

**DEPARTMENT  
POLICY****Family Independence Program (FIP), Refugee Cash Assistance (RCA), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Refugee Medical Assistance (RMA) and Food Assistance Program (FAP)**

Information contained in all program case records is confidential and may be released **only** under limited circumstances for five general purposes: program administration, other government officials' access, charitable organization access, general public access, and client access. Policy *in this item* sets conditions for releasing information for each purpose.

Do **not** discuss with unauthorized persons, either during or after working hours, information about individual clients known through the Michigan Department of Health & Human Services (MDHHS) employment.

Prior to releasing information or records, check the case record for any documentation of domestic violence or a completed DHS-970, Affidavit for Withholding Any Information from Disclosure To The General Public; see VICTIMS OF DOMESTIC VIOLENCE *in this item*.

**Releases for  
Program  
Administration**

FIP, SDA, RCA, CDC, RMA, and FAP Case record information may be released for purposes directly related to administration of FIP, SDA, RCA, CDC, MA, RMA, FAP, Title XX social services, and other means-tested assistance programs.

The release of any such information must be necessary for program administration, not solely to meet the needs of a person or agency. Releases are limited to persons or agency representatives who are subject to standards of confidentiality comparable to those of MDHHS or in accordance with a data share agreement.

**MA Only**

Information may only be released for purposes directly connected to administering MA. Those purposes are:

- Establishing eligibility for MA.

- Determining the amount of medical assistance.
- Providing MA services for beneficiaries.
- Conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the plan. For example, referral or response to the MDHHS Office of Inspector General (OIG) for investigative purposes.

Consent to release, disclose or use of MA information for reasons other than those directly related to the administration of MA to an outside source, must be in writing from the individual client on a HIPAA compliant release, such as DCH-1183, AUTHORIZATION TO DISCLOSE PROTECTED HEALTH INFORMATION, before any such release, disclosure or use occurs.

### **FIP, SDA, RCA, CDC, RMA, and FAP**

**Program administration** means any of the following:

1. Establishing eligibility, determining benefits and providing services to clients.
2. Investigation, prosecution, or criminal/civil proceedings related to administering the program. This includes cooperation with local, state, or federal law enforcement officials and postal inspectors.

**Note:** For **FAP only**, the request must be in writing and include the:

- Identity of the requestor.
  - Authority to request the information.
  - Violation being investigated.
  - Identity of the client about whom the information is requested.
3. Administration of other federal or federally assisted programs which provide assistance, in cash or in kind, or services, directly to individuals based on need.

**Exception:** This does **not** apply to the release of MA records.

4. Any audit related to program administration and conducted by a government agency authorized to do so.

**Examples** of releasing information for purposes directly related to program administration include, but are not limited to:

- Response to a social services agency in another state to confirm a client's eligibility status and benefits received in Michigan.
- Referral to the Social Security Administration (SSA) to determine a client's SSI eligibility.
- Referral to the Michigan Unemployment Insurance Agency (UIA) to verify a client's wage record or eligibility for unemployment benefits.
- **For FIP, SDA and RCA only:** Referral to MDHHS Services programs and sharing of information between Family Independence Specialist (FIS)/Eligibility Specialist (ES) and services staff.
- Correspondence with a court (including Friend of the Court), the responsible prosecutor's office, the Internal Revenue Service (IRS), or SSA to locate absent parents or obtain child support.
- Request to a doctor, hospital or other agency for medical information needed to determine eligibility.
- **For FIP, SDA, RCA and FAP only:** Referral or response to the MDHHS Children's Services Administration staff for investigative purposes.
- **For FIP, SDA, RCA, CDC and FAP only:** Referral or response to the MDHHS OIG for investigative purposes.
- Referral or response to a court or law enforcement official or MDHHS OIG regarding suspected intentional program violation (IPV).
- Referral or response to an administrative subpoena signed by the Director of the Office of Child Support or a court-ordered subpoena regarding child support.
- Release of information necessary for the client's participation in employment-related activities required for receipt of program benefits.
- Release of the current status of FAP clients to school authorities regarding the National School Lunch Program or the School Breakfast Program.

- For **CDC only**, sending notices, or otherwise providing information, to a client's child care provider when:
  - Child care services are authorized.
  - Changes are made in the authorization information previously given to the provider.
  - An authorization ends.
  - A Child Development and Care (CDC) application is denied.
  - A CDC application is withdrawn.
  - A CDC case is closed.

See Bridges Eligibility Manual (BEM) 704, Information Shared with Providers.

### Obtaining Client Consent

A signed application for assistance provides consent for purposes of program administration. No other written consent is required.

If uncertain whether the requested information is necessary to administer programs, **inform the client** of the request and obtain a **signed consent** before making the information available.

A DHS-27, Release of Information, is the best means to obtain the client's consent. Any consent must contain all of the following:

- Client signature.
- Current date.
- Person/agency to whom the information is released.
- Time period covered.
- Information to be released (either itemizing or stating a general release of any information).

When a serious threat to the family's health or safety exists, prior consent is **not** needed **except** when HIV/AIDS status is requested. Notify the client immediately of the information released.

## Access by Government Officials

### FIP, SDA, RCA, and CDC Only

FIP, SDA, RCA, and/or CDC information may be released to the following **if necessary to perform their official duties**:

- Official of a federal or state agency (including law enforcement).
- Official of a city, county, or district (including law enforcement).
- Member or committee of the Congress or State Legislature.

Release information requested by an official's representative if the representative is so authorized by the official and the information is directly related to the official's duties. The official must provide a written statement establishing those facts. Place the written statement in the case record.

The request may be initiated in person or via correspondence but **must be in writing**. Send the requestor a DHS-63, Request for Information Regarding Person Receiving Assistance, to complete and return. A request in any other form must clearly identify the official and the purpose for which the information is to be released. It must also contain sufficient information to identify the client(s).

If the validity of a request is questionable, contact the official/agency to confirm that the information is needed to perform official duties.

Inform the requestor that they must safeguard this confidential information and must **not** use it for purposes outside the official's functions or in unlawful ways; see General Public Access to Case Records *in this item*.

The official or representative may read the entire client case record if necessary to perform official duties, but **only** in the local office during normal business hours. **Client case records must not be removed from MDHHS premises.**

**Exception #1:** A release regarding an individual's testing for HIV or AIDS is very limited; see HIV and AIDS *Confidentiality in this item*.

**Exception #2:** Do not release information obtained from the Workers' Compensation Agency (Michigan Department of Licensing and Regulatory Affairs) unless subpoenaed by a court, even if the client provides a signed consent to release it to others. Information may be released to the client if requested by the client or the client's legal representative.

### **FIP, SDA, and RCA Only**

A client's current address may be released to law enforcement officers only if the officer provides all of the following in writing:

- Name of the client.
- SSN of the client.
- Proof that the client is a fugitive felon.
- Proof that the apprehension of the felon is within the officer's official duties.
- Proof that the request was made in the proper exercise of the officer's duties.

### **FAP Only**

Upon written request, a client's address, SSN, and, if available, a photograph may be released to law enforcement officers who are acting in their official capacity to apprehend a fleeing felon.

The officer must provide the name of the client and one of the following:

- Proof that the client is fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony (for example, a copy of the felony warrant).
- Proof that the client is in violation of probation or parole imposed under state or federal law, and is being sought by the court, the Department of Corrections, or law enforcement.

**Note:** Only release information that is specifically requested by the law enforcement officer (for example, address, SSN, or photograph).

### All programs

Client consent is not required when releasing information to government officials, as defined above.

For Victims of Domestic Violence, information can **only** be released to law enforcement officers without client consent if:

- The officer can demonstrate a need for the information as part of an existing criminal investigation of the client; **and**
- There is verification of the law enforcement officer's status.

See Victims of Domestic Violence *in this item* for additional information.

### Case Record Access by Charitable Organizations

#### FIP, SDA, RCA, and CDC Only

Limited case record information may be released in response to a request by a charitable organization, provided local office management or community resource coordinator recognize it as having among its purposes the provision of goods or services for individuals in need.

The request may be initiated in person or via correspondence, but **must be in writing**. A DHS-63, Request for Information Regarding Persons Receiving Assistance, may be sent to the requestor to complete.

If the validity of a request is questionable, contact the organization to confirm that the information is needed to provide a charitable benefit.

Explain to the representative that the purpose of the request must be to provide a benefit to clients and that it is illegal to use the information acquired for personal, political, commercial, or religious reasons.

A request may be for particular clients or for a list of clients within a geographic area, age range or the like; see Client Lists *in this item*.

**Example:** A representative of the Toys for Tots organization might request a list of families in the county with children of pre-school age.

If the above conditions are met respond to the request by releasing **only** the following:

- Grantee name and address.
- First name(s) and age(s) of the child(ren) living with the grantee.

Retain completed requests chronologically in a separate file. Record on the back or attach a sheet to indicate the client(s) identified, resulting benefit(s), other facts concerning the inquiry, and any client action taken as a result. If a list of clients was provided, attach a copy.

Client consent is obtained via the MDHHS-1171, Assistance Application. The MDHHS-1171-INFO, Information Booklet, contains a section called "Release Information for Program Needs." By signing the MDHHS-1171, an individual certifies that they have received a copy, reviewed, and agree with the sections in the assistance application information booklet which permits limited case information to be divulged to charitable organizations. For requests for client lists see Client Lists *in this item*.

## General Public Access to Case Records

### All Programs

Federal regulations and Michigan law limit general public access to case records. The **general public** means anyone except the client, the client's representative, a recognized charitable organization, or a local, state, or federal government official whose request is part of official duties.

When the client has provided a signed consent to release specific information, that specific information may be given to members of the general public who request it.

Information required by court order to be released must be given to the person/agency named in the order.



### MA and FAP Only

In the absence of the client's signed consent or a court order, release case record information to **only** the client, his or her representative, or the following:

- For **MA**, a person/organization whose request is directly connected to administration of the **MA** program.
- For **FAP**, a person/organization whose request is directly connected to administration of FIP, SDA, RCA, CDC, MA, FAP, Supplemental Security Income and other means-tested programs.

**No information may be released to anyone else, even to acknowledge the client is a recipient.**

### All Programs

The request may be initiated in person or via correspondence but **must be in writing**. The DHS-63 may be used. If the request is in some other form, it must contain the requestor's home address and occupation as well as enough information to identify the correct client. For requests for client lists see Client Lists *in this item*.

When a request meets the above requirements, provide **only the name and amount of monthly assistance** the group is currently receiving or last received. **Do not provide the group's address** or any other case information. Prior to releasing any information, check the case record for a completed DHS-970; see VICTIMS OF DOMESTIC VIOLENCE *in this item*.

Inform the requestor that:

- It is unlawful to utter or publish released information unless IPV or wrongful issuance of benefits is alleged.
- It is unlawful to use the information for political or commercial purposes.
- Violation of confidentiality or improper use of the information can result in a \$1,000 fine, two years in prison, or both.

Document whether the client was identified, other facts concerning the inquiry, and the information released. Maintain a copy of client's signed consent in the case record.

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**VICTIMS OF  
DOMESTIC  
VIOLENCE****All Programs**

**Confidentiality may be critical to the safety of the client when domestic violence is present.** Document clearly in Bridges if an individual is identified as a victim of domestic violence.

**No** information can be released, **even** to acknowledge the name and benefit amount, if the client has been identified as a victim of domestic violence or has stated that:

- The client was physically and/or emotionally abused by a current or former spouse/companion; **and**
- The client fears that being identified will lead to a recurrence of such abuse.

A completed DHS-970, or its equivalent, can be used for this purpose. This process prohibits **only** MDHHS from releasing information. Advise the client that contacting other persons and agencies to request withholding of information is the client's responsibility.

**Exception:** For requests for information from law enforcement officials, see Access by Government Officials *in this item*.

**Note:** For FAP, when a client/authorized representative (individual interviewed on the client's behalf) requests a copy of an application or redetermination, any domestic violence information **must** be redacted from their copy.

**CLIENT ACCESS TO  
CASE RECORDS****All Programs**

Case materials not separately restricted by law or court order must be available to the client upon request, as indicated *in this item*.

Telephone requests are **not** sufficient. Send the client a DHS-63 for completion or return. Correspondence that clearly identifies the client is also acceptable. Before providing any materials requested by mail, contact the client to verify that the client made the request.

Within **five workdays** after receiving the completed DHS-63 or letter, send one copy of any unrestricted materials requested.

The client may personally inspect the case record during normal business hours in a designated space and in the presence of a staff member. **Original case records must not be removed from MDHHS premises.** Give the person one copy of any unrestricted materials requested.

**Note:** The client's authorized representative or legal guardian has the same rights to the case file information as the client.

## Client Representatives

### All Programs

A representative acting on the client's behalf may examine the case record or request case materials in writing. They may personally inspect the case record during normal business hours in a designated space and in the presence of a staff member. Case records must not be removed from MDHHS premises.

To verify the person's status as representative, obtain one of the following:

- Court document or MDHHS administrative hearing authority decision indicating that person is the client's attorney at law, legal guardian, or conservator.
- The client's written statement specifying that person's authority to view or request case record materials.

**Note:** The client's statement might limit what the representative may view (for example, only certain packets or a particular time period within the case history).

- For **FAP only**, the client's written statement designating the person as the **authorized representative**.

**Note:** The client may designate the same or a different representative to use the food assistance benefits on the client's behalf.

## Mental Health Documents

### All Programs

The client or representative may review and copy mental health documents in the case record **except** any portions the department determines would be detrimental to the client or someone else if disclosed.

To be withheld, the document(s) or cover sheet must contain a specific statement by the mental health facility or agency from which MDHHS acquired the records regarding the potential harm of disclosure. A general notation (such as, "Not for Further Release or Copy") **cannot** prevent client access. Authority to restrict the release of such documents is contained in Section 748(5)(b) of the Mental Health Code (MCL 330.1748).

If it is questionable whether access to certain information is permitted, contact the appropriate policy mailbox; see BEM 100. Record the response in the case record.

**Note:** Mental health records that belong to another adult household member can only be accessed by that individual.

**Example:** Reina is an adult household member on Ben's FAP case. Ben's case record contains Reina's mental health records. If Ben requests access to his case record, he cannot receive any information pertaining to Reina's mental health records.

## Child Support Specialist Records

### All Programs

Child support specialists' records are **not** considered client records and so are **not** available for review by or release to the client or representative. This applies even after the information becomes part of the client record or electronic case file. Before releasing case record materials, you must remove all information gathered by the support specialist regarding an absent parent.

## Criminal Investigations

### All Programs

Do **not** release to the client or representative any information related to a criminal investigation, **unless** the investigation and any resulting prosecution are complete.

If the investigation is an OIG-related investigation, contact the OIG agent to verify whether or not the investigation has been resolved.

If the investigation is not related to OIG, contact the appropriate policy email box(es) for assistance in determining whether or not the investigation has been resolved.

## HIV AND AIDS CONFIDENTIALITY

### All Programs

Information identifying a person in regard to the following is confidential:

- Testing for, or infection by, human immunodeficiency virus (HIV).
- Testing for or diagnosis of acquired immunodeficiency syndrome (AIDS).

Do **not** disclose such information without prior written consent from the individual, his legal guardian, or a parent when the individual is a minor. **No other person may give consent** for the individual.

The individual consents by signing the application (which contains an acknowledgment regarding release of medical information) or comparable written statement. A legal guardian or parent consents by signing a DHS-4609, Medical Information Acknowledgment, or comparable written statement.

Release such information **only if** it is necessary to do one of the following:

- Administer MDHHS programs.
- Place and/or care for a minor in licensed child care.
- Prepare a report required by child protection law.

- Comply with a court order or subpoena indicating the court has determined that:
  - Other ways of obtaining the information are unavailable or ineffective.
  - Public interest and need for the disclosure outweigh potential injury to the person.

See Court Proceedings *in this item*.

**Important:** Unauthorized disclosure of HIV or AIDS information about an individual is a misdemeanor, punishable by up to one year imprisonment and/or \$5,000 fine. It is also subject to a civil action and department discipline.

See [Administrative Policy Manual Legal \(APL\) 410, Freedom of Information Act \(FOIA\)](#), for more details.

## CHILDREN'S SERVICES REFERRAL DOCUMENTS

### All Programs

Access to records of protective and other services provided to children is severely limited. This includes documents in the case record indicating a referral to services. Remove any document in the case record which mentions such a referral **before** allowing access by any non-MDHHS person. Do **not** copy any such referral to satisfy a request for case materials.

## INFORMATION FOR HEARINGS

### All Programs

The client or authorized hearings representative has a right to examine and receive a copy of any documents or other information to be introduced at an administrative hearing or used in the MDHHS decision regarding a hearing. This includes material from another state or federal agency **unless** access is restricted by other law (for example Mental Health Code).

Call the Legal Affairs Administration at 517-373-2082 for help with questionable situations. See also “Client Access to the Case Record” in the “EVIDENCE” section in BAM 600.

## INTENTIONAL PROGRAM VIOLATION

### All Programs

Provide case records when requested by an agent of the MDHHS Office of Inspector General.

The agent may **remove** the physical case record temporarily from the local office. If that is intended, make copies of all pertinent materials for casework purposes until the record is returned.

## Court Proceedings

### All Programs

Provide case records without subpoena to the Legal Affairs Administration or to the department's **legal representative** when MDHHS is the initiator or defendant in a legal action. The legal representative can be a prosecutor or staff of the attorney general (AG).

The department's legal representative may **remove** the case record temporarily from the local office. If that is intended, make copies of all pertinent materials for casework purposes until the record is returned.

In matters involving legal representation of MDHHS, provide one copy of case record materials when requested or subpoenaed by the client or the client's legal representative, unless prohibited by law or regulation.

## Subpoenaed Information

### All Programs

If subpoenaed to produce a case record in court or testify as to its contents, proceed as follows:

- Explain to the court (before the hearing, if possible) that case records are confidential by law and request the court to excuse MDHHS.

- If not excused, read in court the pertinent portions of the statement contained in Exhibit I *in this item* for the appropriate program(s). Then, if the court orders it, produce the record and/or discuss it.

**Reminder:** Have available a copy of Exhibits II through V to give to the court if requested.

If subpoenaed by an attorney **other than** the client's attorney to appear or to submit a case record, at a place **other than** a court (for example, copy center or law office), proceed as follows:

- Send a copy of the subpoena to MDHHS-Subpoena@michigan.gov. Legal Affairs staff will provide additional instructions.
- Call the attorney to explain that you are willing to appear but **cannot** produce or discuss the case record without the client's signed consent or a court order.
- If the attorney insists, appear at the designated place, read the Exhibit I statement, and withhold the record and discussion of it in the absence of the client's signed consent or a court order.
- If the attorney notifies MDHHS of a scheduled court hearing, appear at the hearing and read the Exhibit I statement. Then comply with any order the court issues.

The above procedures do **not** apply to actions **initiated by MDHHS** (for example, to prosecute for IPV, establish paternity or secure support). Provide the case record to the department's legal representative. If the **opposing** attorney subpoenas the record, contact the MDHHS legal representative for instructions.

If there are questions about a subpoena, contact the Legal Affairs Administration in central office through administrative channels.

### Court-Ordered HIV/AIDS Information

#### All Programs

In response to a **court order**, disclosure about a person who was tested for or infected by HIV, or tested or diagnosed as having AIDS is mandatory. The court is responsible for determining that other ways of obtaining the information are unavailable or



ineffective **and** that the public interest and need for disclosure outweigh client confidentiality.

If not stated in the court order, before providing the information, remind the court that its order must ensure the following (MCL 333.5131):

- Disclosure is limited to those parts of the client's record that the court determines essential to fulfill the objective of the order.
- Disclosure is limited to those persons whose need for the information is the basis for the order.
- The court must take other measures it considers necessary to limit disclosure.

If you have questions about a court order, contact the Bureau of Legal Affairs; see HIV and AIDS Confidentiality *in this item*.

## Legal Questions

### All Programs

**Do not communicate with an opposing attorney or representative on any issue of substance after a court suit is filed.** Persons seeking to communicate must be referred to the Legal Affairs Administration.

If you receive requests for records from an attorney, send the request to the Legal Affairs Administration for direction.

## Requests for Research

### All Programs

If you have legal questions about releasing information or disclosure of records, complete a DHS-5300, Legal Research Request, form and submit it to the appropriate email box noted on the form.

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## Client Lists

### FIP, CDC and SDA

Without prior written consent, MDHHS may furnish a list of clients or release information about groups of clients only if either:

- It is directly related to the administration of MDHHS programs.
- It is to be used by a charitable organization solely to benefit those clients directly.

Additionally, it is not to be used for commercial or political purposes.

For client consent requirements see Releases for Program Administration and Case Record Access by Charitable Organizations *in this item*.

### All Programs

Inform any **other** requestor that the information can be released **only** with the clients' prior written consent and that MDHHS will cooperate as follows:

- The local office will prepare a release that includes the requestor's identity, the purpose, and the information requested. The release will be sent to the clients, who may consent or refuse.
- Only information about those who furnish written consent will be provided.

## Community Agencies

### All Programs

Many communities have social service exchanges or central registration systems where member agencies send and draw information about specific clients. MDHHS may contribute information **only** with the client's written consent.

## Freedom of Information Act

### All Programs

The Michigan Freedom of Information Act (1976 P 442) requires MDHHS to provide public access to records that are not exempted by a separate law or a specific provision of the FOIA. **Client records are exempt** from this Act, **except** as provided *in this item*; see [APL-410, Freedom of Information Act \(FOIA\)](#).

### EXHIBIT I - STATEMENT TO BE READ BY MDHHS STAFF

In response to the subpoena, I must bring to your attention that these records are confidential under Michigan statute.

State law, at MCL 400.35, establishes the confidentiality of FIP, CDC, SDA, MA and FAP records. The MDHHS has promulgated rules for the use of such records, pursuant to Public Act 306 of 1969, as amended.

MCL 400.64 provides exceptions to the restrictions in MCL 400.35. However, those exceptions do not pertain to these records. It further prescribes penalties for violation of the Act.

The MA and FAP statutes comply with pertinent federal laws and regulations:

- For MA, Section 1902(a)(7) of the Social Security Act, as amended; and Section 431.300-.307 of Title 42, Code of Federal Regulations.
- For FAP, Section 11(e)(8) of the Food Nutrition Act of 2008 as amended; and Section 272.1(c) of Title 7, Code of Federal Regulations.

Because the case information is confidential, I must decline to release it unless the Court orders me to do so.

I have available the relevant sections of the above cited federal law, regulations and state statutes for your review.

**EXHIBIT II -  
MICHIGAN SOCIAL  
WELFARE ACT  
MCL 400.35 & MCL  
400.64**

***MCL 400.35 Records; confidentiality; rules for use.***

**Sec. 35.** Notwithstanding section 2(6), records relating to categorical assistance, including medical assistance, shall be confidential and shall not be open to inspection except as prescribed in section 64. The state department of social services may promulgate and enforce rules for the use of the records as may be necessary for purposes related to federal, state, or local public assistance, pursuant to Act No. 306 of the Public Acts of 1969, as amended.

***MCL 400.64 Applications and records considered public records; inspection; public access; restriction; uttering, publishing, or using names, addresses, or other information; confidentiality; alphabetical index file; inquiry as to name or amount of assistance; making available certain information to public utility or municipality; disclosure of information; violation; penalty; notice of assistance to deserted or abandoned child; documents, reports, or records from another agency or organization.***

Sec. 64.

(1) Notwithstanding sections 2(6), 35, 45(6), and 46(6), applications and records concerning an applicant for or recipient of assistance under the terms of this act, except medical assistance, are public records and are open to inspection by persons authorized by the federal or state government, the state department, or the officials of the county, city, or district involved, in connection with their official acts and by the general public as to the names of recipients and the amounts of assistance granted. General public access is restricted to persons who present a signed application containing the name, the address, and the occupation of the persons signing the application. A person shall not utter or publish the names, addresses, or other information regarding applicants or recipients except in cases where fraud is charged, or wrongful grant of assistance is alleged. A person shall not use the names, addresses, or other information regarding applicants or recipients for political or commercial purposes.

(2) Records relating to persons applying for, receiving or formerly receiving medical services under the categorical assistance programs of this act are confidential and shall be used only for purposes directly and specifically related to the administration of the medical program.

(3) In each county, the department shall maintain an alphabetical index file in its office of cases receiving assistance through the department. When a citizen makes a personal visit to an office during regular office hours and makes inquiry as to the name or amount of assistance being received by a person, the requester shall be given the information requested in the manner prescribed by the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) Subject to restrictions prescribed by federal regulations governing temporary assistance for needy families or other federal programs, rules of the state department, or otherwise, for preventing the disclosure of confidential information to any person not authorized by law to receive the confidential information, the state department shall make available to a public utility regulated by the Michigan public service commission or a municipality information concerning applicants for, and recipients of, public assistance, the disclosure of which is necessary and the use of which is strictly limited to the purpose of a public utility's administering a program created by statute or by order of the Michigan public service commission and intended to assist applicants for, or recipients of, public assistance in defraying their energy costs.

(5) The state department may disclose information regarding applicants for, and recipients of, assistance under this act in connection with the administration of assistance under this act, including the implementation and administration of section 60a, to the extent that the disclosure in regard to applicants for and recipients of federally funded assistance is in accordance with applicable federal law and regulations regarding disclosure of confidential information concerning applicants for or recipients of federally funded assistance.

(6) Except as prescribed in section 61(2) and 61(3), a person who violates this section is, upon conviction, guilty of a misdemeanor punishable by imprisonment for not more than 2 years or by a fine of not more than \$1,000.00, or both. If an employee of the state violates this section, the employee is also subject to dismissal from

state employment subject to rules as established by the civil service commission.

(7) The county department shall give prompt notice to appropriate law enforcement officials of the furnishing of temporary assistance for needy families in each case where a child has been deserted or abandoned by a parent and assistance is being furnished to the child.

(8) Documents, reports, or records authored by or obtained from another agency or organization shall not be released or open for inspection under subsection (1) unless required by other state or federal law, in response to an order issued by a judge, magistrate, or other authorized judicial officer.

**EXHIBIT III - 42  
CFR, SECTION  
431.300-.307**

***Subpart F—Safeguarding Information on Applicants and Recipients***

***431.300 Basis and purpose.***

(a) Section 1902(a)(7) of the Act requires that a State plan must provide safeguards that restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan. This subpart specifies State plan requirements, the types of information to be safeguarded, the conditions for release of safeguarded information, and restrictions on the distribution of other information.

(b) Section 1137 of the Act, which requires agencies to exchange information in order to verify the income and eligibility of applicants and recipients (see 435.940ff), requires State agencies to have adequate safeguards to assure that:

- (1) Information exchanged by the State agencies is made available only to the extent necessary to assist in the valid administrative needs of the program receiving the information, and information received under section 6103(l) of the Internal Revenue Code of 1954 is exchanged only with agencies authorized to receive that information under that section of the Code; and

- (2) The information is adequately stored and processed so that it is protected against unauthorized disclosure for other purposes.

***431.301 State plan requirements.***

A State plan must provide, under a state statute that imposes legal sanctions, safeguards meeting the requirements of this subpart that restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan.

***431.302 Purposes directly related to State plan administration.***

Purposes directly related to plan administration include:

- (a) Establishing eligibility;
- (b) Determining the amount of medical assistance;
- (c) Providing services for recipients; and
- (d) Conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the plan.

***431.303 State authority for safeguarding information.***

The Medicaid agency must have authority to implement and enforce the provisions specified in this subpart for safeguarding information about applicants and recipients.

***431.304 Publicizing safeguarding requirements.***

- (a) The agency must publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use.
- (b) The agency must provide copies of these provisions to applicants and recipients and to other persons and agencies to whom information is disclosed.

***431.305 Types of information to be safeguarded.***

- (a) The agency must have criteria that govern the types of information about applicants and recipients that are safeguarded.
- (b) This information must include at least—
  - (1) Names and addresses;
  - (2) Medical services provided;

- (3) Social and economic conditions or circumstances;
- (4) Agency evaluation of personal information;
- (5) Medical data, including diagnosis and past history of disease or disability; and
- (6) Any information received for verifying income eligibility and amount of medical assistance payments (see 435.940ff). Income information received from SSA, or the Internal Revenue Service must be safeguarded according to the requirements of the agency that furnished the data.
- (7) Any information received in connection with the identification of legally liable third-party resources under 433.138 of this chapter.

***431.306 Release of information.***

- (a) The agency must have criteria specifying the conditions for release and use of information about applicants and recipients.
- (b) Access to information concerning applicants or recipients must be restricted to persons or agency representatives who are subject to standards of confidentiality that are comparable to those of the agency.
- (c) The agency must not publish names of applicants or recipients.
- (d) The agency must obtain permission from a family or individual, whenever possible, before responding to a request for information from an outside source, unless the information is to be used to verify income, eligibility and the amount of medical assistance payment under section 1137 of this Act and 435.940 through 435.965 of this chapter. If, because of an emergency situation, time does not permit obtaining consent before release, the agency must notify the family or individual immediately after supplying the information.
- (e) The agency's policies must apply to all requests for information from outside sources, including governmental bodies, the courts, or law enforcement officials.
- (f) If a court issues a subpoena for a case record or for any agency representative to testify concerning an applicant or recipient, the agency must inform the court of the applicable statutory provisions, policies, and regulations restricting disclosure of information.



(g) Before requesting information from, or releasing information to, other agencies to verify income, eligibility and the amount of assistance under 435.940 through 435.965 of this chapter, the agency must execute data exchange agreements with those agencies, as specified in 435.945(f).

(h) Before requesting information from, or releasing information to, other agencies to identify legally liable third-party resources under 433.138(d) of this chapter, the agency must execute data in exchanges agreements, as specified in section 433-138(h)(2) of this chapter.

***431.307 Distribution of information materials.***

(a) All materials distributed to applicants, recipients, or medical providers must:

- (1) Directly relate to the administration of the Medicaid program;
- (2) Have no political implications except to the extent required to implement the National Voter Registration Act of 1993 (NVRA) Pub. L. 103–931; for States that are exempt from the requirements of NVRA, voter registration may be a voluntary activity so long as the provisions of section 7(a)(5) of NVRA are observed;
- (3) Contain the names only of individuals directly connected with the administration of the plan; and
- (4) Identify those individuals only in their official capacity with the State or local agency.

(b) The agency must not distribute materials such as “holiday” greetings, general public announcements, partisan voting information and alien registration notices.

(c) The agency may distribute materials directly related to the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food, and consumer protection information.

(d) Under NVRA, the agency must distribute voter information and registration materials as specified in NVRA.

**EXHIBIT IV - FOOD  
AND NUTRITION  
ACT OF 2008, AS  
AMENDED**

(e)(8) Safeguards which prohibit the use or disclosure of information obtained from applicant households, except that -

(A) the safeguards shall permit -

(i) the disclosure of such information to person directly connected with the administration or enforcement of the provisions of this Act, regulations issued pursuant to this Act, Federal assistance programs, or federally assisted State programs; and

(ii) the subsequent use of the information by persons described in clause (i) only for such administration or enforcement;

(B) the safeguards shall not prevent the use or disclosure of such information to the Comptroller General of the United States for audit and examination authorized by any other provision of law;

(C) notwithstanding any other provision of law, all information obtained under this Act from an applicant household shall be made available, upon request, to local, State or Federal law enforcement officials for the purpose of investigating an alleged violation of this Act or any regulation issued under this Act;-

(D) the safeguards shall not prevent the use by, or disclosure of such information, to agencies of the Federal Government (including the United States Postal Service for purposes of collecting the amount of an overissuance of benefits, as determined under section 13(b) of this Act, from Federal pay (including salaries and pensions) as authorized pursuant to section 5514 of title 5 of the United States Code or a Federal income tax refund as authorized by section 3720A of title 31, United States Code;

(E) notwithstanding any other provision of law, the address, social security number, and if available, on request, to any Federal, State, or local law enforcement officer if the officer furnishes the State agency with the name of the member and notifies the agency that-

- (i) the member--
    - (I) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime (or attempt to commit a crime) that, under the law of the place the member is fleeing, is a felony (or, in the case of New Jersey, a high misdemeanor), or is violating a condition of probation or parole imposed under Federal or State law; or
    - (II) has information that is necessary for the officer to conduct an official duty related to subclause (I).
  - (ii) locating or apprehending the member is an official duty; and
  - (iii) the request is being made in the proper exercise of an official duty; and
- (E) the safeguards shall not prevent compliance with paragraph (15) or (18)(B) or subsection (u);

**EXHIBIT V - 7 CFR  
SECTION 272.1(c)**

- (c) Disclosure. (1) Use or disclosure of information obtained from food stamp applicant or recipient households shall be restricted to:
- (i) Persons directly connected with the administration or enforcement of the provisions of the Food and Nutrition Act of 2008 as amended, or regulations, other Federal assistance programs, federally assisted State programs providing assistance on a means-tested basis to low income individuals, or general assistance programs which are subject to the joint processing requirements in section 273.2(j)(2).
  - (ii) Persons directly connected with the administration or enforcement of the programs which are required to participate in the State income and eligibility verification system (IEVS) as specified in section 272.8(a)(2), to the extent the food stamp information is useful in establishing or verifying eligibility or benefit amounts under those programs;
  - (iii) Persons directly connected with the verification of immigration status of aliens applying for food stamp

benefits, through the Systematic Alien Verification for Entitlements (SAVE) Program, to the extent the information is necessary to identify the individual for verification purposes.

- (iv) Persons directly connected with the administration of the Child Support Program under Part D, Title IV of the Social Security Act in order to assist in the administration of that program, and employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying, eligibility or benefits under Titles II and XVI of the Social Security Act;
- (v) Employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and
- (vi) Local, State, or Federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food and Nutrition Act of 2008 as amended, or regulation. The written request shall include the identity of the individual requesting the information and his authority to do so, violation being investigated, and the identity of the person on whom the information is requested.

(2) Recipients of information released under paragraph (c)(1) of this section must adequately protect the information against unauthorized disclosure to persons or for purposes not specified in this section. In addition, information received through the IEVS must be protected from unauthorized disclosure as required by regulations established by the information provider. Information released to the State agency pursuant to section 6103(1) of the Internal Revenue Code of 1954 shall be subject to the safeguards established by the Secretary of the Treasury in section 6103(1) of the Internal Revenue Code and implemented by the Internal Revenue Service in its publication, Tax Information and Security Guidelines.

(3) If there is a written request by a responsible member of the household, its currently authorized representative, or a person acting on its behalf to review material and information contained in its case file, the material and information contained in the case file shall be made available for inspection during normal business hours. However, the State agency may withhold confidential information, such as the names of individuals who have disclosed

information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

## LEGAL BASE

### FIP

MCL 400.1 et seq.  
MCL 400.35 and MCL 400.64

### SDA

Annual Appropriations Act  
Mich Admin Code, R 400.3151-400.3180

### RCA and RMA

45 CFR 400.27

### MA

42 CFR 431.300 - .307

### CDC

The Child Care and Development Block Grant (CCDBG) Act (42 USC § 9858 et seq.), as amended by the CCDBG Act of 2014 (Pub. L. 113-186).  
45 CFR Parts 98 and 99.  
Social Security Act, as amended 2016.

### FAP

7 USC 2020(e)(8)  
7 CFR 272.1(c)  
7 CFR 273.2(c)(1)(v)

### FOIA

MCL 15. 231 et seq