PURPOSE

To describe the application of the minimum necessary rule to uses, disclosures, and requests for protected health information.

REVISION HISTORY

Issued: 04/14/2003
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PROCEDURE

"When using or disclosing protected health information or when requesting protected health information from another covered entity, a covered entity must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request." § 164.502(b).

Minimum Necessary

Access to Computerized Data by Employees

Each agency must designate which employees require access to protected health information to carry out their duties and must designate the level of access needed and the conditions appropriate to such access.

1. The DCH-0432(E), Computer Network Access Request, form must be completed for each employee, student, and volunteer who will be given access to a PC.

2. The DCH-1177(E), Request for Access to Secure Program Data, form must be completed for each employee, student, and volunteer who will be given access to the MDHHS Data Warehouse.

Procedure Standards

Each agency will determine the reasonableness of a request for disclosures. To determine whether and how to limit uses and disclosures ask:

- How many people would have access to released Protected Health Information (PHI).

- Likelihood of further uses of disclosures of the PHI by requestor occurring.
- Amount of PHI that would be used/disclosed.
- The importance of the use/disclosure.
- The potential to achieve the same results with de- identified information
- The costs of limiting the amount of PHI used/disclosed.
- The agency's technical ability to limit the amount of PHI used/disclosed.
- Any other relevant factors that could affect the use/disclosure of the PHI.

Documentation Standards

- Each agency's manager/supervisor will document criteria for determining who in the agency should have access to what PHI (based on specific role of the employee).
- Each agency will document criteria for determining minimum necessary for routine disclosures specific to that area's needs, (to achieve purpose of the disclosure).

Agency does not have to determine minimum necessary when the request is from:

- A public official (and they state at the time it is the minimum necessary).
- Another entity covered by HIPAA.
- A professional within the agency or a business associate in order to provide a professional service.
- Requestor meets requirement for PHI for research (see 164.512(i)).

Minimum Necessary for sharing data within MDHHS

Each agency will:

- Identify persons/groups who need access to PHI to carry out their jobs.

- Identify the type of PHI the persons/groups need to carry out their jobs.
- Make reasonable efforts to limit access to PHI needed for the job.

Minimum Necessary for Disclosing PHI by MDHHS

For routine disclosures each agency must have policies and procedures that identify:

- The type of PHI to be disclosed.
- Types of persons who would receive the PHI.
- Applicable conditions for access to PHI.
- Standards for disclosure to business associates.

For non-routine disclosures of PHI each agency must have policies and procedures that:

- Limit the PHI to minimum necessary for the purpose.
- Review each request on an individual basis.

MDHHS Requests for PHI

MDHHS will request only the minimum necessary to accomplish MDHHS' intended purpose of the use, disclosure, or request.

Minimum Necessary does not apply to:

- Disclosures or requests by a health care provider for treatment.
- Uses or disclosures made to the individual or the individual's personal representative.
- Uses or disclosures made to an individual in an accounting of disclosures (§164.528).
- Uses or disclosures of an individuals designated medical record when a request for access has been made by the individual (§164.524).
- Uses or disclosures made pursuant to an authorization under §164.508. Disclosures made to the Secretary.
- Uses or disclosures required by law as described in §164.512(a); and Uses or disclosures required to comply with the HIPAA Privacy Rule.

REFERENCES

45 CFR §164.502(b), §164.514(d), DCH-1177(E), DCH-0432(E).

CONTACT

For additional information concerning this procedure, contact the MDHHS Compliance Office.