

To: _____ From: _____
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Fax #: _____ Fax # _____
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Date _____

This fax has three pages.



“TPO” exemptions to HIPAA privacy requirements

Greetings,

The Oregon Department of Human Services (DHS) is providing this additional information to clarify the legalities around its recent request for medical information. We hope that this letter will explain our position that the information we requested can legally be released without the permission of the client.

The HIPAA law was not intended to be a barrier to conducting business. The law allows health organizations to exchange health information that is necessary for functions defined in the law as “treatment, payment and health-care operations” (TPO). These terms are defined later in this document.

The law states that releasing information related to treatment, payment and operations of health-care does not require the consent of the client. The law also does not require that DHS enter into a business associate agreement with a health care entity to obtain this information.

DHS is aware that there are other, more stringent laws regarding certain types of records related to mental health, addiction, HIV and genetics. Our request for information conforms to the provisions of those stricter laws.

The remainder of this document summarizes the portions of the HIPAA law that deal with TPO disclosures. We hope this information addresses your concerns about releasing records to DHS. If you have further questions, you can contact the DHS Privacy Office at (503) 945-5780.

Definitions of treatment, payment and health-care operations

This is a brief summary of the provisions of 45CFR 164.501 that pertain to the DHS request for information about its client. The complete text of the regulations is available www.hhs.gov/ocr/hipaa

Treatment: The provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with the third party; consulting between health care providers relating to a patient or the referral of a patient for health care from one health care provider to another.

Payment: Any activities related to an individual to whom health care or payment for health care is provided, in order to:

- ▶ Obtain premiums or to determine or fulfill a health plan's responsibility for coverage and provision of benefits under the health plan;
- ▶ Obtain or provide reimbursement for providing health care.

Some of the specific functions covered by the payment exemption include:

- ▶ Determinations of eligibility or coverage (including coordination of benefits or the determination of cost-sharing amounts), and adjudication of health-benefit or health care claims;
- ▶ Risk-adjusting the amounts due, based on enrollee health status and demographic characteristics;
- ▶ Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, and related health-care data processing;
- ▶ Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;

- ▶ Utilization-review activities, including pre-certification and pre-authorization of services, and concurrent and retrospective review of services;
- ▶ Disclosure to consumer reporting agencies of any of the following information relating to collection of premiums or reimbursement: name and address; date of birth; payment history; account number; and name and address of the health care provider or health plan.

Health Care Operations: Any of the following activities of a covered entity, to the extent that the activities are related to covered functions:

- ▶ Conducting quality assessment and improvement activities, including income evaluation and development of clinical guidelines.
- ▶ Population-based activities related to improving health or reducing health care costs, protocol development, case management and care coordination; contact with health care providers and patients to give information about treatment alternatives; and related functions that do not include treatment.
- ▶ Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs.
- ▶ Business management and general administrative activities, including but not limited to the following:
 - ▷ Management activities relating to implementation of and compliance with the requirements of HIPAA;
 - ▷ Customer service, including the providing of data analysis;
 - ▷ Resolution of internal grievances, including the resolution of disputes from patients or enrollees regarding the quality of care and eligibility for services.
 - ▷ Creating de-identified data or a limited data set.