



MANAGEMENT DIRECTIVE

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Chapter No.: 2900 – Health Insurance Portability and Accountability Act of 1996 (HIPAA)

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Subject: 2908 – Notice of Privacy Practices

Date: September 15, 2005
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2908.1 – Policy

The County creates a record of the care and services provided to individuals. It understands that the record is personal and it is committed to safeguarding this protected health information (PHI). In addition, State and Federal law, including HIPAA, recognizes the right of an individual to adequate written notice of the uses and disclosures of PHI that may be made by a County health care component (HCC) department and/or program of the individual's privacy rights and the County's legal duties with respect to PHI.

A Notice of Privacy Practices (Attachment A) describing the individual's privacy rights shall be provided to all individuals that receive services from a County HCC department or program. If possible, the notice must be provided in the individual's preferred language.

2908.2 – Purpose

The purpose of this policy is to ensure that each individual receiving health care or health plan services from a County HCC department or program is notified of their privacy rights with regard to their PHI. This Management Directive also provides each workforce member of Fresno County's designated HCC with the procedure for providing individuals with this information per HIPAA regulations.

2908.3 – References

45 Code of Federal Regulations (CFR), section 164.520 – Notice of Privacy Practices for Protected Health Information

42 United States Code (USC), section 1320d(5) – Health Plan

2908.4 – Content of Notice

The notice must be written in plain language and must contain elements outlined in 45 CFR, section 164.520(b).

2908.5 – Procedure

Individuals to Whom this Notice Must Be Given

This notice will be given to all individuals who receive health care or health plan services from a County HCC department or program. The procedure for providing the notice differs depending on the type of service the individual receives.

2908.51 Direct Treatment Provider

If the individual has a direct treatment relationship with a County health care provider, the provider must:

2908.511 Post the notice in a clear and prominent location where it is reasonable to expect individuals seeking service to be able to read the notice. The notice must be available at the service delivery site, including mobile units, for individuals to request to take the notice with them.

2908.512 The notice must be provided to the individual no later than the date of the first service delivery, except in emergency situations.

- a. Except in an emergency treatment situation, workforce members must make a good faith effort to obtain a signed Acknowledgment of Receipt (Attachment B) upon providing the notice to the individual. If the individual is unable to sign, the workforce member providing the notice shall write and sign their name, date, title, and a brief description on the Acknowledgment of Receipt of why the form cannot be signed by the individual.
 - b. In an emergency treatment situation, the notice must be given as soon as reasonably practicable after the emergency has resolved.
 - c. If the notice is revised, the notice must be given to the individual upon request on or after the effective date of the revision. It must promptly be posted and made available at the service delivery site, including mobile units, for individuals to request to take with them. A new Acknowledgement of Receipt is not required.

2908.52 Health Plans

If the individual is a health plan participant:

2908.521 The health plan must provide the notice to individuals covered by the plan and to new enrollees at the time of enrollment.

2908.422 No less frequently than once every three years, the health plan must notify individuals then covered by the plan of the availability of the notice and how to obtain the notice.

2908.523 In the event that the notice is revised, the notice must be provided within 60 days of the revision to individuals covered by the plan.

2908.53 Electronic Notice

The notice must be prominently posted on the HCC department and/or program's website or benefits website.

2908.531 The notice may be provided via email if the individual agrees to electronic notice; however, an email confirming receipt or other transmission from the individual must be obtained.

2908.532 If the County is aware that the email transmission has failed; a paper copy of the notice must be provided to the individual in person or via first class mail.

2908.533 Individuals who are recipients of an electronic notice retain the right to obtain a paper copy of the notice.

2908.54 Exception for Inmates

Inmates do not have a right to notice and the requirement to Notice of Privacy Practices does not apply to a correctional institution that is a covered entity.

2908.55 Retention of Documentation

2908.551 Copies of the notice must be maintained for a minimum of six years following the date of their creation or last date services were provided to the individual, whichever is later.

2908.552 Copies of the Acknowledgement of Receipt (Attachment B) must be maintained for a minimum of six years following the date of their creation or last date services were provided to the individual, whichever is later.

2908.56 Forms

2908.561 A Notice of Privacy Practices (Attachment A) describing the individual's privacy rights shall be provided to all individuals that receive services at a County HCC department and/or program.

2908.562 The Acknowledgement of Receipt (Attachment B) signed by the individual receiving the Notice of Privacy Practices shall be obtained and maintained with the records. If the individual is unable to sign, the workforce member providing the notice shall write and sign their name, date, title, and a brief description on the Acknowledgement of Receipt of why the form cannot be signed by the individual.