and Disclosures Required by Law*);
 - vi. Uses and disclosures for health oversight purposes (see policy *CMPL108: Disclosing PHI for Health Oversight Purposes*);
 - vii. Uses and disclosures for worker’s compensation (authorization not required for HUSKY B members only) (see policy *CMPL106: Uses and Disclosures Required by Law*); and
 - viii. Uses and disclosures for compliance or fraud investigations.

II. When an Authorization IS Required

- a. CHNCT must obtain a member’s written authorization before using or disclosing his or her PHI for situations not related to treatment, payment or health care operations (administration of the HUSKY programs) or that are not required by law or court order.
- b. Although the Privacy Rule provides a list of exceptions outside of treatment, payment or health care operations that do not require an authorization from a member, CT State law does not permit CHNCT to disclose for most of these purposes. Since CT State laws are more stringent in some cases, CHNCT must comply with these laws and would be required to obtain an authorization from the member prior to disclosing for some of these purposes. Examples of when an **authorization would be required** include, but are not limited to:
 - i. Requests from legislators, advocates and attorneys about CHNCT members;
 - ii. For any use or disclosure of psychotherapy notes, **except**:
 - 1. To carry out treatment, payment or health care operations:
 - a. Use of psychotherapy notes by the originator for treatment;
 - b. Use or disclosure by covered entities in training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family or individual

- counseling; and
- c. Use or disclosure by CHNCT to defend itself in a legal action or other proceeding brought by a member;
- iii. Disclosures that are subpoenaed (and not court-ordered);
- iv. Uses and disclosures for certain law enforcement purposes, including;
 - 1. Identifying or locating a suspect or fugitive;
 - 2. Identifying or locating a material witness or missing person; and
 - 3. If PHI constitutes evidence of criminal conduct on CHNCT premises;
- v. Uses and disclosures for specialized government functions, including;
 - 1. Military and veteran activities;
 - 2. National security and intelligence activities; and
 - 3. Protective services for the President and others;
- vi. Uses and disclosures for research purposes;
- vii. Uses and disclosures for worker's compensation (authorization required for HUSKY A members only);
- viii. Uses and disclosures for cadaveric organ, eye or tissue donation, including;
 - 1. To organ procurement organizations; or
 - 2. Other entities engaged in the banking or transplantation of cadaveric organs, eyes or tissue for the purpose of facilitating donation and transplantation;
- ix. Uses and disclosures for health oversight purposes with respect to the oversight of the originator of the psychotherapy notes; and
- x. Uses and disclosures for deceased individuals (see policy *CMPL109: Uses and Disclosures to Personal Representatives*), including:
 - 1. To coroners and medical examiners for the purpose of identifying a deceased person, determining a cause of death or other duties as authorized by law; and
 - 2. To funeral directors.
- c. For situations where CHNCT requires an authorization to be obtained prior to using or disclosing a member's health information and the Privacy Rule does not require an authorization: if there is evidence of another law, which requires CHNCT to disclose this information for any of the purposes identified, CHNCT will disclose the information as required.

III. Authorization Content Requirements

- a. CHNCT will model its Authorization form after the CT Department of Social Services' (DSS) Member Authorization form, which includes all of the required core elements as defined by the Privacy Rule:
 - i. A description of the information to be used or disclosed that identifies the information in a specific manner;
 - ii. The name or title of the person or class of persons authorized to make the use/ disclosure;
 - iii. The name or title of the person or class of persons to whom CHNCT may make the requested use/ disclosure;
 - iv. A description of each purpose of the requested use or disclosure (if the member requests the authorization, the description may read "at the request of the member");
 - v. The authorization's expiration date or an expiration event that relates to the member or to the purpose or use of the requested disclosure (for a research study, this may state "at the end of the research study" or "none"); and
 - vi. The signature of the member, with a date, or if a person is signing as the personal representative of the member, verification and the description of that person's authority to act for the member.
- b. CHNCT is also required to include certain statements that give members notice of the following:
 - i. A statement that the member may revoke the authorization with a written notice and either
 - 1. The exceptions to the right to revoke and instructions on how to revoke the authorization or
 - 2. A reference to CHNCT's Notice of Privacy Practices, if the notice contains a description of the right to revoke and instructions on how to do so;
 - ii. Whether or not CHNCT may condition treatment, payment, enrollment or eligibility for benefits on the authorization by stating either

1. That CHNCT is prohibited from conditioning treatment, payment, enrollment or eligibility for benefits on the member's agreement to sign the authorization or
 2. The consequences to the member if he or she refuses to sign the authorization, but only as permitted under the prohibition exceptions in the Rule; and
 - iii. A statement that the information used or disclosed under the authorization may be subject to re-disclosure by the recipient and no longer protected under the Privacy Rule.
- c. CHNCT's Member Authorization form may also contain additional elements or information as long as they do not conflict with the privacy standards.

IV. Authorizations for Use or Disclosure of PHI that is Initiated by a Member

- a. CHNCT members are permitted to request for the disclosure of PHI to a third party (for example, when a member's attorney needs PHI in order to evaluate an injury claim, when applying for life or disability insurance, or in seeking certain job assignments where health is relevant).
- b. If the member requests an authorization to be initiated, the purpose of the authorization does not need to be specific, but can state "at the request of the member."

V. Conditioning Treatment, Payment, Enrollment or Benefits on Authorizations

- a. CHNCT is not permitted to condition treatment, payment, enrollment or eligibility for benefits on a member's agreement to sign an authorization EXCEPT as follows:
 - i. Health plans may condition enrollment or eligibility for benefits before an individual enrolls in the health plan if the authorization:
 1. Relates to its determination regarding the individual's eligibility or enrollment; or
 2. Relates to its underwriting or risk rating determinations; and
 3. Is not for use or disclosure of psychotherapy notes.
 - ii. If the health care is solely for the purpose of creating PHI to disclose to a third party, such as to an employer who is requiring a prospective employee to have a physical, on provision of an authorization for such a disclosure.

VI. Compound Authorizations

- a. CHNCT shall not combine an authorization for the use or disclosure of PHI with any other document to create a compound authorization, except as follows:
 - i. An authorization for a research study may be combined with any other type of written permission for the same research study, including another authorization or consent to participate in such research;
 - ii. An authorization for use or disclosure of psychotherapy notes may only be combined with another authorization for use or disclosure of psychotherapy notes; and
 - iii. An authorization, other than for psychotherapy notes, may be combined with any other such authorization, except when a covered entity has conditioned the provision of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of the authorization.

VII. Defective Authorizations

- a. CHNCT prohibits the use of a defective or invalid authorization.
- b. An authorization is considered defective or invalid if:
 - i. The expiration date has passed or CHNCT is aware that the expiration event has occurred;
 - ii. The authorization does not contain all of the core elements or required information;
 - iii. CHNCT knows the authorization has been revoked;
 - iv. The authorization is a prohibited compound authorization;
 - v. The authorization illegally conditions treatment, payment, enrollment or eligibility for benefits on signing the authorization; or
 - vi. CHNCT knows that certain information in the authorization is false.

VIII. Revoking an Authorization

- a. CHNCT members are permitted to revoke an authorization to use or disclose their PHI at any time, except in situations where CHNCT has taken action in reliance upon the signed authorization.
- b. CHNCT members may submit their request for revocation of authorization in writing to the Compliance Officer.

IX. CHNCT Procedures for Obtaining an Authorization

- a. CHNCT shall utilize the **Member Authorization form** when using or disclosing member information that would require prior authorization from the member. This form can be found in

Common Docs, under the HIPAA folder.

- b. After verifying the requestor (see policy *CMPL103: Verification of Individuals Requesting PHI*), CHNCT should inform he or she that an authorization from the member is needed in order to release the requested information.
 - c. CHNCT will either provide the Member Authorization form to the requesting party or contact the member and send the Authorization form to him or her directly.
 - d. Once the authorization has been signed and returned to CHNCT by the member, the CHNCT staff member who initiated/ handled the request may release the requested information. He or she will forward a copy of the authorization to CHNCT's Compliance Officer.
 - e. The Compliance Officer will be responsible for determining if the authorization is complete. If the authorization is defective, the Compliance Officer will notify the appropriate staff person immediately and explain how the situation could be remedied.
 - f. In the event that the identity and legal authority of an individual or entity cannot be verified, CHNCT will refrain from disclosing the requested information and report the case to the Compliance Officer.
- X. Documentation and Retention:** CHNCT's Compliance Officer will document and retain all member authorizations for a period of six years.