

## PURPOSE

To protect the privacy rights of individuals receiving benefits from one or more of the Michigan Department of Health and Human Services' (MDHHS) health programs, by considering a client's request to restrict the use or disclosure of protected health information.

## REVISION HISTORY

Issued: April 14, 2003

Revised: September 9, 2013. This policy and procedure rescinds and replaces previous versions of 06.8.B.7 Individual Right to Request Restrictions on Uses and Disclosures Policy and 06.8.B.7.2 Individual Right to Request Restrictions on Uses and Disclosures Procedure.

## DEFINITIONS

Health Insurance Portability and Accountability Act (HIPAA) Policies and Procedures Definition Glossary.

## POLICY

Individuals (or their personal representatives) may request restrictions on the uses and disclosure of their own Protected Health Information (PHI). MDHHS is generally not required to agree to a restriction. MDHHS will generally not agree to restrictions except in cases of unusual need; see Procedure for circumstances under which MDHHS must agree to restrict a use or disclosure of PHI. The department may disclose restricted PHI when the individual who requested the restriction is in need of emergency treatment and the PHI is needed to provide the emergency treatment, as well as certain other circumstances.

## PROCEDURE

Responsibility	Action
Request by Individual or Personal Representative to Restrict the Use and Disclosure of PHI.	Requests must be made in writing and sent to the Privacy Office for Review. Form MDHHS-1232 may be used for this purpose.

<p>Privacy Office Review</p>	<p>The Privacy Office will review all requests for restrictions. MDHHS is not required to agree to most requests to restrict the use and disclosure of PHI. Generally, agreement to a restriction request will only be considered in extreme circumstances where an individual is in danger. An agreement to accommodate a restriction request would be administratively burdensome.</p> <p>MDHHS must agree to an individual's request for a restriction on disclosure of the individual's PHI if: (1) the disclosure is for the purpose of carrying out payment or health care operations and is not otherwise required by law; and (2) the PHI pertains solely to a health care item or service for which the individual, or a person other than the health plan on behalf of the individual, has paid MDHHS in full for the health care item or service.</p>
<p>Notification to Individual</p>	<p>The Privacy Office will notify the individual or personal representative in writing of the decision to agree to the restriction or not.</p>
<p>Agreeing to the Restriction</p>	<p>If the restriction is agreed to, all information obtained during the period of the restriction period must be flagged and not be used or disclosed, except as described below. The restriction will be noted on the Beneficiary Provider Contact Tracking System or related facility database.</p> <p>If the restriction is agreed to, there are a few exceptions that would allow MDHHS to use or disclose the restricted PHI:</p> <ul style="list-style-type: none"> <li>• If the individual requires emergency treatment and the restricted information is needed to respond to an emergency, then in MDHHS's professional judgment and in the individual's best interest, the information will be disclosed and the recipient of the PHI will be informed of the restricted status of the information.</li> <li>• If in the best interest of the individual, MDHHS may in its professional judgment determine whether to notify a family member, a close personal friend, or the individual's personal representative of an individual's location and general condition when the individual is incapacitated or in an emergency treatment situation.</li> <li>• MDHHS may disclose PHI to the Secretary when required by the Secretary to investigate or determine MDHHS's compliance with HIPAA.</li> <li>• MDHHS may use or disclose PHI for any purpose permitted or required under 45 CFR 164.512 (for example uses and disclosures of PHI: as required by law; for public health activities; about victims of abuse, neglect, or domestic violence; for health oversight activities; for judicial and administrative proceedings; pursuant to process and as otherwise required by law; about decedents; for cadaveric organ, eye, or tissue donation purposes; for research purposes; to avert a serious threat to health or safety; for specialized government functions; and for worker's compensation purposes).</li> </ul>
<p>Terminating the Restriction</p>	<p>A restriction on the use and disclosure of protected health information can be terminated if:</p> <ul style="list-style-type: none"> <li>• The individual agrees to or requests the termination in writing;</li> <li>• The individual orally agrees to or requests the termination and the oral request or agreement is documented in the individual's medical record and communicated to the Privacy Office; or</li> <li>• MDHHS and/or facility informs the individual that the agreement to a restriction is terminated and the restriction will no longer be effective for PHI created or received after notification.</li> </ul>

Documentation	All activity must be documented and retained for a minimum of 6 years.
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**REFERENCES**

45 CFR §164.522, §164.530, Form MDHHS-1232, APL-680,  
HIPAA Policies and Procedures Definition Glossary

**CONTACT**

For additional information concerning this policy, contact the  
MDHHS Bureau of Legal Affairs.