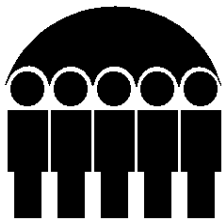


Revised November 18, 2003

Employees' Manual
Title 1
Chapter C

CONFIDENTIALITY AND RECORDS



Iowa
Department
of
Human Services

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OVERVIEW

This chapter describes the records of the Iowa Department of Human Services and the procedures for access to these records. All records of the Department are open to the public except those containing information that is deemed confidential by law. Much of the information the Department gathers is confidential, and access to it is restricted.

This chapter contains confidentiality policies for programs of the Department. It does not contain policies relating to employees or applicants for employment. Also, some programs, notably adoptions, child abuse, dependent adult abuse, mental health, and substance abuse, have confidentiality policies specific to the particular program. This chapter presents an overview of these policies only. Specific procedures are found in chapters relating to those programs.

This chapter also implements the Health Insurance Portability and Accountability Act (HIPAA) and corresponding federal regulations on the standards the Department must meet to protect the privacy of protected health information.

The Department has chosen to be considered a “hybrid entity” for purposes of HIPAA, since parts of the Department are not part of the “covered entity” and are not subject to HIPAA compliance. The “covered entity” consists of the Department health plans and health care providers and the divisions or programs that perform functions on behalf of a health plan.

Legal Basis

Iowa Code Chapter 22 provides for the examination of public records. The law defines “records” as any information that is stored or preserved in any form.

In 1984, the Iowa General Assembly adopted the Iowa Fair Information Practices Act, Iowa Code section 22.11, which requires that the information practices of all state agencies be clearly defined and subject to public review and comment. Each state agency is required to adopt rules that:

- ◆ Describe the nature and extent of the personally identifiable information collected by the agency; and
- ◆ Specify whether each record kept by the agency is confidential, open to the public, or partially confidential and partially open to the public.

OVERVIEW

Legal Basis

Revised October 5, 2007

Agencies are not allowed to use any personally identifiable information that is not in a record system described in rules as required by the law. The rules must also describe:

- ◆ The means of storing the information,
- ◆ The legal authority for collection of personally identifiable information,
- ◆ The legal authority for all claims of confidentiality of records, and
- ◆ The matching of personally identifiable data from different records systems that is done by data processing systems.

Agencies must develop rules setting procedures for:

- ◆ Providing public access to records;
- ◆ Allowing a person to review a record about that person and have additions or objections entered in the record;
- ◆ Releasing a confidential record to a third party when authorized by the subject of the record; and
- ◆ Notifying people giving information of the use to be made of the information, what people outside the agency may see the information, whether the information is optional or required, and what will happen if the information isn't given.

Agency staff who fail to make public records available are subject to civil suit and criminal prosecution.

Numerous sections of state and federal law provide for the confidentiality of information contained in Department records. These provisions are summarized and explained in the section [AVAILABILITY OF RECORDS](#).

The general confidentiality provisions for the Department are found in Iowa Code section 217.30. The Department is permitted to make exceptions to those provisions if it finds that adhering to them would cause a denial of federal funds due to failure to meet federal program standards.

To improve the efficiency and effectiveness of the health care system, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, included administrative simplification provisions that required the U.S. Department of Health and Human Services to adopt national standards for electronic health care transactions. These provisions are found in Part C of Title XI of the Social Security Act.

At the same time, Congress recognized that advances in electronic technology could erode the privacy of health information. Consequently, Congress incorporated provisions into HIPAA that mandated the adoption of federal privacy protections for protected health information. In response to these mandates, the U.S. Department of Health and Human Services has published the following final regulations:

- ◆ “Standards for Privacy of Individually Identifiable Health Information,” contained in 45 CFR Parts 160 and 164, as amended to August 14, 2002. These regulations, known as the “privacy rule,” became effective April 14, 2003, and contribute to the Department’s policy on confidentiality of protected health information.
- ◆ “Health Insurance Reform: Security Standards,” contained in 45 CFR Parts 160, 162, and 164, as amended to February 20, 2003. These regulations, known as the “security rule,” became effective April 21, 2005, and contribute to the Department’s policy on the confidentiality, integrity, and availability of protected health information in electronic format.

Purpose

Legal reference: 441 IAC 9.2(17A,22)

The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound Department determinations with respect to the handling of confidential records and the implementation of the Fair Information Practices Act.

The Department is committed to the policies set forth in Iowa Code Chapter 22. Department staff shall cooperate with members of the public in implementing the provisions of that chapter.

The policies are based on two conflicting concepts:

- ◆ The public has a right to have access to public records. Records and documents belonging to the Department are considered public records. Iowa law provides that any member of the public has a right to examine and copy all public records unless the Iowa Code expressly limits this right.
- ◆ People have a right to privacy. People have the right to be informed about the storage of personal information about themselves and to control the collection, use, and dissemination of that information.

OVERVIEW

Purpose

Revised June 22, 2004

Iowa Department of Human Services
Title 1 General Departmental Procedures
Chapter C Confidentiality and Records

There is a need to balance the right of privacy with the need of government to gather information and the necessity of providing public access to the information. A public agency should gather only that information necessary to fulfill a public purpose.

When a statute or rule makes information confidential, it is because the public purpose served by its release is outweighed by the undue violation of privacy that would result from release.

Purpose of the HIPAA Privacy Rule

The HIPAA privacy rule establishes national standards, a federal floor of safeguards, for the privacy of protected health information. The rule

- ◆ Gives patients more control over their personal health information;
- ◆ Sets boundaries on the use and release of health records;
- ◆ Establishes safeguards that health care providers, health plans, and others must achieve to protect the privacy of personal health information;
- ◆ Holds violators accountable, with civil and criminal penalties that can be imposed if someone violates a subject's privacy rights; and
- ◆ Strikes a balance when public responsibility supports disclosure of some forms of data—for example, to protect public health.

For individuals, the HIPAA privacy rule means being able to make informed choices when seeking health care or payment coverage, based on how personal health information may be used. The rule:

- ◆ Enables people to find out how their personal health information may be used and about certain disclosures of their information that have been made.
- ◆ Generally limits release of personal health information to the minimum reasonably needed for the purpose of the disclosure.
- ◆ Generally gives patients the right to examine and obtain a copy of their own health records and request corrections.
- ◆ Empowers people to control certain uses and disclosures of their personal health information.

The privacy rule does not replace federal, state, or other laws that grant subjects even greater privacy protections. Iowa laws that provide stronger privacy protections continue to apply over and above the privacy rule.

Applicability of HIPAA Policies

Legal reference: 441 IAC 9.1(17A,22), 45 CFR 160.102, 164.504

HIPAA policies on protected health information apply only to those parts of the Department that are considered part of a “covered entity.” The HIPAA privacy rule applies to three types of covered entities:

- ◆ Health plans: Department health plans are Medicaid and *hawk-i*.
- ◆ Health care providers: Department mental health facilities are health care providers.
- ◆ Health care clearinghouses: Not applicable to the Department.

Because the Department’s business activities include covered-entity functions covered by the privacy rule (health care components) and functions that are not covered by the privacy rule, the Department is considered under the privacy rule to be a “hybrid” entity.

As a hybrid entity, the Department must designate those parts of the Department that are covered by the privacy rule and, therefore, required to comply with the requirements of the privacy rule, and those that are not covered, or those that are “carved out.”

The Department has determined that the following units are required to comply with the privacy rule:

- | | |
|---|---|
| ◆ Bureau of Budget and Accounting | ◆ Division of Financial, Health, and Work Supports |
| ◆ Bureau of Child Welfare Systems | ◆ Division of Mental Health and Disability Services |
| ◆ Bureau of IM Systems | ◆ Division of Medical Services |
| ◆ Bureau of Network Support | ◆ Field Operations Support Unit |
| ◆ Bureau of Policy Analysis and Appeals | ◆ Field service areas |
| ◆ Bureau of Purchased Services | ◆ Glenwood Resource Center |
| ◆ Bureau of Purchasing, Payments and Receipts | ◆ Independence Mental Health Institute |
| ◆ Bureau of Quality Assurance and Improvement | ◆ Iowa Medicaid Enterprise |
| ◆ Bureau of Research and Statistics | ◆ Mount Pleasant Mental Health Institute |
| ◆ Cherokee Mental Health Institute | ◆ Quality Control Unit |
| ◆ Clarinda Mental Health Institute | ◆ Revenue Maximization Team |
| ◆ Director’s Office | ◆ Woodward Resource Center |
| ◆ Division of Child and Family Services | |

The Department has determined that the following units are **not** required to comply with the privacy rule:

- ◆ Bureau of Child Support Systems
- ◆ Bureau of Collection Services
- ◆ Bureau of Human Resources
- ◆ Civil Commitment Unit for Sexual Offenders
- ◆ Division of Child Support, Case Management, and Refugee Services
- ◆ Eldora State Training School
- ◆ Toledo Juvenile Home

The Department must ensure that covered components disclose protected health information to noncovered components or to entities outside of the Department under applicable privacy rules.

As a rule, use general confidentiality procedures unless special policies or procedures are noted for the use or disclosure of protected health information. See also [HEALTH INFORMATION POLICIES AND PROCEDURES](#) and [Use or Disclosure of Protected Health Information](#).

Definitions

Legal reference: 441 IAC 9.1(17A,22); 45 CFR 160.103, 164.501, and 164.304

“Availability,” when applied to information about a subject that is held by the Department and used for Department purposes, refers to when or how often that information is accessible and useable by an authorized person.

“Business associate” means a person or an organization, other than a member of the Department’s workforce, who meets one of the following criteria:

- ◆ Performs or assists in performing a function or activity on behalf of the Department that involves the use or disclosure of protected health information, including:
 - Billing.
 - Benefit management.
 - Claims processing or administration.
 - Data analysis.
 - Practice management and repricing.

- Quality assurance.
 - Research.
 - Utilization review.
 - Any other function or activity regulated by the rules on protected health information.
- ◆ Provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for the Department. The provision of the service shall involve the disclosure of protected health information from the Department or from another business associate of the Department to the person or organization.

“Client” means a person who has applied for or received services or assistance from the Department.

“Confidential record” means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records:

- ◆ That the Department is prohibited by law from making available for examination by members of the public; or
- ◆ That are specified as confidential by Iowa Code section 22.7 or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or another person duly authorized to release the record.

Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“Confidentiality” means the property that data or information is not made available or disclosed to unauthorized persons or processes.

“Covered entity” means:

- ◆ A health plan.
- ◆ A health care clearinghouse.
- ◆ A health care provider that transmits any health information in electronic form in connection with a transaction covered by the HIPAA regulations.

“**Covered functions**” means the functions performed by a covered entity that make the covered entity a health plan, health care provider, or health care clearinghouse.

“**Custodian**” means the Department or a person who has been given authority by the Department to act for the Department in implementing Iowa Code Chapter 22.

- ◆ For local offices, the custodian is the service area manager.
- ◆ For a child support recovery office, the custodian is the regional administrator.
- ◆ For an institution, the custodian is the institution superintendent.
- ◆ For a central office unit, or for requests dealing with more than one service area, region, or institution, the custodian is the division director.

“**Data aggregation**” means the action by which a business associate combines protected health information of the Department with protected health information of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.

“**Department**” means the Iowa Department of Human Services.

“**Designated record set**” means a group of records maintained by or for the Department that is:

- ◆ The medical records about residents maintained for the Department’s facilities,
- ◆ The enrollment, payment, and eligibility record systems maintained for Medicaid, or
- ◆ The enrollment, payment, and eligibility records systems maintained by or for the *hawk-i* program that are used, in whole or in part, by the *hawk-i* program to make decisions about applicants and recipients.

For purposes of this definition, the term “record” means any item, collection, or grouping of information that:

- ◆ Includes protected health information and
- ◆ Is maintained, collected, used, or disseminated by or for the Department.

“**Disclosure**” means releasing information, transferring information, providing access to information, or divulging information in any other manner outside the organization holding the information.

“Facility” or **“facilities”** means, with respect to HIPAA policies about health information, one or more of these Department institutions: Cherokee, Clarinda, Independence, and Mount Pleasant Mental Health Institutes and Glenwood and Woodward Resource Centers.

“Health care” means care, services, or supplies related to the health of a subject. Health care includes, but is not limited to, the following:

- ◆ Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of a subject or that affects the structure or function of the body.
- ◆ Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

“Health care clearinghouse” means a public or private organization including a billing service, repricing company, community health management information system or community health information system, and “value-added” networks and switches, that does either of the following functions:

- ◆ Processes or facilitates the processing of health information received from another organization in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction.
- ◆ Receives a standard transaction from another organization and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving organization.

“Health care operations” has the same meaning as the definition in 45 CFR 164.501 as amended to August 14, 2002. For a covered entity in the Department, health care operations has the following meaning:

- ◆ For Medicaid, **“health care operations”** means any of the following activities of the Department to the extent that the activities are related to covered functions:
 - Reviewing medical level of care and prior authorizations.
 - Developing clinical guidelines.
 - Conducting quality assessments and evaluating outcomes.
 - Informing clients of treatment alternatives and related functions.

OVERVIEW

Definitions

Revised June 22, 2004

Iowa Department of Human Services
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- Reviewing competence, qualifications, or performance of health care professionals using the surveillance and utilization review subsystem.
- Improving general health or reducing costs.
- Developing protocols, including case management and care coordination models for MediPASS and pharmacy case management as well as for other service areas and client populations under the Medicaid program.
- Reviewing health plan performance from encounter data.
- Premium rating and rate setting.
- Performing activities in reinsurance of risk with the health maintenance organizations.
- Obtaining legal services through the attorney general's office or the county attorney's office.
- Cooperating in audits and fraud detection.
- Auditing and detecting fraud by Iowa and federal auditors, the fiscal agent, or the Department of Inspections and Appeals.
- Conducting business planning and development including formulary development by the Drug Utilization Review Commission and the Department's research and statistics staff.
- Managing activities, which include claiming of federal financial participation, recovering unknown third-party liability, recovering nursing care funds and other expenditures through estate recovery, grouper programming for hospitals, lock-in activities, and federal reporting of paid claims.
- Providing customer service, which includes income maintenance workers answering questions on lock-in providers, copayment for pregnant women, claims payment problems; and the fiscal agent providing customer service for claims payment.
- Coordinating care and monitoring the effective delivery of child welfare services to ensure the safety and well-being of children, including reporting and providing testimony to the court of jurisdiction on the condition and service progress of a client receiving services from the Department.

These care coordination and monitoring activities include providing information concerning the client to attorneys representing the various parties in the court proceedings.

-
- ◆ For the *hawk-i* program, “**health care operations**” means any of the following activities of the Department to the extent that they are related to covered functions:
 - Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines; population-based activities relating to improving health or reducing health care costs, protocol development and related functions that do not include treatment.
 - Reviewing health plan performance.
 - Premium rating and performing other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits.
 - Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs.
 - Performing business planning and development, such as conducting cost-management and planning-related analysis relating to management and operations and the development or improvement of methods of payment or coverage policies.
 - Performing business management and general administrative activities, including, but not limited to, management activities relating to implementation of and compliance with privacy requirements; customer service; and resolution of internal grievances.
 - ◆ For the facilities, “**health care operations**” means any of the following activities of the department to the extent that they are related to covered functions:
 - Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from these activities.
 - Protocol development and population-based activities relating to improving health or reducing health care costs.
 - Case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment.
 - Reviewing the competence or qualifications of health care professionals.
 - Performing accreditation, certification, licensing, or credentialing activities.

OVERVIEW

Definitions

Revised November 18, 2003

Iowa Department of Human Services
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- Evaluating practitioner performance, provider performance and health plan performance.
- Conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers.
- Training of non-health care professionals.
- Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs.
- Performing business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the organization, including formulary development and administration, development or improvement of methods of payment or coverage policies.
- Performing business management and general administrative activities, including, but not limited to:
 - Management activities related to implementation of and compliance with the requirements of HIPAA.
 - Customer service, which includes the provision of data analyses for policyholders, plan sponsors, or other customers, provided that protected health information is not disclosed to the policyholder, plan sponsor, or customer.
 - Resolution of internal grievances.
 - Activities consistent with the requirements at [De-identified Health Information](#) and [Limited Data Set](#).

“Health care provider,” for purposes of this chapter, means a provider of medical or health services who furnishes, bills for, or is paid for health care in the normal course of business. For the Department, “health care providers” are the Department facilities as defined above.

“Health information” means any information, whether oral or recorded in any form or medium, which relates to any of the following:

- ◆ The past, present, or future physical or mental health or condition of a subject;
- ◆ The provision of health care to a subject; or
- ◆ The past, present, or future payment for the provision of health care to a subject.

“Health maintenance organization (HMO)” means a public or private organization licensed as an HMO under Iowa Department of Commerce rules at 191 IAC Chapter 40.

“Health oversight agency” means an agency that is authorized by law to fulfill the following functions:

- ◆ Oversee the health care system (whether public or private).
- ◆ Enforce civil rights laws for which health information is relevant.
- ◆ Oversee government programs in which health information is necessary to determine eligibility or compliance.

A health oversight agency can be:

- ◆ An agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, or
- ◆ A person or organization acting under a grant of authority from or contract with a public agency, including the employees or agents of the public agency or its contractors or persons or organizations to whom it has granted authority.

“Health plan” means an individual or group plan that provides, or pays the cost of, medical care. For the Department, “health plans” are Medicaid and *hawk-i*.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996.

“Intake worker,” for purposes of this chapter, means any Department staff member who has occasion to talk with, take telephone calls from, and otherwise assist people who:

- ◆ Need information about HIPAA policies,
- ◆ Wish to exercise their rights under HIPAA policies,
- ◆ Are asked by the Department to complete an authorization for disclosure of their protected health information, or
- ◆ Ask to complete an authorization to enable the Department to disclose their protected health information.

Department “intake workers” include, but are not limited to, all facility staff, income maintenance workers, service workers, and clerical staff.

“Integrity” means the authenticity, accuracy, and completeness of information held by the department about a subject; that is, the information has not been altered or destroyed in an unauthorized manner.

“Law enforcement official” means an officer or employee of any agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, who is empowered by law to:

- ◆ Investigate or conduct an official inquiry into a potential violation of law; or
- ◆ Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

“Legal representative” is a person recognized by law as standing in the place or representing the interests of another for one or more purposes. For example, guardians, conservators, custodians, attorneys, parents of a minor, and executors, administrators, or next of kin of a deceased subject are legal representatives for certain purposes.

“Mental health information” means oral, written, or otherwise recorded information which indicates the identity of a subject receiving professional services [as defined in Iowa Code section 228.1(8)] and which relates to the diagnosis, course, or treatment of the subject’s mental or emotional condition. Mental or emotional conditions include:

- ◆ Mental illness
- ◆ Mental retardation
- ◆ Degenerative neurological conditions
- ◆ Any other condition identified in professionally recognized diagnostic manuals for mental disorders

“Open record” in this chapter means a record other than a confidential record.

“Payment,” with respect to HIPAA rules about health information, means the same as the definition in 45 CFR 164.501. In the Department, “payment” applies to subjects for whom health care coverage is provided under the Department health plans. “Payment” has the following meaning for these health plans:

- ◆ For Medicaid, “payment” includes activities undertaken to:
 - Determine or fulfill responsibility for coverage and provision of benefits.
 - Obtain or provide reimbursement for the provision of health care.

- Determine eligibility, including spend-down for the Medically Needy program and premiums for Medicaid for employed people with disabilities.
 - Determine coverage, including coordination of benefits or the determination of cost sharing amounts and adjudication or subrogation of health benefit claims.
 - Perform risk adjustment of amounts due based on enrollee health status and demographic characteristics.
 - Bill, manage claims, collect, obtain payment under a contract for reinsurance, including stop-loss insurance and excess of loss insurance, and conduct related health care data processing.
 - Review health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges.
 - Perform utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services.
- ◆ For *hawk-i*, “payment” includes activities undertaken to:
- Obtain reimbursement or pay for providing health care services; or
 - Obtain premiums or to determine or fulfill the *hawk-i* responsibility for coverage and provision of benefits under the health plan, including, but not limited to:
 - Billing and collection activities.
 - Review of health care services with respect to coverage under a health plan.
 - Utilization review activities.
 - Determination of eligibility for coverage, including coordination of benefits or the determination of cost sharing amounts.

“**Personally identifiable information**” means information about or pertaining the subject of a record which identifies the subject and which is contained in a record system. The incidental mention of another person’s name in a subject’s record (e.g., as employer, landlord, or reference) does not constitute personally identifiable information.

“**Personal representative**” is someone designated by another as standing in the other’s place or representing the other’s interests for one or more purposes. The term “personal representative” includes, but is not limited to, a legal representative. For disclosure of protected health information, the definition of “personal representative” is more restrictive. See [PEOPLE WHO MAY EXERCISE RIGHTS OF THE SUBJECT](#).

“Plan sponsor” means:

- ◆ The employer, for a benefit plan established or maintained by a single employer;
- ◆ The employee organization, for a plan established or maintained by an employee organization; or
- ◆ The association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, for a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

“Protected health information” means information that contains a subject’s medical information, including past, present, or future treatment and payment information. Protected health information is a composite of multiple fields that grouped together give detailed accumulative information about a subject’s health.

The following areas of health-care-processing file information constitute protected health information when joined together in an accessible record:

- ◆ Information that identifies the subject.
- ◆ Medical information describing the subject’s condition, treatment, or health care.
- ◆ Health care provider information.

Identifying information associated with any information from the other two categories constitutes protected health information. When the information that identifies the subject is present in the record, any information that ties health care data to the subject’s identity constitutes protected health information.

“Psychotherapy notes” means notes that are:

- ◆ Recorded in any medium by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session; and
- ◆ Separated from the rest of the subject’s medical record.

Psychotherapy notes exclude medication prescription and monitoring, counseling session start and stop times, the methods of therapy and frequencies of treatment furnished, results of clinical tests, and any summary of the following items:

- ◆ Diagnosis
- ◆ Functional status
- ◆ The treatment plan
- ◆ Symptoms
- ◆ Prognosis
- ◆ Progress to date

“Public health authority” means:

- ◆ An agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe that is responsible for public health matters as part of its official mandate, or
- ◆ A person or organization acting under a grant of authority from or contract with such a public agency, including the employees or agents of the public agency or its contractors or persons or organizations to whom it has granted authority.

“Record” means the whole or a part of a public record that is owned by or in the physical possession of the Department. “Public records” include all records, documents, video or audio tapes, microfiche, or other information, stored or preserved in any medium, of or belonging to this state or any branch, department, board, bureau, commission, council, or committee of the state. The definition of “public record” comes from Iowa Code 22.1.

“Record system” means any group of records under the control of the Department from which a record may be retrieved by a personal identifier such as the name of a subject, number, symbol, or other unique retriever assigned to a subject.

“Required by law” means a mandate contained in Federal law or regulation, state law, state administrative rule, case law, or court order that is enforceable in a court of law.

“Required by law” includes statutes or regulations that require the production of information, including statutes or regulations that require the information if payment is sought under a government program providing public benefits.

“Research” means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.

OVERVIEW

Definitions

Revised June 22, 2004

Iowa Department of Human Services
Title 1 General Departmental Procedures
Chapter C Confidentiality and Records

“Security” refers to all of the administrative, physical, and technical safeguards used in the Department’s information systems to prevent the unauthorized access, use, disclosure, modification, or destruction of information, or interference with system operations.

“Security” encompasses confidentiality, integrity, and availability of information.

“Security and Privacy Office” means the office established by the Department with the following responsibilities:

- ◆ Develop and implement HIPAA security and privacy policies and procedures for the Department health plans and the Department facilities.
- ◆ Receive complaints as described at [Complaints](#).
- ◆ Provide further information about matters covered by the notices, as described at [Notice of Privacy Rights and Practices](#).

“Security and privacy officer” means the person designated by the Department to carry out the responsibilities of the Security and Privacy Office.

“Subject” means the person who is the subject of the record, whether living or deceased.

“Substance abuse information” means information which indicates the identity, diagnosis, prognosis, or treatment of any subject in an alcohol or drug abuse program.

“Transaction” means the electronic transmission of information between two parties to carry out financial or administrative activities related to health care. It includes the following defined HIPAA standard transactions:

- ◆ Health care claims or equivalent encounter information
- ◆ Health care payment and remittance advice
- ◆ Coordination of benefits
- ◆ Health care claim status
- ◆ Enrollment and disenrollment in a health plan
- ◆ Eligibility for a health plan
- ◆ Health plan premium payments
- ◆ Referral certification and authorization
- ◆ Other transactions that the Secretary of U.S. Department of Health and Human Services may prescribe by regulation

“**Treatment,**” with respect to health information, means:

- ◆ 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 a third party;
- ◆ Consultation between health care providers relating to a patient; or
- ◆ The referral of a patient for health care from one health care provider to another.

“**Use,**” with respect to protected health information, means sharing, application, utilization, examination, or analysis of such information within an organization that maintains the information.

“**Workforce**” means employees, volunteers, trainees, and other people whose conduct, in the performance of work for the Department health plans and the Department facilities, is under the direct control of the Department, whether or not the Department pays them.

GATHERING INFORMATION

When gathering information for the Department, gather and keep only that information which is necessary to discharge the Department’s duties. Limit collection of information, particularly personally identifiable information on clients, to that data necessary to administer and manage the program authorized by law. Program staff shall periodically review all Department data to determine that only necessary data are collected.

When entering information in a client’s file, remember that the client may be given access to the file. Data that is not needed should not be requested. Exercise judgment and caution regarding which material is included and how the material is presented to avoid damaging the employee-client relationship and to avoid harming the client.

At times you will take notes that may become part of the case record, during an interview or during a contact with a third party, for example. These notes may be important for case management, but may contain suppositions or observations which would not be appropriate in the record or which could become part of the record at a later time when more information is available.

Remember, if the information is going to be used, it must be **part of the record**. Incorporate the pertinent information into the case record and destroy the personal notes when you have done so.

When gathering information from third parties about a Department client, have the client complete the appropriate authorization form. See [Obtaining Information From a Third Party](#) for more information on these procedures.

Notice to Suppliers of Information

Legal reference: 441 IAC 9.8(17A.22) and 9.14(4); Iowa Code section 22.11; 45 CFR 164.520

When you ask a person to supply information to the Department about that person, provide the person with the following notice:

- ◆ The use that will be made of the information,
- ◆ Which people outside the Department might routinely be provided this information,
- ◆ Which parts of the requested information are required and which are optional, and
- ◆ The consequences of a failure to provide the information requested.

Generally, you shall give the notice at the person's first contact with the Department. You need not repeat it at every following contact. Where appropriate, give the notice to a subject's legal or personal representative. Withhold such notice in an emergency or when it would compromise the purpose of a Department investigation.

The Department may use any of the following methods to give the notice:

- ◆ Inclusion in the Iowa Administrative Code of the Department
- ◆ Written forms used to collect the information
- ◆ Separate fact sheets, letters, or brochures
- ◆ Formal agreements or contracts
- ◆ Handbooks or manuals
- ◆ Verbally, or by other appropriate means

In addition, for protected health information covered by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), provide the person with a notice of privacy practices in accordance with federal requirements. (See [Notice of Privacy Rights and Practices](#).)

In general, the Department requests information to determine eligibility and benefit levels for assistance, to provide appropriate services or treatment, and to perform regulatory and administrative functions. Consequences of failure to provide information include ineligibility for public assistance, denial of licensure or regulatory approval, or inadequate service provision.

Information is routinely shared outside the Department when required by rules or law. See particular program chapters for more specific information on content and procedures. Also be alert for special policies and exceptions regarding protected health information in this chapter.

Because of the requirements that forms used by the public and all policies of general applicability must be in the administrative rules, responsibility for meeting this requirement generally falls on program managers in central office. All staff who request information from the public should be aware of these requirements.

Review of Forms

When designing forms for use by the public, ensure that the form does not collect unnecessary information or information that is already being collected by another method.

The Iowa Administrative Procedures Act requires that all forms used by the public shall be described in the Department's rules. See 20-C, [FORMS MANAGEMENT](#), for more information about these requirements. See 20-C-Appendix, [Forms Analysis and Design Handbook, Comm. 203](#), for more information on efficient forms design.

When forms and interview guides are revised, or during periodic review of such forms and guides, review each data item that is requested.

- ◆ Are any out of place, redundant, or unnecessary?
- ◆ Are there any spaces labeled "comment" or "remarks" that are not needed?
- ◆ Are questions worded in such a way that a person would normally divulge more data than the agency requires for its purpose?
- ◆ Are questions generally objective (factual) in nature, rather than subjective (calling for conclusions, judgments, opinions, etc.)?

Review any forms that contain questionable items with Department personnel who use the form regularly to determine the necessity and relevance of the data in question. Can these items be reworded or eliminated?

Ultimately, the “necessity” question is a judgment call. The process can involve checking statutes and rules to determine the legitimate goals of a program. It is essential that these questions are raised for any new form to limit Department data collection to that necessary for program purposes.

After going through these steps, compile a list of data elements or questions that should be revised or eliminated from the Department’s forms. This list should be given to the forms manager and program staff, who will ensure that the requested changes are made. If the changes or deletions are extensive, the form may be reprinted in a different format with potential savings to the Department.

Personally Identifiable Information

Legal reference: 441 IAC 9.12(1)

The personally identifiable information collected by the Department varies by the type of record. The nature and extent of personally identifiable information is described below:

◆ Recipients of assistance

Several different types of Department records contain personally identifiable information about recipients of assistance programs such as the Family Investment Program, Food Assistance, Medicaid, Child Care Assistance, State Supplementary Assistance, Refugee Cash and Medical Assistance, and commodity supplemental foods.

- **Client case file.** Local office case files contain identifying information, demographic information, household composition, and income and resource information about applicants for and recipients of assistance, as well as any other people whose circumstances must be considered in determining eligibility.

Records may contain information about employment, disability, or social circumstances. Records contain the kind and amount of benefits received, and what proof was obtained to verify the recipient’s eligibility. Case files contain correspondence, appeal requests and decisions, and documentation of Department actions.

- **Local office administrative records.** Client names and program data are kept in appointment logs, worker case lists, and issuance records.
- **Data processing systems.** Client identifying information, eligibility data, and payment data are kept in the following systems. Some of these records are also kept on microfiche.

System	Function
ABC Automated Benefit Calculation	Determines eligibility for FIP, Medicaid, Food Assistance, and State Supplements
Appeals Tracking System	Tracks client appeals
BCCT Program	Establishes Medicaid eligibility for breast and cervical cancer clients
BCV Birth Certificate Verification System	Displays birth record match information for proof of citizenship on people born in Iowa
CRS Change Reporting System	Tracks client-reported changes and produces forms needed for client-reported changes
DCPD Child Care Provider Display	Lists registered, licensed, or enrolled child care providers
EPPIC Electronic Payment Processing and Inventory Control	Electronically issues Food Assistance
ETS Eligibility Tracking System	Tracks clients' FIP eligibility and hardship status
FSCRA Food Stamp Case Reading Application	Records Food Assistance case reading information
<i>hawk-i</i>	Determines eligibility, assigns health plan
HIPP	Tracks health insurance premium payment
IEVS Income and Eligibility Verification System	Verifies social security numbers and federal benefits
Iowa Plan Program	Assigns group codes for Iowa Plan clients
ISIS Individualized Services Information System	Establishes waiver services, providers, and eligibility; processes data to and from ABC and IME; establishes facility eligibility

System	Function
ISSV Issuance History	Displays benefit issuances for FIP and Food Assistance
MEPD Premium Payment System	Accounts for billing and payment of Medicaid premiums for employed people with disabilities
MHC Managed Health Care Program	Assigns managed health care providers to clients
MIPS Medicaid IowaCare Premium System	Accounts for billing and payment of IowaCare premiums
MMIS Medicaid Management Information Systems	Processes clients' Medicaid claims
Medicaid Eligibility System	Assigns Medicaid coverage to clients
Medically Needy subsystem	Tracks spenddown and eligibility
OPR Overpayment Recoupment	Recovers money from FIP, Food Assistance, Medicaid, Child Care Assistance, PROMISE JOBS, and <i>hawk-i</i> clients
PJCASE	Interfaces between Iowa Workforce Development and PROMISE JOBS
Presumptive Eligibility Program	Establishes Medicaid eligibility for presumptive eligibility clients
QC Quality Control System	Selects sample for quality control review of eligibility determination
SDXD State Data Exchange Display	Exchanges information for Supplemental Security Income recipients
SSBI Social Security Buy In	Medicare premium buy-in
VRT Vehicle Registration and Titling	Displays vehicle registration and ownership used for resource eligibility and driver's license information for citizenship

- **Quality Control records.** Files are developed on selected clients containing data required to verify the correctness of Department eligibility and benefit decisions.
 - **Appeals.** Records containing client eligibility and payment information are created by the Department of Inspections and Appeals when a client (or, for Medicaid, a provider) requests a hearing on a Department action.
 - **Fraud.** When a client is suspected of fraud, an investigative record is generated by the Department of Inspections and Appeals containing information pertinent to the circumstance of the case.
 - **Recoupment.** When benefits have been overpaid, the Department of Inspections and Appeals establishes a record detailing the circumstances of the overpayment and the client’s repayment.
- ◆ **Recipients of social services.** Several kinds of Department records contain personally identifiable information about clients for direct or purchased social services.
- **Client case records.** Local offices create client case files containing demographic information; income data; information substantiating the need for services, which may include medical, psychological or psychiatric reports; social history, the Department evaluation of the client’s situation, documentation of Department actions and provider reports. Records may contain court orders and reports.
 - **Local office administrative records.** Client names and services data appear in records such as case lists and appointment logs.
 - **Data processing systems.** Client identifying information, demographic data, and services eligibility data are stored in the service reporting system. The purchase of services system contains invoice and service payment data. The child and adult protection system contains information from abuse reports and investigations. Some of these records are also kept on microfiche.

System	Function
ACAN Automated Child Abuse and Neglect	Inactive child abuse/neglect system
Appeals Tracking System	Tracks client appeals
FACS Family and Children’s Services	Tracks foster care, adoption, and family-centered services

System	Function
IAES Iowa Adoption Exchange System	Lists special-needs children who are legally free for adoption and approved families who want to be considered for adoptive placement
KACT	Authorized rehabilitative treatment service units
POSS Purchase of Social Services	Processes claims for purchased services (mostly child care and in-home health clients)
SRS Services Reporting System	Records eligibility for direct and purchased services
STAR Statewide Tracking of Assessment Reports	Tracks child abuse reports

- **Appeals.** The Department of Inspections and Appeals creates records containing client identifying information and eligibility information when a client requests a hearing on a Department action.
- **Adoption records.** The Department also keeps records on closed adoptions in which the Department has provided services. These files include the home study, information about the child, and legal documents. These records are also kept on microfiche.
- **Abuse registry.** Child and dependent adult abuse records contain names and information of the alleged victim and the victim's family, data on the reported abuse, details of injury, investigative data, name of alleged perpetrator, names of reporters, collateral contacts, and findings.
- **Interstate Compact records.** The Department maintains records on placement of children across state lines. These records contain identifying information about the children and the conditions of their placement, as well as progress reports. Some of the records are kept on microfiche.
- **Guardianship records.** The Department maintains records on all children under its guardianship. The records concern the children's characteristics and placements. Some of these records are kept on microfiche.

- ◆ **State facilities.** Facility client records may contain identifying and demographic information, medical and social histories, treatment records, treatment plans, educational information, admission procedures, financial accounts, county billings, residential unit notes, vocational information, economic data and information about personal effects. Some of this information is kept on microfiche.

Automated data processing systems associated with facility client records include admission and discharge systems for the juvenile facilities and for the mental health and mental retardation facilities, institutional billing systems, client banking systems, and client data systems.

System	Function
MHR Mental Health Reporting System	Records patient admissions, discharge, and transfers from the state mental health institutes and resource centers and some service data for billing purposes
SASI School Administration Student Information System	Records client demographic data and history for state juvenile facilities

- ◆ **Child Support Recovery Unit (CSRU) records.** These records contain information such as client identifiers, demographic information, divorce decrees, child support orders, the identity of absent parents, employment history and physical characteristics of absent parents, payment history records, and termination of parental rights.

System	Function
Appeals Tracking System	Tracks client appeals
ICAR	Child support recovery
ICER Central Employee Registry	State new-hire reporting system

- ◆ **Collection Services Center.** The Collection Services Center maintains records of support orders issued or filed in Iowa that have been converted to the collection services center system.

These records identify the person paying and the person receiving support, specify the support obligations, and contain a record of payments made. Most records are on an automated data processing system. Paper records may also be kept including conversion documents, orders, and correspondence.

- ◆ **Contractor records for individual providers.** Records of purchase of service, Medicaid, and State Supplementary Assistance providers contain information such as names of owners and employees, names of clients served, eligibility data, amounts of payment for clients and kinds of services received by clients.
- ◆ **Regulatory files on individual providers.** Files on people who apply to be licensed, certified, registered, or approved by the Department contain identifying information, a description of the person's operation or premises, and Department evaluations of the information collected.

Files may contain data on criminal records and abuse registry records on the person and any employees. Files may contain information that names clients served (for example in complaints or incident reports).

- ◆ **Personnel records.** The Department maintains files containing information about employees, families and dependents, and applicants for paid or volunteer positions within the Department.

The files contain payroll records, biographical information, medical information pertaining to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding and information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship.

Data Processing Matching

Legal reference: 441 IAC 9.12(2)

All data processing systems operated by the Department that have comparable personally identifiable data elements permit the matching of personally identifiable information. (See [Personally Identifiable Information](#) for a description of these systems.) Matches which are routinely done include the following:

- ◆ The Automated Benefit Calculation system matches public assistance data with:
 - The Collections and Reporting system and the Central Employee Registry;
 - The Electronic Payment Processing and Inventory Control system, the Income and Eligibility Verification System, the issuance history system, the Overpayment Recoupment system, the PJCase system, the State Data Exchange, the Quality Control system, the Birth Certificate Verification System, the Vehicle Registration and Titling system;

- The Medicaid Management Information System, the Medicare buy-in system, the Individualized Services Information System, the managed health care system, the presumptive eligibility system, the breast and cervical cancer treatment system, and the MEPD and IowaCare billing systems;
- The Family and Childrens Services system, the Service Reporting System, the Purchase of Social Services system, the Automated Child Abuse and Neglect system, and Statewide Tracking of Assessment Reports.
- ◆ The Medicaid eligibility system matches information with the Medicaid management information system and the collection and recovery system.
- ◆ Data from the service reporting system is matched with data from the purchase of service payment system for service eligibility and with the activity reporting system for cost allocation. Matches are also done with the state identification portion of the automated benefit calculation system.

The Department conducts the following external data matches:

- ◆ The State Data Exchange matches information on Department clients with Social Security Administration records on recipients of Supplemental Security Income.
- ◆ The Medicare buy-in system matches information with the Social Security Administration.
- ◆ The Income and Eligibility Verification System matches information on Department clients with:
 - Income records from Iowa Workforce Development Department on unemployment compensation and wages,
 - Tax records from the Internal Revenue Service,
 - Wage and social security benefit records from the Social Security Administration,
 - Public assistance records from other states.
- ◆ Data from the Collections and Reporting system is matched with state and federal tax records, and with client records on the automated benefit calculation system.
- ◆ Data on Department clients is matched with Iowa Workforce Development, administering agency for the Workforce Investment Act.
- ◆ Reports on disqualified Food Assistance participants from other states are received from the United States Department of Agriculture to ensure that participants are not evading penalties by reapplying in Iowa.

- ◆ A list of Family Investment Program recipients is released annually to the Internal Revenue Service for matching with records of dependents claimed.
- ◆ Effective for the 2007-2008 school year, the Departments of Human Services and Education are electronically matching names of children receiving Food Assistance directly with their schools to facilitate eligibility for the reduced-price lunch program.

The Centralized Employee Registry (CER) database receives data concerning employees and contractors who perform labor in Iowa.

Information reported by Iowa employers about employees includes the employee's name, address, social security number, date of birth, beginning date of employment, whether health insurance is available, and when it may be available. Information reported by Iowa income payers about contractors is limited to the contractor's name, address, social security number, and date of birth, if known.

State agencies accessing the CER shall participate in proportionate cost sharing for accessing and obtaining information from the registry. Cost sharing shall include all costs of performing the match including costs for preparing the tapes and central processing unit time. Costs are specified in a 28E agreement with each agency.

CER matches include the data matches with:

- ◆ The child support collections and reporting system for the establishment and enforcement of child and medical support obligations.
- ◆ Other Department of Human Services systems for the purpose of gathering additional information and verification for use in the determination of eligibility or calculation of benefits.
- ◆ Iowa Workforce Development for the determination of eligibility or calculation of unemployment benefits, and to monitor employer compliance with job insurance tax liability requirements.
- ◆ Iowa Workforce Development to verify employment of participants in the PROMISE JOBS program.
- ◆ The Departments of Revenue and Administrative Services for the recovery of debts to the state.
- ◆ The Department of Inspections and Appeals for the recovery of debts owed to the Department of Human Services.

CONFIDENTIALITY

Legal reference: 441 IAC 9.7(17A, 22, 228)

No confidential information about a client of the Department shall be released without the client's consent, except as provided in [AUTHORIZATION NOT REQUIRED FOR USE OR DISCLOSURE](#). Release of information includes:

- ◆ Granting access to or allowing the copying of a record.
- ◆ Providing information either in writing or orally.
- ◆ Acknowledging information to be true or false.

In some cases, another person may give the subject's consent. See [PEOPLE WHO MAY EXERCISE RIGHTS OF THE SUBJECT](#).

Responsibilities of Department Administrators

Each Department office that handles confidential information shall:

- ◆ Establish procedures for safeguarding information.
- ◆ Develop a procedure to indicate who is allowed to view confidential records.
- ◆ Take precautions for the security of records that contain confidential information.
- ◆ Remedy all situations that might allow for inadvertent disclosure of confidential information caused by poor facilities or improper office practices.

Include the following office rules and procedures in the training of new employees:

- ◆ Always make efforts to maintain a client's privacy in offices where confidential information is discussed.
- ◆ Do not discuss confidential information with unauthorized people or in places where unauthorized people might possibly overhear. Unauthorized people include family members and friends of staff.
- ◆ Do not leave confidential records out on a desk or on a display screen when not being used or where people unauthorized to see the materials may enter the office.
- ◆ Assign access codes only to people needing access to the computer terminal. No one shall use another person's access code without permission from the service area manager, regional administrator, or facility administrator.

- ◆ Keep records containing any confidential information in a secure room, in a locked file cabinet or other similar container when not in use. Keep the keys to these locked containers secured.
- ◆ Maintain a list of staff who have keys to the office for after-hour access. Review the list annually to:
 - Determine whether the same people still need after-hour access.
 - Ensure that the people still have control of the keys and haven't misplaced them.
- ◆ Obtain permission from the service area manager, regional administrator, or facility administrator before taking a case record or a medical or treatment record from the facility or office site. Do not grant permission to perform routine work on the records at home, except for Quality Control staff.
- ◆ When case records are sent outside of the office, send them by first-class mail.
- ◆ Use specialized methods of record destruction, such as shredding or burning with all confidential information.
- ◆ Require all affected staff to take the Department's HIPAA privacy training and HIPAA security training.

Maintaining Security of IRS Data

Legal reference: IRS Publication 1075

The IRS Match and the SSA Earnings and Pension reports are considered IRS data. A release of information or other verification form that contains the name and address of an employer or bank, account number, etc., that was obtained from an IRS report becomes IRS data and must also be kept secure.

In addition to observing the general requirements listed under [Responsibilities of Department Administrators](#), take the following precautions with IRS data:

- ◆ Take care to deny unauthorized access to areas or files containing IRS data. This can be accomplished by a variety of methods: locks, security glass, electronic monitoring equipment, card access readers, etc. The IRS requires maintaining a minimum of two barriers at all times.

An exception is allowed for security guards and cleaning crews. The guard or crew may be allowed access to a locked building or room if the federal tax information is in a locked container. This exception does not include the building landlord or maintenance staff. Refer to IRS publication 1075 for further detail.

- ◆ Combination locks used to secure federal tax information must be changed not less than annually.
- ◆ Local offices shall record IRS data on the *IRS Tracking Log*, form 470-3563, when received in the local office.
- ◆ Local offices shall complete and return form 470-3589, *IRS Transmittal*, to the Division of Data Management within five working days of receiving IRS Match or SSA Earnings and Pension reports.
- ◆ When mailing any file containing IRS data, double seal it and stamp the inside envelope with the message “Confidential--to be opened by authorized personnel only.”
- ◆ When any IRS data is destroyed, enter documentation on the *IRS Tracking Log*.
- ◆ A Department employee must witness the destruction of any IRS data if the destruction is performed by a non-Department person or by a Department person who does not have a “need to know.”
- ◆ Do not dispose of IRS data by hand-tearing it or burying information at a landfill.
- ◆ If IRS data is shredded, insert the paper so that the lines of print are perpendicular to the cutting line. Shred the paper so that the strips are no wider than 5/16".
- ◆ Review the IRS provisions and penalties annually with staff in each office.
- ◆ Volunteers are prohibited from handling IRS data.
- ◆ Any loss of IRS data must be reported to the Treasury Inspector, General of Tax Administration, and DHS administration.

Maintaining Confidentiality Within the Department

Legal reference: 441 IAC 9.10(1), IRC 6103(1)(6), 45 CFR 164.306

Confidential information may be disclosed to employees and agents of the Department as needed for the performance of their duties. As custodian of the record, determine what constitutes legitimate need to use confidential records. People affected by this rule include:

- ◆ County-paid staff.
- ◆ Fieldwork students.
- ◆ Volunteers working under the direction of the Department.
- ◆ Council and commission members.
- ◆ Policy review and advisory committees.
- ◆ Consultants to the Department.

Note: These people are not entitled to access federal tax information. (For exceptions, see [Federal Tax Information](#).)

You are also responsible for maintaining the security of the systems of the Department. This means guarding the confidentiality, integrity, and availability of all electronic information that the Department creates, receives, maintains, or transmits.

Maintaining confidentiality is a requirement for satisfactory job performance for all employees. Failure to do so shall be cause for disciplinary action. Failure to maintain confidentiality may also result in civil or criminal penalties for the staff person and others bound by the Department's confidentiality policies.

Do not access information available through automated data matching agreements with other agencies except as necessary for the discharge of your assigned duties.

Within the Department, share information on a cooperative basis, unless expressly limited by law. Confidentiality is between the client and the Department, not between a client and an individual worker.

Since all staff are subject to the same standards of confidentiality, it is not a breach of confidentiality to share information with other staff when needed for administration of a program. Gossip and "war stories" are not considered necessary to administer a program.

If you have access to confidential information, share information only on a "need to know" basis. Do not disclose this information to other employees, except as necessary for the discharge of your duties and allowed by this chapter. You may exchange confidential information with your supervisor or in consultation with your peers to enable you to be more effective in your role with the subject.

Exchange of information for program administration includes such things as an income maintenance worker telling a service worker of a service need or a service worker telling an income maintenance worker of a change in circumstances that would affect the family's eligibility for financial assistance. Administration also includes access by support staff while typing, filing, etc.

When Staff or Relative Is Client

When a staff person or member of a staff person's family is a client, the supervisor shall assign the case and make whatever special arrangements may be necessary for typing, filing, etc., so contents of the record do not become known in the office.

When a family member is a client, related staff shall not handle the case or be given access to the record.

Releasing Information Over the Telephone

Providing information over the telephone enables the Department to remove obstacles to speedy and efficient communication with the client, Social Security offices, with other Department staff, etc. Use extreme caution when disclosing information over the phone.

Do not disclose or discuss confidential information over the telephone unless the person requesting the information is authorized to receive it under other provisions in this chapter. Do not disclose any information, even the fact that a person is a client, until you are certain to be speaking to an authorized person, even if the caller claims to have information that would be beneficial to the client.

Two possible methods of determining that the person calling is who the person claims to be are:

- ◆ Positive voice recognition.
- ◆ Having a record of the telephone number of the authorized person already on file or checking it in the telephone book or other source, and calling back to that number before disclosing the information.

Document releases of information by a note in the case record, stating the name of the caller and the circumstances. If you cannot be certain that the caller is an authorized person, suggest other methods of getting the information, such as coming to the office with the client or submitting a written request.

Volunteer Third-Party Informant

Legal reference: 441 IAC 9.7(17A,22,228)

When a third party volunteers information to Department staff, accept it without acknowledging whether the subject is a client.

Never use unsolicited information from a volunteer third-party informant as the sole basis for determining eligibility for assistance or service or the amount of benefits. You may use the information as the basis for further investigation or verification.

Incorporate unsolicited information from a volunteer third-party informant in the narrative portion of the client's file as an allegation, along with results of the investigation. If the informant is unwilling to be identified to the client, do not include the informant's name with the allegation. You may need to de-identify material written by an informant. (See [Protection of Source](#).)

Reporting a Breach of Confidentiality

If you observe a breach of confidentiality, report it to your supervisor. When your direct supervisor is involved in the breach, report the breach to another supervisory person. You can be considered a party to breach of policy for not reporting an unauthorized disclosure.

Sanctions for Violation of Client Confidentiality

Legal reference: Iowa Code sections 19A.9(16), 25A, and 217.31

Any reasonable belief that you have violated client confidentiality policies is grounds for your immediate removal from access to any kind of confidential records. Upon proof of violation, you may be suspended from duty without pay. However, you are protected from personal liability when acting in good faith within the scope of employment.

The state of Iowa, the Department, or you may be sued for damages caused by breaching confidentiality. Liability for violation of confidentiality laws is actual and exemplary damages for each violation and court costs, expenses, and reasonable attorney's fees incurred by the person bringing the suit. The damage award will not be less than \$100. See [Protected Health Information](#) for additional information.

Federal Tax Information

Legal reference: Internal Revenue Code (IRC) sections 6103, 7213, 7213A, and 7431

The Department of the Treasury provides federal tax return information to the Department through the Income Eligibility Verification System (IEVS) and other agreements between the state of Iowa and the Internal Revenue Service (IRS).

Federal tax return information received includes:

- ◆ The client's name, address, social security number
- ◆ The client's bank or other financial institution account number
- ◆ The payer name, address, identification number
- ◆ Dates of sale of assets
- ◆ The dollar amount of earned or unearned income
- ◆ Any additional items that the payer provided to the IRS

The disclosure of any federal tax return information to people other than those authorized to review or use it, or the use of the information for purposes other than that intended by Department policy and IRC section 6103, is punishable not only by state sanctions but by federal legal action.

IRC section 7213 states that any violation by unauthorized disclosure of tax return information shall be a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than five years, or both, together with the costs of prosecution.

IRC section 7213A states that any violation by unauthorized inspection of tax return information shall be punishable upon conviction by a fine in any amount not to exceed \$1,000, or imprisonment of not more than one year, or both, together with the cost of prosecution.

IRC section 7431 states that any person who knowingly, or by reason of negligence, inspects or discloses any return or return information is subject to penalties.

The penalty upon a finding of liability shall be the greater of \$1,000 for each act of unauthorized inspection or disclosure, or the sum of the actual damages sustained by the plaintiff as a result of the unauthorized inspection or disclosure, plus punitive damages and the cost of legal action.

No liability shall arise with respect to any disclosure that results from a good faith, but erroneous, interpretation of Section 6103. Return information not directly associated with an individual taxpayer is not considered confidential.

Federal tax return information loses its special status as protected material once a third party has subsequently verified it. Otherwise, the information retains the federal tax information status.

Do not share federal tax information with any subcontractor, volunteer, state legislator, representative of congress, or other state agency. **Exception:** The Welfare Reform Act of 1997 authorizes disclosure of limited information to an agency or contractors to the extent necessary for establishing and collecting child support obligations and locating people owing such obligations.

Federal tax information cannot be provided to the DIA unless it is subsequently verified by a third party through release form 470-3741, *Employer's Verification of Earnings*, or 470-3742, *Financial Institution Verification*. If the client refuses to sign form 470-3741 or 470-3742, a referral for fraud cannot be initiated using the federal tax information.

If you discover a possible improper inspection or disclosure, contact your immediate supervisor and the Treasury Inspector, General Tax Administration, Ben Franklin Station, PO Box 589, Washington, DC 20044-0589 or the TIGTA hotline at or 1-800-366-4484.

Protected Health Information

Legal reference: Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, Sections 1173, 1176 and 1177

If you knowingly and willfully violate HIPAA confidentiality and security policies regarding protected health information, you are subject to civil penalties and criminal investigation and prosecution.

If you violate the Department's privacy or security policies regarding protected health information, you may be subject to disciplinary actions up to and including termination. In addition, all information gathered while investigating the offense shall be turned over to the appropriate law enforcement agency for use in criminal proceedings and to any applicable licensing agency or bureau.

Assurances of Confidentiality

Legal reference: 441 IAC 9.5(17A,22)

Give assurance of confidentiality to people supplying information only as specified under [Protection of Source](#) and [Request to Withhold Record From Examination](#). These policies concern information that would otherwise be available, either to the subject of the record or to the public.

When the information is ordinarily confidential, as described under [AVAILABILITY OF RECORDS](#), you can give assurances of this confidentiality.

Protection of Source

Legal reference: Iowa Code sections 22.7(18), 232.71B, 235A.19, and 235B.6;
441 IAC 175.41(235A), 175.52(235A), and 176.10(3)

You may assure an informant that the informant's identity will not be disclosed, except pursuant to court order, when all of the following conditions apply:

- ◆ The informant is outside of government,
- ◆ The informant is not required by law, rule, or procedure to provide it,
- ◆ The informant does not agree to the release, and
- ◆ You reasonably believe that the informant would be discouraged from providing the information without this protection.

Assure a reporter of child abuse information that the reporter's identity shall be held confidential unless disclosure of the reporter's name is ordered by a court after a finding that the reporter's name is needed to resolve an issue in any phase of a case involving child abuse.

Policies for protecting the identity of a reporter of child abuse are described in 17-B, [ASSESSMENT POLICY](#).

Procedures for protecting the identity of a reporter of dependent adult abuse are described in 16-G, [DEPENDENT ADULT PROTECTIVE SERVICES](#).

When releasing dependent adult abuse information to someone who has access under Iowa Code section 235.6, you may withhold the name of the person who reported the abuse if you believe the disclosure of that person's identity would be detrimental to the person who made the report.

Clearly state any assurances of confidentiality in the record to avoid unauthorized dissemination.

Request to Withhold Record From Examination

Legal reference: 441 IAC 9.5(1) and 9.5(3)

Any person may ask the Department to treat a record as a confidential record and to withhold it from public inspection when the following conditions apply:

- ◆ The person would be aggrieved or adversely affected by disclosure of the record,
- ◆ The person asserts that Iowa Code section 22.7, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record.

Failure of a person to request confidential record treatment for a record does not preclude you, as the custodian, from treating it as a confidential record. However, if a person who has submitted business information to the Department does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) and 22.7(6), you may proceed as if that person has no objection to its disclosure to members of the public.

This provision is most applicable to businesses that are required to submit information that they believe to be trade secrets or to give unfair advantage to competitors. It is intended to put the responsibility for the claim of confidentiality on the business instead of on the Department. It is not likely to be used in relation to Department records.

It is possible that a person providing medical records might claim this protection under Iowa Code section 22.7. Since medical records are already confidential, the only practical effect of this would be to prevent disclosure to the subject.

However, under HIPAA policies, the subject may have access to protected health information in Department designated record sets except for certain limitations. See [Access to Protected Health Information](#) for details.

Note: preventing disclosure of medical records to the subject is **not** possible when the subject has voluntarily authorized disclosures of mental health information to the Department. See [Mental Health Information](#) for policy on voluntary disclosure.

Request

Legal reference: 441 IAC 9.5(2)

Require a request that a record be treated as a confidential record and withheld from public inspection to be submitted in writing and filed with the custodian. The written request shall contain the following elements:

- ◆ The legal and factual basis justifying such confidential record treatment for that record.
- ◆ The name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request.

You may also require a person requesting treatment of a record as a confidential record to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts.

When a request for treatment of a record as a confidential record is for a limited time period, the written request shall specify the precise period of time for which that treatment is requested.

A person filing a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which confidential record treatment has been requested have been deleted.

If the original record is being submitted to the Department by the person requesting confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

When a person requests confidential treatment for a record the person is submitting, the person should both mark the original record “confidential” and submit another copy of the record with the confidential portions deleted. This removes the responsibility for the Department to delete the confidential information and gives the Department a copy to go in the public file.

Decision

Legal reference: 441 IAC 9.5(4), 9.5(5), and 9.5(6)

As custodian of a Department record, you may make a decision with respect to the disclosure of a record to members of the public in the following instances:

- ◆ When a request for its treatment as a confidential record that is not available for public inspection is filed, or
- ◆ When the custodian receives a request for access to the record by a member of the public.

You do not need to make a decision regarding confidentiality until there is a request to examine the record.

Request Granted or Deferred

Legal reference: 441 IAC 9.5(5)

If you, as custodian of a record, grant a request for confidential record treatment or defer an action on a request for confidential treatment, make the following available for public inspection instead of the original record:

- ◆ A copy of the record from which the matter in question has been deleted, and
- ◆ A copy of the decision to grant the request or to defer action upon the request.

If you subsequently receive a request for access to the original record, make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record not available for public inspection of the pending subsequent request.

Request Denied

Legal reference: 441 IAC 9.5(6)

If you deny a request that a record be treated as a confidential record and be withheld from public inspection, notify the requester in writing of that determination and the reasons for that determination.

On application by the requester, you may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under Iowa Code section 22.8 or other applicable provision of law.

However, do not withhold a record from public inspection for any period of time if you determine that the requester had no reasonable grounds to justify the treatment of that record as a confidential record.

Notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that there are no reasonable grounds to justify the treatment of that record as a confidential record.

You may extend the period of good-faith reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only:

- ◆ If no request for examination of that record has been received, or
- ◆ If a court directs the custodian to treat it as a confidential record, or
- ◆ To the extent permitted by another applicable provision of law, or
- ◆ With the consent of the person requesting access.

If you show someone the abbreviated record and the copy of the decision memo, and that person asks to examine the original record, notify the person who submitted the record. That person may wish to take legal action to make sure that the Department does not release the original record.

However, if you decide that the request for confidentiality does not have merit, the person submitting the record must take legal action **before** someone asks to examine the record. The Department is not required to delay releasing a record when it has denied the request for confidential treatment.

Right to Request Privacy Protection for Health Information

Legal reference: 441 IAC 9.5(7) and 9.5(7)“a,” 45 CFR 164.522(a)

Medicaid and *hawk-i* staff and Department facilities may use and disclose protected health information as described under:

- ◆ [Authorization to Disclose Protected Health Information](#)
- ◆ [Opportunity to Agree or Object to Release of Health Information](#)
- ◆ Specific health information policies under [PEOPLE WHO MAY EXERCISE RIGHTS OF THE SUBJECT](#)
- ◆ [AUTHORIZATION NOT REQUIRED FOR USE OR DISCLOSURE](#), especially those policies under [Use or Disclosure of Protected Health Information](#)

However, subjects have the right to request restriction on the use and disclosure of protected health information in the following circumstances, even though no such restriction usually applies:

- ◆ Treatment,
- ◆ Payment for health care,
- ◆ Health care operations of the Department, and
- ◆ Situations where the subject is present or otherwise able to personally agree or object to the disclosure.

Request for Restriction

Legal reference: 441 IAC 9.5(7)“a”(1) and (2), 45 CFR 164.522(a)(1)

A subject may request restriction of the use and disclosure of the subject’s protected health information for the purposes described above. When a subject asks for restriction on the use and disclosure of protected health information, require the subject to complete form 470-3953, *Request to Restrict Use or Disclosure of Health Information*. See 1-C-Appendix for form instructions.

Clients must request restriction on their own protected health information by using a personal identifier (such as the subject's name or social security number). Help the subject, if necessary, to complete the form with the appropriate personal identifier for their circumstances.

Help the subject to send a completed form 470-3953, *Request to Restrict Use or Disclosure of Health Information*, to the Security and Privacy Office or the appropriate facility privacy official. When a completed form 470-3953, *Request to Restrict Use or Disclosure of Health Information* is received in the local office, forward it to the Security and Privacy Office.

See [Subject's Right Under HIPAA](#) and [Authorizations for Disclosure](#) for more information on local office and facility actions regarding a request to restrict protected health information.

The Security and Privacy Office or facility privacy official shall collaborate with field or facility and policy staff in making the decision to accept or deny the restriction as described at [Approving a Request to Restrict](#) and [Denying a Request to Restrict](#).

Approving a Request to Restrict

Legal reference: 441 IAC 9.5(7)“a”(3) and (4), 45 CFR 164.522(a)(1)

The Security and Privacy Office or appropriate facility privacy official shall approve a request for specific restriction on use and disclosure of protected health information in circumstances as described under [Right to Request Privacy Protection for Health Information](#) when such use or disclosure would endanger the subject. See [Denying a Request to Restrict](#) for reasons for denial.

The Security and Privacy Office or appropriate facility privacy official shall require the subject to provide verification that it can be reasonably anticipated that the specific use or disclosure will so endanger the subject.

When the request for restriction on use and disclosure is to be approved, the Security and Privacy Office or appropriate facility privacy official shall provide the notice of approval to the subject by completing the decision block of form 470-3953, *Request to Restrict Use or Disclosure of Health Information*. See 1-C-Appendix for form instructions.

Adhering to a Request to Restrict

Legal reference: 441 IAC 9.5(7)“a”(5) and (6), 45 CFR 164.522(a)(1)(iii) and (v)

When the Security and Privacy Office or appropriate facility privacy official approves a specific restriction, the protected health information cannot be used or disclosed unless the subject is in need of emergency treatment.

Exceptions: A restriction agreed to by the Department shall not prevent uses or disclosures:

- ◆ That are permitted or required as described at [Accounting of Disclosures of Health Information](#).
- ◆ For health oversight activities as described at [Health Oversight Activities](#).
- ◆ For judicial and administrative proceedings as described [Release for Judicial and Administrative Proceedings](#).
- ◆ For law enforcement purposes as described in policies appropriate to health information under [Law Enforcement](#).
- ◆ For averting a threat to health or safety as described at [Threat to Health or Safety for Health Information](#).
- ◆ To meet requirements of law as described at [Uses or Disclosures Required by Law](#).
- ◆ For public health activities as described at [For Public Health Activities](#).
- ◆ For disclosures about suspected victims of abuse or neglect as described at [Disclosures About Victims of Abuse or Neglect](#).
- ◆ To coroners, medical examiners, and funeral directors and for purposes of cadaveric organ, eye, or tissue donation as [Disclosures About Decedents](#).
- ◆ For specialized government functions, except for national security or intelligence purposes, as described at [For Specialized Government Functions](#).
- ◆ That are required by the Secretary of Health and Human Services to investigate or determine Department compliance with HIPAA regulations.

The Security and Privacy Office or facility privacy official will perform the following where applicable (mainly facilities) for manual processing:

- ◆ Document in the record the exact restriction and date it was effective.
- ◆ Inform other appropriate staff of the restriction.
- ◆ Flag the record or chart to indicate that the record contains restricted information.
- ◆ Flag a particular item within the record as “restricted.”

All other processing will be done through the Privacy Tracking System.

Use or Disclosure to a Health Care Provider for Emergency Treatment

Legal reference: 441 IAC 9.5(7)“a”(5), 45 CFR 164.522(a)(1)(iii) and (IV)

When the restricted information is needed to provide emergency treatment, Medicaid, *hawk-i*, and Department facilities may use or disclose such information to the extent needed to secure or provide the emergency treatment.

- ◆ Flag the record of those subjects who have been approved for restriction.
- ◆ Incorporate the restriction into the Privacy Tracking System.
- ◆ Maintain documentation and track the approved restriction so providers can be informed of the restrictions (e.g. restriction flag on system screens).

Release of restricted information for an emergency must include the information that the receiving provider must not further disclose the restricted information.

Denying a Request to Restrict

Legal reference: 441 IAC 9.5(7)“a”(3) and (4), 45 CFR 164.522(a)(1)(ii)

The Department is not required to agree to a restriction. The Security and Privacy Office or appropriate facility privacy official shall deny the request to restrict use and disclosure in the following circumstances:

- ◆ The restriction of the specific use or disclosure will adversely affect the quality of the subject’s care or services.
- ◆ The restriction of the specific use or disclosure will limit the Department in or prevent the Department from making or obtaining payment for services.
- ◆ Federal or state law requires the use or disclosure. See [Uses or Disclosures Required by Law](#) for more information.

When the request for restriction on use and disclosure is to be denied, the Security and Privacy Office or appropriate facility privacy official shall provide the notice of denial to the subject by completing the decision block of form 470-3953, *Request to Restrict Use or Disclosure of Health Information*. See 1-C-Appendix for form instructions.

Terminating a Restriction

Legal reference: 441 IAC 9.5(7)“a”(7), 45 CFR 164.522(a)(2)

Medicaid, *hawk-i*, or Department facilities may terminate an agreement to restrict use and disclosure of protected health information in the following circumstances:

- ◆ When the subject agrees to or requests the termination in writing;
- ◆ When the subject orally agrees to the termination and the oral agreement is documented; or
- ◆ When Medicaid, *hawk-i*, or a Department facility informs the subject that it is terminating its agreement to a restriction, effective with respect to protected health information created or received after providing written notification of the termination to the subject.

Provide and document written notification to the subject when the agreement to restrict use and disclosure is being terminated. Include the effective date of the termination and an explanation of the justification for the termination.

Request to Change How Health Information Is Provided

Legal reference: 441 IAC 9.5(7)“b” and “b”(1), 45 CFR 164.522(b)(1) and (2)(i) – (iv)

Subjects may ask to receive communications of protected health information by alternative means or at alternative locations.

When a subject requests a change in the way the subject’s health information is provided, require the subject to complete form 470-3947, *Request to Change How Health Information Is Provided*. See [Subject’s Rights Under HIPAA](#) and [Authorizations for Disclosure](#) for more information on local office and facility actions regarding a request to change how health information is provided.

In Department facilities, approve reasonable requests by subjects to receive communications of protected health information from the Department by alternative means or at alternative locations. Do not require an explanation from the subject as to the basis for the request.

For Medicaid or *hawk-i*, require the subject to clearly indicate the reason for requesting the confidential communication. Providing this explanation is a condition of receiving the Medicaid or *hawk-i* communications in a confidential basis. Approve reasonable requests by subjects to receive Medicaid or *hawk-i* communications of protected health information by alternative means or at alternative locations.

Denying a Request to Change How Health Information Is Provided

Legal reference: 441 IAC 9.5(7)“b”(2), 45 CFR 164.522“b”(2)(ii)

Deny a request to change the way health information is provided in the following circumstances:

- ◆ When the change will affect payment and the subject does not provide information as to how payment, if any, will be handled; and
- ◆ The subject does not specify an alternative address or other method of contact.

REQUESTS FOR ACCESS TO RECORDS

Legal reference: 441 IAC 9.3(1) and 9.3(3)

Requests for access to records may be made in writing, in person, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and phone number of the person requesting the information.

A person shall not be required to give a reason for requesting an open record. Require written requests for open records only if there is uncertainty as to exactly what records are being requested.

Direct a request for access to records to the office where the record is kept. If the request comes to the wrong office, forward it promptly to the correct location.

REQUESTS FOR ACCESS TO RECORDS

Response to Request

Revised October 5, 2007

Iowa Department of Human Services
Title 1 General Departmental Procedures
Chapter C Confidentiality and Records

Direct requests to the lawful custodian of the record or to the custodian's designee. For example, the Department of Transportation is the lawful custodian of drivers' license records; Iowa Workforce Development is the lawful custodian of unemployment insurance benefits records.

If the requester does not know the location of the record, the request shall be directed to the Bureau of Policy Analysis and Appeals, Department of Human Services, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. The Bureau will forward the request to the proper office.

When you receive a request for release of information available to the Department that is contained in an automated data processing system obtained through a data matching agreement with another agency, refer it to the agency that is the lawful custodian of the record. Do not release information obtained through data matching agreements, unless the signed interagency agreement specifically permits the Department to release the information.

When a request may be related to potential or actual tort liability claims or other litigation, forward it to the Human Services Division of the Attorney General's Office (to the attention of the attorney handling the litigation, if known). Advise the requester in writing of this action.

If the information requested is confidential, further requirements for the format of the request may apply. See [ACCESS TO CONFIDENTIAL RECORDS](#). See also 20-B, [OFFICE OF COMMUNICATIONS](#), for policies on contacts with the press.

Response to Request

Legal reference: 441 IAC 9.3(2), 9.3(4)

As custodian of a record, you may deny access to the record by members of the public only on the grounds that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with [ACCESS TO CONFIDENTIAL RECORDS](#) and [AVAILABILITY OF RECORDS](#).

To determine if a record is open or confidential, see [AVAILABILITY OF RECORDS](#). If the information in the manual is insufficient to make a decision, consult the source law or regulation and the custodian of the record. If necessary, the law provides for a delay to contact the attorney general's office for advice. As custodian of the record, designate responsibility for obtaining this clarification.

Promptly provide access to an open record upon request unless the size or nature of the request makes prompt access unfeasible. If the size or nature of the request for access to an open record requires time for compliance, comply with the request as soon as feasible. Acknowledge all requests for copies or inspection of records at least within five working days of the date of receiving the request.

Produce records for inspection as soon as possible. Make records available during customary office hours (8:00 a.m. - 4:30 p.m.), excluding Saturdays, Sundays and legal holidays. No warranty of the accuracy or completeness of a record is made, unless a certified copy is provided.

Do not disclose confidential information to the public. Either extract the open information from a record that contains both open and confidential information or provide a copy of the record with the confidential information deleted.

Grant requests only for those records that exist at the time the request is made. The Department is not required to create a record or provide information by compiling selected items from files or performing statistical analyses. However, the Department may be required to make a hard copy of computer data at cost. (See [Fees](#).)

The fact that the record is in storage or in archives does not change the Department's responsibility to make the record available. However, the procedures needed to retrieve the record shall be explained to the requester.

Iowa Code section 22.6 states that it is unlawful to refuse any Iowa citizen access to open records. An employee who knowingly refuses the right to examine and copy open records may be found guilty of a simple misdemeanor.

The legal penalty is only for refusing the right to examine and copy or photocopy records. There is no legal penalty for refusing to release information over the phone. When extensive amounts of information are requested, it may be better to have the requester come in and examine the material personally.

Delay in Providing Access to an Open Record

Legal reference: 441 IAC 9.3(4), Iowa Code sections 22.8(4) and 22.10(4)

Iowa law provides for two situations when the Department may delay access to an open record. As custodian of a record, promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, promptly provide that notice to the requester in writing.

If response to the request is delayed, acknowledge receipt of the request and give the requester an estimate of the time needed for a decision. If the requester wants a written explanation for the delay, cite the Iowa Code section allowing for the delay and the Code section being researched for its applicability to the confidentiality of the record, if any.

Iowa Code section 22.8(4) states that good-faith, reasonable delay by a lawful custodian in permitting the examination and copying of a government record is not a violation of the law if the purpose of the delay is any of the following:

- ◆ To determine whether the record in question is an open record or a confidential record.
- ◆ To determine whether a confidential record should be available for examination and copying to the person requesting the right to do so. A reasonable delay for this purpose shall not exceed 20 calendar days and ordinarily should not exceed 10 business days.
- ◆ To seek an injunction on the grounds that examination would clearly not be in the public interest and would substantially and irreparably injure any person. The division director shall make a decision to seek an injunction to prevent release of an otherwise open record in consultation with the attorney general's office.
- ◆ To determine whether the lawful custodian is entitled to seek such an injunction or should seek such an injunction.

Iowa Code section 22.10(4) states that when a lawful custodian is in doubt about the legality of allowing the examination or copying or refusing to allow the examination or copying of a government record, the custodian is authorized to:

- ◆ Bring suit at the expense of that government body in the district court of the county of the lawful custodian's principal place of business.
- ◆ Seek an opinion of the attorney general or the attorney for the lawful custodian to ascertain the legality of any such action.

Security of Records

Legal reference: 441 IAC 9.3(5)

No person shall, without permission, search the files or remove any record made available for examining or copying from the place where it is made available. Supervise the examination and copying of records. Protect records from damage and disorganization. Release original paper records from Department custody only upon court order. Retain one copy in the file if the original record is released.

Copying

Legal reference: 441 IAC 9.3(6)

Clients may make a reasonable number of copies of an open record in the Department's office. If photocopy equipment is not available in the Department office where an open record is kept, permit its examination in that office and arrange to have copies promptly made elsewhere.

In general, a "reasonable number" of copies is whatever number the person requests. Requests involving a lot of staff time or operating costs will result in a larger fee to the requester. If the requester is willing to pay, the office should generally cooperate with the request unless physically unable to do so. If the request causes problems with staff time, negotiate another amount or method with the requester.

Fees

Legal reference: 441 IAC 9.3(7)"a"; 45 CFR 164.524(c)(4)

The Department may charge fees in connection with the examination or copying of records only if the law authorizes the fees. To the extent permitted by applicable provisions of law, you may waive the payment of fees when the imposition of fees is inequitable or when a waiver is in the public interest.

As a general rule, charge fees for copying and supervision of the examination or copying of records. You may waive the fee when the cost of handling the fee would exceed the amount collected. (Collecting fees of less than \$5.00 is not considered cost effective.)

REQUESTS FOR ACCESS TO RECORDS

Fees

Revised November 18, 2003

Iowa Department of Human Services
Title 1 General Departmental Procedures
Chapter C Confidentiality and Records

You may also waive fees for examination or copying of records in the following instances:

- ◆ For copies of child support payment record.
- ◆ For copies requested by parties in an appeal of a Department action.
- ◆ For copies requested by other government agencies, courts, or law enforcement agencies.
- ◆ For copies provided under provision of a Department contract.
- ◆ For requests from employees or former employees for a copy of their employee records.
- ◆ For copies of informational publications, such as news releases and pamphlets, that are intended to be of general public interest, as long as they are in supply.
- ◆ For notices to requesting news media of the time, date, place, and tentative agenda of open meetings.
- ◆ For a reasonable number of forms or similar documents to be used by the public in dealing with the Department.
- ◆ For responses to routine oral or written inquiries that do not involve the furnishing of records.

If a fee is to be charged, collect payment for copies when the copies are made. Let people requesting copies know in advance what they will be charged. Cash, checks, and money orders are acceptable methods of payment. Have the client make checks or money orders payable to the Iowa Department of Human Services.

Money collected by the county offices goes to the county budgets. You may report this on the quarterly administrative expense report. Money collected at the facilities is kept at the facilities. Money collected at other offices is sent to Central Office.

Copying and Postage Costs

Legal reference: 441 IAC 9.3(7)“b”

Members of the public may make copies of records on Department photocopy machines or from electronic storage systems at cost. Prominently post price schedules for published materials and for photocopies of records supplied by the Department.

When you are asked to mail copies of records, you may also charge the actual costs of mailing to the requester.

Use the following rates for the services needed in reproduction of the Department's records.

- ◆ Photocopies (direct copies on 8 ½" x 11", 8 ½" x 14", or 11" x 17" paper):
10 cents per page.
- ◆ Microfiche copy: \$.45 per fiche or actual cost, whichever is greater.
- ◆ Blueprints, pictures, oral tapes, or any other work product not subject to photocopying: actual reproduction cost.
- ◆ Computer-stored information:
 - Tape cartridge files: \$10.30 per 3480 tape cartridge.
 - Mainframe line printing on a continuous form is: 86 cents per 1,000 lines. Assess a minimum charge of \$15 or actual cost, whichever is greater.
 - Charge systems and programming staff time required over 10 minutes at the hourly rates based on the minimum salary amount for the staff that is in effect as of May 2006, and rounded down to the next whole dollar. See table below for personnel and dollar amount rates.

<u>Personnel</u>	<u>Charge Unit</u>	<u>Rate</u>
Information Tech Specialist 5	Hour	\$26.00
Information Tech Specialist 4	Hour	\$22.00
Information Tech Specialist 3	Hour	\$20.00
Information Tech Specialist 2	Hour	\$17.00
Information Tech Specialist 1	Hour	\$15.00
Information Tech Support Worker 2	Hour	\$11.00

For staff time, charge only for time spent above that required for the person's regular duties.

Supervisory Fee**Legal reference:** 441 IAC 9.3(7)“c”

You may charge an hourly fee for actual Department expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one-half hour.

Prominently post the hourly fees to be charged for supervision of records during examination and copying. Use a standard fee of \$10.00 per hour for supervisory time over one-half hour. This fee is based on the salary and benefits for a Clerk Advanced.

Charging of supervisory fees is at the discretion of the custodian. Do not charge for supervisory time if the supervisory staff member is able to carry on other duties while providing the supervision.

Summary of Health Information**Legal reference:** 441 IAC 9.3(7)“e,” 45 CFR 164.524(c)(4)(iii)

The Department may charge a fee for the cost of preparing an explanation or summary of health information as provided in [Approving a Request for Access](#). The Security and Privacy Office or the appropriate facility privacy official will handle these fees.

Before the Security and Privacy Office or the facility privacy official prepares the explanation or summary, the Security and Privacy Office or the facility privacy official and the subject requesting the information shall agree to the amount of any fee imposed.

Advance Deposits**Legal reference:** 441 IAC 9.3(7)“d”

When the estimated total fee chargeable exceeds \$25, you may require a requester to make an advance deposit to cover all or a part of the estimated fee.

When a requester has previously failed to pay a fee or has made requests in the past and then has not picked the material up, you may require advance payment of the full amount of any estimated fee before you process a new request from that requester.

ACCESS TO CONFIDENTIAL RECORDS

Legal reference: 441 IAC 9.4(17A,22)

Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular people.

In requesting the custodian to permit the examination and copying of a confidential record, the following procedures apply and are in addition to those specified under [REQUESTS FOR ACCESS TO RECORDS](#) and [Response to Request](#).

Requests for Access to Confidential Records

Legal reference: 441 IAC 9.4(2)

As custodian of a record, you may require a request to examine and copy a confidential record to be in writing. You may require a person requesting access to a confidential record to:

- ◆ Sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record, and
- ◆ Provide any proof necessary to establish relevant facts.

As a general rule, you should ask for a written request whenever the person making the request is other than the subject or the subject's legal representative.

A written request may also be needed to clarify exactly what information is being requested. Do not require a certified statement or affidavit unless there is a dispute about the request or the proper Department response.

Request for Abuse Information

Legal reference: 441 IAC 9.4(6), 441 IAC 175.41(1), 441 IAC 175.41(3), 441 IAC 176.10(1), and 441 IAC 176.10(7)

Requests for **child abuse** information shall be submitted to the county office of the Department on form 470-0643, *Request for Child Abuse Information*. Exceptions:

- ◆ Requests made for the purpose of determining employability of a person in a Department–operated facility shall be submitted to the Central Abuse Registry.
- ◆ Subjects of a report may submit a request for child abuse information to the county office of the Department on:
 - Form 470–0643, *Request for Child Abuse Information*.
 - Form 470–3243, *Notice of Child Abuse Assessment: Founded*.
 - Form 470–3242, *Notice of Child Abuse Assessment: Not Confirmed*.
 - Form 470–3575, *Notice of Child Abuse Assessment: Confirmed Not Registered*.
- ◆ Requests from the general public as to whether a person is named on the Central Abuse Registry as having abused a child are submitted on form 470-3301, *Authorization for Release of Child Abuse Information*.

The form may be submitted either to the county office of the Department or to the Central Abuse Registry. It must be completed and signed by the person requesting the information and the subject of the information who is authorizing its release.

Written requests for **dependent adult abuse** information shall be submitted to the county office of the Department on form 470-0612, *Request for Dependent Adult Abuse Registry Information*. Exceptions:

- ◆ Requests made for the purpose of determining employability of a person in a Department–operated facility shall be submitted to the Central Abuse Registry.
- ◆ Requests may be made orally by telephone if a person making the request believes that the information is needed immediately and if information sufficient to demonstrate authorized access is provided. Oral requests must be followed by a written request to the central registry within 72 hours on form 470-0612.

See 16-E(1), [Approval of Release](#), for child abuse procedures and 16-G, [RELEASE OF DEPENDENT ADULT ABUSE INFORMATION](#), for dependent adult abuse procedures.

Proof of Identity

Legal reference: 441 IAC 9.4(1) and 9.14(3)“a”(1), 45 CFR 164.514(h)

Verify the identity of a person requesting confidential information and the authority of any such person to have access to the confidential information if the identity or authority **is not known** to the Department. This requirement is waived for disclosures of protected health information when the subject is given the opportunity to agree or object.

Methods of verification may include one of the following:

- ◆ A driver’s license or other photo identification
- ◆ A social security card
- ◆ A birth certificate
- ◆ An employee identification card
- ◆ A bank credit card
- ◆ A notarized document which identifies the person
- ◆ A copy of legal appointment papers (guardian, power of attorney, etc.)
- ◆ Other positive means of identification

If none of these are practicable, the requester’s signature attesting to the fact that the requester is, indeed, the person the represented may be accepted as verification along with a witness signature.

Other Verification Requirements for Health Information

Legal reference: 441 IAC 9.14(3)“a”(2) and “b”(1) and (4), 45 CFR 164.514(h)

Before disclosing protected health information for any purpose described in this chapter, follow all of the applicable policies. In addition, take the following steps:

- ◆ Obtain any documentation, statements, or representations, whether oral or written, from the person requesting the protected health information when such documentation, statement, or representation is a condition of the disclosure.

If a disclosure requires a particular documentation, statement, or representation from the person requesting the protected health information, you may rely, if such reliance is reasonable under the circumstances, on documentation, statements, or representations that, on their face, meet the applicable requirements.

- ◆ If the disclosure is an administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized as described at [Release for Judicial and Administrative Proceedings](#) the administrative subpoena or similar process will be considered appropriate verification documentation.

You may consider verification requirements to be met if you rely on the exercise of professional judgment in making a use or disclosure when:

- ◆ The subject is given the opportunity to agree or object; or
- ◆ You are acting on a good faith belief that making a disclosure will avert a serious threat to health or safety.

Identity and Authority of Public Officials

Legal reference: 441 IAC 9.14(3)“b”(2) and (3), 45 CFR 164.514(h)(2)(ii) and (iii)

To verify the identity of a public official when the disclosure of protected health information is to a public official or a person acting on behalf of the public official, accept any of the following:

- ◆ If the request is made in person, presentation of an agency identification badge, other official credentials or other proof of government status;
- ◆ If the request is in writing, the request is on appropriate government letterhead;
- ◆ If the disclosure is to a person acting on behalf of a public official:
 - A written statement on appropriate government letterhead that the person is acting under the government’s authority; or
 - Other evidence or documentation of agency, such as a contract for services, memorandum of understanding or purchase order that establishes that the person is acting on behalf of the public official.

To verify the authority of a public official when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:

- ◆ Accept a written statement of the legal authority under which the information is requested.
- ◆ If a written statement is impracticable, accept an oral statement of the person's legal authority.
- ◆ If a request is made pursuant to an order issued by a judicial or administrative tribunal, the order is presumed to constitute legal authority.

Notice to the Subject of the Record

Legal reference: 441 IAC 9.4(3)

When, as custodian, you receive a request for access to a confidential record, and before releasing the record, make reasonable efforts to promptly notify any person who:

- ◆ Is a subject of that record,
- ◆ Is identified in that record, and
- ◆ Whose address or telephone number is contained in the record.

To the extent such a delay is practicable and in the public interest, you may:

- ◆ Give the subject of the record a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and
- ◆ Indicate to the subject the specific period of time during which disclosure will be delayed for that purpose.

You do not need to give notice to the subject on routine releases of information for administration of the program. The general notice issued in program informational materials is sufficient.

Notice to the subject may be desirable when one member of a family is requesting access to records that also contain information about other members. (See [Information About Minors](#).) A call to the client is also advisable when a legislator or advocate is requesting information about a client but does not present a letter authorizing the release.

People identified in the record might include volunteer informants or providers of medical or psychological information. Contact a volunteer informant before releasing that person's name if there is any question as to whether the person requested confidentiality.

If medical or psychological information is old enough that the person furnishing it might have been expecting that the information would not be shared with the subject, notify the provider of the information of its impending release. This is not grounds for refusing to release the information.

Request Granted

Legal reference: 441 IAC 9.4(5)

When you grant a request for access to a confidential record, notify the requester or the person who is to receive the information. Include any limits on the examination and copying of the record.

Document the fact that a person was allowed to examine or copy a record.

Request Denied

Legal reference: 441 IAC 9.4(4)

When you deny a request for access to a confidential record, promptly notify the requester. If the requester indicates to you that a written notification of the denial is desired, promptly provide such a notification that is signed by you and that includes:

- ◆ Your name and title or position; and
- ◆ A citation to the provision of law vesting authority in yourself as custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

The chart in [AVAILABILITY OF RECORDS](#) lists the records that are confidential and the laws authorizing their confidentiality.

RELEASE TO THE SUBJECT OF THE INFORMATION

Legal reference: 441 IAC 9.9(2)

As a general rule, you shall release confidential records to the subject of the record. See [Access to Protected Health Information](#) for policies specific to release of protected health information to the subject. However, when a record has multiple subjects with interest in the confidentiality of the record, you may take reasonable steps to protect confidential information relating to another subject.

You need not release records to the subject in the following circumstances:

- ◆ You need not disclose records to the subject when they are the work product of an attorney or are otherwise privileged.
- ◆ You need not disclose to the subject the identity of a person reporting suspected abuse to the Department. (See [Protection of Source](#).)
- ◆ You need not disclose to the subject of the information, either directly or indirectly, the identity of a person voluntarily providing information to the Department when that information is authorized to be held confidential according to policy in [Protection of Source](#).
- ◆ You may withhold peace officers' investigative reports from the subject. [Iowa Code section 22.7(5)]
- ◆ When you have reason to believe that disclosure of the information would cause substantial and irreparable harm and would not be in the public interest, you may withhold disclosure to:
 - Seek an injunction to restrain examination of the record according to procedures in Iowa Code section 22.8; or
 - Notify the person who would be harmed to allow that person to seek an injunction.
- ◆ You may withhold information as otherwise authorized by law.

The intent of the law is to give the broadest possible access to the subject of a public record. Iowa Code section 22.8 specifically directs courts that the policy of Chapter 22 is that free and open examination of public records is generally in the public interest even though it may cause inconvenience or embarrassment to public officials or others.

Although client records are usually not open to examination by the general public, the same principle applies to them. This is underscored by the notice requirements of the Fair Information Practices Act.

Upon the client's request, release to the subject all records and files pertaining directly to the subject, with the exceptions noted above or found in [Access to Protected Health Information](#). Consult the attorney involved before a decision to withhold information on the basis that it is an attorney's work product or that it is related to litigation or claim made by or against a public body.

If you, as the custodian of the record, believe that access to the record could be harmful to the subject, you may try to clarify or narrow the subject's request. It could be that the subject is not really seeking the sensitive information, or decides not to seek it after hearing your explanation of why that action might not be advisable.

If the subject persists in requesting the information, you may ask the subject to sign a statement acknowledging that the request is being made against professional advice. See [Requests for Access to Confidential Records](#).

Unless there is a law specifically prohibiting release of the information or the Department is able to obtain a court injunction under Iowa Code section 22.8, release the information if the subject persists in the request. See [Response to Request](#) for the requirements that need to be met for the court to grant an injunction.

Access to Protected Health Information

Legal reference: 441 IAC 9.9(1)"a" and "c," 45 CFR 164.524

Clients who are the subjects of a Medicaid or *hawk-i* or a Department facility record have the right of access to inspect their protected health information as contained in the Medicaid or *hawk-i* or Department facility files or records, consistent with federal and state laws. They also have the right to obtain a copy.

If a subject asks for access to inspect or obtain a copy of protected health information, assure that the subject may have access to the information if the information is available in the Department's designated record sets, subject to certain limitations as described below.

Requests for Access to Health Information

Legal reference: 441 IAC 9.9(1)“a”; 45 CFR 164.524(b)(1)

When a subject asks for access to inspect or obtain a copy of the subject’s protected health information, require the subject to complete form 470-3952, *Request for Access to Health Information*. See 1-C-Appendix for form instructions.

Subjects may request access to their own protected health information by using a personal identifier (such as the subject’s name or social security number). Help the subject, if necessary, to complete the form with the appropriate personal identifier for their circumstances.

When a subject returns a completed form 470-3952, *Request for Access to Health Information*, to the local office, forward it to the Security and Privacy Office.

It is the responsibility of the Security and Privacy Office or the appropriate facility privacy official to determine if the subject’s request for access will be accepted or denied as described under [Timelines for Action on a Request for Access](#), [Approving a Request for Access](#), and [Denial of a Request for Access](#).

See [Subject’s Rights Under HIPAA](#) and [Authorizations for Disclosure](#) for more information on local office and facility actions regarding a request to access protected health information.

Timelines for Action on a Request for Access

Legal reference: 441 IAC 9.9(1)“b,” 45 CFR 164.524(b)(1) and (2)

The Security and Privacy Office or facility privacy official shall act on a subject’s request for access to protected health information no later than 30 days after receiving a completed form 470-3952, *Request for Access to Health Information*, unless the protected information is not maintained or accessible to Department.

In this situation, the Security and Privacy Office or facility privacy official must act on the subject’s request no later than 60 days after receiving the completed form 470-3952, *Request for Access to Health Information*.

If the Security and Privacy Office or facility privacy official is unable to act within the applicable 30-day or 60-day limit, the decision period may be extended up to an additional 30 days, subject to the following:

- ◆ Before the thirtieth or sixtieth day, the Security and Privacy Office or facility privacy official shall notify the subject in writing of the reasons for the delay and the date by which the decision will be made. The notice shall be made on a copy of the subject's completed form 470-3952, *Request for Access to Health Information*.
- ◆ The Security and Privacy Office or facility privacy official shall use only one such 30-day extension to act on a request for access.

Approving a Request for Access

Legal reference: 441 IAC 9.9(1)“c,” “d,” and “e”; 45 CFR 164.524(c)

The Security and Privacy Office or facility privacy official shall grant a subject's request to access protected health information except in circumstances as described in [Denial of a Request for Access](#).

When the Security and Privacy Office or facility privacy official grants the subject's request, in whole or in part, the Security and Privacy Office or facility privacy official shall inform the subject of the decision and provide the information for which access is requested. See [Denial of a Request for Access](#) for procedures when part of a request is denied.

If the Department maintains the same protected health information in more than one format (such as electronically and in a hard-copy file) or at more than one location, the Security and Privacy Office need only provide the requested protected health information once.

The following procedures shall apply when approving a request for access:

- ◆ The Security and Privacy Office or facility privacy official shall provide the requested protected health information in a form or format requested by the subject, if readily producible in that form or format.

If the information is not readily producible, the Security and Privacy Office or facility privacy official shall provide the protected health information in a readable hard-copy format or such other format as agreed to by the Department and the subject.

- ◆ The Security and Privacy Office or facility privacy official may provide the subject with a summary of the requested protected health information, in lieu of providing access, or may provide an explanation of the information if access had been provided, if:
 - The subject agrees in advance to accept a summary or explanation; and
 - The subject agrees in advance to any fees the Department may impose for preparing a summary or explanation, as described at [Summary of Health Information](#).
- ◆ The Security and Privacy Office or facility privacy official must arrange with the subject for providing the requested access in a time and place that is convenient for the subject and the Department. This may include mailing the protected health information to the subject if the subject so requests or agrees. The Department may impose a reasonable, cost-based fee, as described at [Fees](#).
- ◆ The Security and Privacy Office or facility privacy official may discuss the scope, format, and other aspects of the request for access with the subject as necessary to facilitate the timely provision of access.

The Security and Privacy Office or facility privacy official shall limit a subject's access to protected health information to the protected health information about that subject, except as provided below:

- ◆ The Security and Privacy Office or facility privacy official shall also release protected health information about the minor child of the subject if:
 - The Department maintains protected health information about the subject in a record that includes protected health information about a minor; and
 - The subject is authorized under Iowa law to have access to the minor's protected health information or to act on behalf of the minor for making decisions about the minor's care.
- ◆ If the person requesting protected health information about a subject is designated by the subject to be a personal representative, the Security and Privacy Office or facility privacy official will release information to the requester if allowed under [PEOPLE WHO MAY EXERCISE RIGHTS OF THE SUBJECT](#). See [Definitions](#) for definition of "[personal representative](#)."

- ◆ The Security and Privacy Office or facility privacy official will release information to a person requesting the information about a subject if the requester:
 - Is recognized under Iowa law as a guardian or legal custodian of the subject; and
 - Is authorized by Iowa law to have access to the subject's protected health information or to act on behalf of the subject for making decisions about the subject's services or care.
- ◆ People requesting protected health information about a subject shall have access if they meet one of the following requirements:
 - They are advocates assigned to protect and advocate the rights of people with developmental disabilities under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.); or
 - They are advocates assigned to protect the rights of people with mental illness under the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 et seq.).

When advocates as described above are given access to protected health information, complete form 470-4015, *Record of Disclosure of Health Information*.

Suspension of Access Due to Research

Legal reference: 441 IAC 9.9(1)“g”(1), 45 CFR 164.524(a)(2)(iii)

A subject's access to protected health information created or obtained by a Department facility in the course of research that includes treatment may be suspended for as long as the research is in progress, when the following are true:

- ◆ The subject has agreed to the denial of access when consenting to participate in the research that includes treatment, and
- ◆ The Department has informed the subject that the right of access will be reinstated upon completion of the research.

Denial of a Request for Access

Legal reference: 441 IAC 9.9(1)“a,” “f,” “g,” and “h;” 45 CFR 164.524(a)(1) and (2), and (d)(1)-(3)

The Security and Privacy Office or facility privacy official shall approve a subject’s request for access to protected health information on the subject’s case in the Department files or records, except in the following circumstances.

- ◆ The Security and Privacy Office or facility privacy official shall deny a subject’s request for access to the following protected health information:
 - Psychotherapy notes.
 - Protected health information compiled in reasonable anticipation of or for use in civil, criminal, or administrative action or proceedings.
 - Protected health information that is subject to the federal Clinical Labs Improvement Amendments of 1988, or exempt pursuant to 42 CFR 493.3(a)(2).
- ◆ The Security and Privacy Office or facility privacy official may deny a subject’s request for access to the following protected health information:
 - Documents protected by attorney work-product privilege.
 - Protected health information where state or federal laws prohibit release.
 - Documents obtained from a source other than a health care provider under a promise of confidentiality when access would reveal the source of the protected health information.

(**Note:** A subject may have access to third-party information from a health care provider that is included in the Department designated record set.)
- ◆ The facility privacy official may deny a subject’s request for access to protected health information when the subject’s access to protected health information created or obtained by a Department facility in the course of research that includes treatment has been temporarily suspended for as long as the research is in progress, under the following circumstances:
 - The subject has agreed to the denial of access when consenting to participate in the research that includes treatment, and

- The Department facility has informed the subject that the right of access will be reinstated upon completion of the research.
- ◆ The Security and Privacy Office or facility privacy official may deny a subject's request for access to protected health information when the Department believes, in good faith, that access to that information can cause harm to the subject or to any other person.

See [Denial of a Request for Access Due to Probable Harm](#) and [Review Process for a Denial of Access Due to Probable Harm](#) for more information regarding a denial for this reason.

When the Security and Privacy Office or facility privacy official denies a request, in whole or in part, for access to a subject's protected health information, the Security and Privacy Office or facility privacy official must take the following steps:

- ◆ When the request for access is denied in part, provide access to requested information remaining after excluding the information for which access is denied;
- ◆ Inform the requester, in writing and in plain language, of the reasons for the denial within the time limits as described at [Timelines for Action on a Request for Access](#). Complete the decision block of form 470-3952, *Request for Access to Health Information*, for this purpose. See 1-C-Appendix for form instructions.

Denial of a Request for Access Due to Probable Harm

Legal reference: 441 IAC 9.9(1)"g"(5); 45 CFR 164.524(a)(3)

When the Security and Privacy Office or facility privacy official denies a request for access to protected health information because of probable harm to the subject or any other person, the following policies shall apply.

The denial shall be based on the decision of a licensed health care professional designated by the Department that probable harm exists to the subject, based on one of the following circumstances:

- ◆ The designated professional has determined, in the exercise of professional judgment, that the protected health information requested may endanger the life or physical safety of the subject or another person.

- ◆ The protected health information makes reference to another person, other than a health care provider, and the designated professional has determined, in the exercise of professional judgment, that the protected health information requested may cause substantial harm to the other person.
- ◆ The request for access is made by the subject's personal representative (under the more restrictive definition of "personal representative" for protected health information); and the designated professional has determined, in the exercise of professional judgment, that allowing the personal representative to access the protected health information may cause substantial harm to the subject or to another person.

The Department shall make a review available to the subject as described at [Review Process for a Denial of Access Due to Probable Harm](#).

Review Process for a Denial of Access Due to Probable Harm

Legal reference: 441 IAC 9.9(1)“i”; 45 CFR 164.524(a)(4) and (d)(4)

Upon denial of access to protected health information due to probable harm to the subject or another person, the subject has the right to file a written request to have the decision reviewed by a licensed health care professional. The Department shall designate a licensed health care professional who was not directly involved in the original decision to conduct this review.

Following are the steps of the review process:

- ◆ The Security and Privacy Office or facility privacy official shall promptly refer a request for review to the second designated licensed health care professional.
- ◆ The reviewer shall decide within 30 days whether to approve or deny the subject's request for access and shall notify the Security and Privacy Office or the facility privacy official of the decision in writing.
- ◆ The Security and Privacy Office or facility privacy official shall promptly notify the subject in writing of the reviewer's decision to approve or deny access to the protected health information.
- ◆ The Security and Privacy Office or facility privacy official shall promptly carry out the reviewer's decision.

When the Department Does Not Maintain the Requested Information

Legal reference: 441 IAC 9.9(1)“a,” 154.524(d)(3)

The Security and Privacy Office or facility privacy official shall tell the requester where to send the request for access to protected health information if:

- ◆ The Department does not maintain the requested protected health information, and
- ◆ The Security and Privacy Office or facility privacy official knows where the protected health information is maintained (such as by a medical provider, insurer, other public agency, private business, or other non-Department organization).

Review and Amendment of the Record for All Programs

Legal reference: 441 IAC 9.6(1)

Unless specifically prohibited by law, the subject of the record has the right to review the record. In addition, the subject has the right to have a written statement of additions, dissents, or objections entered into the record. See [Review and Amendment of Health Information](#) for policies specific to protected health information.

For all other programs, require the subject to send a written statement to the custodian of the record or to the Bureau of Policy Analysis and Appeals that meets the following requirements:

- ◆ The statement shall be dated and signed by the subject, and
- ◆ The statement shall include the current address and phone number of the subject or the subject’s representative.

File the signed and dated statement, addition, or explanation in the case record. Do not make any change to the information already on file unless you agree that a mistake has been made and should be corrected by the Department. If the Department agrees with the client, this should be noted and clarified.

Review and Amendment of Health Information

Legal reference: 441 IAC 9.6(2)“a,” 45 CFR 164.526(a)(1) and (b)(1)

A subject has the right to ask for an amendment to be made to the subject’s protected health information when it is contained in a designated records set owned by Medicaid, *hawk-i*, or a Department facility. The subject must provide a reason for the requested amendment.

After reviewing protected health information as described at [Access to Protected Health Information](#), a subject may request that changes be made to the record.

When a subject asks to have protected health information changed, require the subject to complete form 470-3950, *Request to Amend Health Information*. Help the subject, if necessary, to complete the form with the appropriate personal identifier for the subject’s circumstances. See 1-C-Appendix for form instructions.

When a subject returns a completed 470-3950, *Request to Amend Health Information*, to the local office or facility, forward it to the Security and Privacy Office or the appropriate facility privacy official.

It is the responsibility of the Security and Privacy Office or the appropriate facility privacy official to determine if the subject’s request for amendment will be accepted or denied as described under [Timelines for Action on a Request to Amend](#), [Approving a Request to Amend](#), and [Denial of a Request to Amend](#).

See [Subject’s Rights Under HIPAA](#) for more information on local office and facility actions regarding a request to amend protected health information.

Timelines for Action on a Request to Amend

Legal reference: 441 IAC 9.6(2)“b,” 45 CFR 164.526(b)(2)

The Security and Privacy Office or facility privacy official shall act on a subject’s request to amend protected health information no later than 60 days after receiving a completed 470-3950, *Request to Amend Health Information*.

If the Security and Privacy Office or facility privacy official is unable to act within the 60-day limit, the decision period may be extended up to an additional 30 days. The Security and Privacy Office or facility privacy official shall use only one such 30-day extension to act on a request for access.

Before the sixtieth day, the Security and Privacy Office or facility privacy official shall notify the subject of the reason for the delay and the date by which the decision will be made. Complete the “Response” portion of a copy of the subject’s form 470-3950, *Request to Amend Health Information*, to provide a written explanation of delay.

Approving a Request to Amend

Legal reference: 441 IAC 9.6(2)“c,” 45 CFR 164.526(b)(2) and (c)

The Security and Privacy Office or facility privacy official shall grant a subject’s request to amend protected health information except in circumstances as described in [Denial of a Request to Amend](#).

When the Department accepts any or all of the requested amendment, the Security and Privacy Office or facility privacy official shall complete the decision block of a copy of the subject’s form 470-3950, *Request to Amend Health Information*, as notification that the amendment is accepted.

The Security and Privacy Office or facility privacy official shall make the appropriate changes to the protected health information that is the subject of the request by identifying the records in the designated record set and appending or otherwise providing a link to the location of the corrected protected health information.

The Department shall make reasonable efforts to share the amended protected health information with the following:

- ◆ People or organizations identified by the subject on the completed form 470-3950, *Request to Amend Health Information*, as having received protected health information about the subject from the Department and needing amendment.
- ◆ People, including business associates, who the Department knows have the protected health information that is the subject of the amendment and who may have relied, or could foreseeably rely, on the information to the detriment of the subject.

Denial of a Request to Amend

Legal reference: 441 IAC 9.6(2) “d,” “e,” and “f”; 45 CFR 164.526(a)(2) and (d)(1), (2), (3), and (4)

The Security and Privacy Office or facility privacy official may deny a subject’s request to amend protected health information in the subject’s designated record set of a Medicaid or *hawk-i* or a Department facility in the following circumstances:

- ◆ The information is not within the Department’s designated records set.
- ◆ The information is in the Department’s designated record set but was not created by Medicaid, hawk-i, or a Department facility. However, if the subject provides a reasonable basis to believe that the originator of the protected health information is no longer available, then the Department may act on the amendment request.
- ◆ The protected health information is not open to individual inspection under policies described at [Denial of a Request for Access](#).
- ◆ The protected health information is accurate and complete.

When any or all of a subject’s request to amend protected health information is denied, the Security and Privacy Office or facility privacy official shall complete the decision block of a copy of the subject’s form 470-3950, *Request to Amend Health Information*, to notify the subject of reason for the denial.

When the subject disagrees with the denial, the subject may file an appeal request as described at [Appeals](#).

Future Disclosures Following Denial of a Request to Amend

Legal reference: 441 IAC 9.6(2) “f” and “g,” 45 CFR 164.526(d)(4) and (5)

When the subject appeals the Department’s denial of a request to amend protected health information, the Department shall include the following with any future disclosure of the information to which the disagreement relates:

- ◆ The subject’s request to amend protected health information,
- ◆ The Security and Privacy Office or facility privacy official’s denial,
- ◆ The subject’s appeal and the Department’s final decision, if any, or
- ◆ At the election of the Department, an accurate summary of the above.

When the subject has not submitted an appeal request, the Department shall include the following with any future disclosure of the protected health information only if the subject has requested such action in response to the notification described at [Denial of a Request to Amend](#):

- ◆ The subject's request to amend protected health information,
- ◆ The Department's denial, or
- ◆ An accurate summary of the above at the election of the Department.

When a future disclosure of protected health information is part of an electronic transmission, the documents or summary may be transmitted separately.

Actions on Notices of Amendment Received by the Department

Legal reference: 441 IAC 9.6(2)“h,” 45 CFR 164.526(e)

When Medicaid, hawk-i, or a Department facility receives an amendment to a subject's protected health information from another covered entity, the amendment shall be made to the subject's protected health information within the identified designated record sets.

RELEASE WITH THE SUBJECT'S AUTHORIZATION

Legal reference: 441 IAC 9.7(17A, 22, 228)

The subject of a confidential record may have a portion of that record concerning the subject disclosed to a third party, to the extent permitted by any applicable provision of law. Generally, release confidential information only with a written authorization to release information signed by the client or the person responsible for the client when the client is not a competent adult.

“Authorization to release information” means a written statement, signed and dated by the person empowered to authorize release of confidential information by the policies of this chapter, such as the client or the institutional administrator. An authorization to release information must meet the following conditions:

- ◆ It must be in writing;
- ◆ It must identify the particular record or records that may be disclosed;
- ◆ It must identify the particular person or class of people to whom the record may be disclosed;
- ◆ It must, where applicable, specify the time period during which the record may be disclosed.

You may require the person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, to provide proof of identity. Program-specific policies later in this chapter contain information on exceptions for release without the subject's authorization.

Authorization Forms

Legal reference: 441 IAC 9.7(1)“a”

Require the subject to sign a written authorization which indicates the purpose for the release, the information that is to be released, to whom the information may be given and the length of time of the authorization.

Exceptions to this rule are listed under [Exceptions to the Use of Forms](#).

Use form 470-2115, *Authorization for the Department to Release Information*, for releases approved by the subject that do not involve health information requiring use of the authorization form described under [Authorization to Disclose Protected Health Information](#).

Obtaining Information From a Third Party

Legal reference: 441 IAC 9.7(1)“b” and 9.7(2)“d”

The Department is required to obtain information to establish eligibility, determine the amount of assistance, and provide services. Requests to third parties for this information involve release of confidential identifying information about the subjects of records.

Unless information is a matter of public record, do not solicit information from a source outside the Department without first receiving consent from the subject or person responsible for the subject if the subject is not a competent adult.

Note: “Competent” is defined in Iowa Code section 229.27 as “...whether the person possesses sufficient mind to understand in a reasonable manner the nature and effect of the act in which he or she is engaged.”

You may request confidential information about a subject without the subject's consent from a person or agency providing services or assistance to the subject under an agreement or contract with the Department. Person or agency in this context includes foster parents, purchase of service providers, etc.

See [AUTHORIZATION NOT REQUIRED FOR USE OR DISCLOSURE](#) for more information. Except as provided in that section, make these requests only when the subject has authorized the release on one of the following forms:

- ◆ 470-0461, *Authorization for Release of Information*
- ◆ 470-1630, *Household Member Questionnaire*
- ◆ 470-1631, *Financial Institution Questionnaire*
- ◆ 470-1638, *Request for School Verification*
- ◆ 470-2844, *Employer's Statement of Earnings*
- ◆ 470-1640, *Verification of Educational Financial Aid*
- ◆ 470-3742, *Financial Institution Verification*
- ◆ 470-3951, *Authorization to Obtain or Release Health Care Information*

However, you do not need a release of information to gather information for investigations of child abuse or dependent adult abuse.

Authorization to Disclose Protected Health Information

Legal reference: 441 IAC 9.7(1)“c”(1), 45 CFR 164.508(b) and (c)

To respond to third-party requests for health information when consent or authorization for use or disclosure of health information is required, use:

- ◆ Form 470-3951, *Authorization to Obtain or Release Health Care Information*, or
- ◆ A form from another source that meets HIPAA requirements.

When you receive a third-party request for health information, authorized by the subject or the subject's representative, take one of the following steps to ensure that HIPAA requirements are met:

- ◆ Ask the subject of the record to sign form 470-3951, *Authorization to Obtain or Release Health Care Information*; or
- ◆ Check the request form for these elements needed for HIPAA compliance:
 - A specific and meaningful description of the information to be disclosed.
 - The name or other specific identification of the people or class of people within the Department who are authorized to make the disclosure.

- The name or other specific identification of the people or class of people who will receive the requested information from the Department.
- A description of the purpose of the requested disclosure.
- An expiration date or an expiration event, such as “end of research.”
- The signature of the subject and date. If a personal representative of the subject signs the authorization, a description of the representative’s authority must be provided.
- Description of the subject’s right to revoke the authorization, exceptions to the right to revoke, and how to revoke the authorization.
- A statement that the person or organization cannot condition treatment, payment, enrollment, or eligibility for benefits on whether the subject signs the authorization; or the consequences to the subject of a refusal to sign.
- A statement explaining the potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient.

See 1-C-Appendix for instructions for completion and form distribution of form 470-3951, *Authorization to Obtain or Release Health Care Information*.

In Department facilities, ask the subject of the record or the subject’s representative to sign form 470-3951, *Authorization to Obtain or Release Health Care Information*, when you are requesting health information from another covered entity.

Do not require a subject to sign a HIPAA authorization form as a condition of treatment, payment, enrollment in Medicaid or *hawk-i*, or eligibility for any other benefits.

In Department facilities, however, you may require a subject to sign a HIPAA authorization form for the use or disclosure of protected health information for research as a condition of receiving the research-related treatment.

For more information, see [Authorizations for Disclosure](#) and [When the Department Needs Information From a Health Care Provider](#).

Revoking a HIPAA Authorization

Legal reference: 441 IAC 9.7(1)“c”(1)

A subject may revoke a HIPAA authorization at any time, provided that the revocation is in writing using form 470-3949, *Request to End an Authorization*. See 1-C-Appendix for instructions for completion and distribution of form 470-3949.

Disclosing Mental Health or Substance Abuse Information

Legal reference: 441 IAC 9.7(1)“c”(2)

Except as described at [Authorization to Disclose Protected Health Information](#), release mental health or substance abuse information only with authorization on form 470-0429, *Consent to Obtain and Release Information*, or another form that is HIPAA compliant.

See [AVAILABILITY OF RECORDS: Mental Health Information](#) and [Substance Abuse Information](#) for description of the requirements.

Photographs and Recordings

Legal reference: 441 IAC 9.7(1)“d”

Obtain authorization from the subject or person responsible for the subject (such as a guardian, custodian, or personal representative) before taking photographs or making any type of recording for any purpose other than those specifically allowed by law or for internal use within a Department institution. This includes audio, video, and digital recordings of any kind.

Obtain written authorization before taking photographs for use in annual reports, brochures, newsletters, and any other item that is available to the public. See [20-B](#) for further policies and procedures on this subject.

Use form 470-0060, *Authorization to Take and Use Photographs*, and form 470-0064, *Authorization to Take and Use Photographs of Minor or Ward*, for permission to use photographs in Department publications.

Exceptions to the Use of Forms

The following sections explain exceptions to the policies on use of authorization forms for:

- ◆ [Public officials](#)
- ◆ [Attorneys](#)
- ◆ [Medical emergencies](#)

Public Official

Legal reference: 441 IAC 9.7(1)“c”(1) and 9.7(2)“b”

Generally, treat any letter from the subject to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the Department as an authorization to release information. Release sufficient information about the subject to the official to resolve the matter. You may request a copy of the letter before releasing information, but this is not necessary.

Exceptions: There are three areas where requirements that are more restrictive prevent release to public officials on these terms:

- ◆ Do not release mental health information without a release that meets the requirements of Iowa Code Chapter 228. (See [AVAILABILITY OF RECORDS: Mental Health Information](#).)
- ◆ Do not release information from the abuse registry to any public official except the state ombudsman, even if the client has signed a release.
- ◆ Do not release protected health information without a HIPAA-compliant authorization signed by the subject or the subject's representative. This can be:
 - Form 470-3951, *Authorization to Obtain or Release Health Care Information*.
 - Another authorization meeting the requirements described at [Authorization to Disclose Protected Health Information](#).

If the official has received only a telephone call from the client, there is no documentation that the subject wants information released. If you release information under these circumstances, you could be accused of violating confidentiality policies.

When there is question about what the subject desires, check with the subject before you release information.

If a person other than the subject has contacted the public official, explain the confidentiality policies that prevent the Department from responding specifically about the case. Let the official know what more is needed for the Department to answer specifically. Explain the general policies applicable to the type of situation described.

If the situation warrants, you may need to conduct an investigation and reach a resolution, even though there would still be no direct response to the official on the specific case.

County Officials

In general, county officials are not considered to be involved in the administration of Department programs, and a release is required before you can give them access to client records. Some exceptions are:

- ◆ Billing information for state resource centers, state mental health institutes, and Medicaid services is shared with county fiscal officials.
- ◆ Child in need of assistance petitions are filed with the county attorney.
- ◆ County attorneys are informed of reports of child abuse as required by Iowa Code section 232.70.
- ◆ Fraud investigations may be referred to the county attorney for prosecution.

Since the standard of confidentiality established for client information under federally funded Department programs cannot be imposed on the general relief program of a county, transfer information to the general relief program only with the informed consent of the subject. This includes explaining the provisions the county has made to protect the privacy of the client.

In “integrated” counties, Department staff administer the county general relief program under contract to the county board of supervisors. Department confidentiality standards then do apply to general relief records. In “nonintegrated” counties, separate county staff administer this program.

Since county boards of supervisors are not involved in administration of Department programs, they do not have access to confidential information without the client’s authorization. Payment of the match for federal funding of block grant services does not constitute being involved in administration.

However, in cases where the county is paying 100 percent of costs, like a mental health or mental retardation client being released for community placement or an adult services case in a county care facility, treat the board as the sponsoring agency for service planning.

In **nonintegrated counties**, require a release of information form signed by the subject before releasing confidential information contained in federal program files to a general relief director, a veteran’s relief director, the county board of supervisors.

In **integrated counties**, when clients of federally funded Department programs apply for general relief, the following rules shall apply for transferring information:

- ◆ When information gathered by staff for federally funded programs is used for the administration of the county general relief program, obtain a signed release that gives the general relief director or worker access to the federal program information in order to extract the information needed for administration of the general relief program.
- ◆ Once information obtained for federal programs is transferred to general relief records, it may be re-released according to general relief policies. However, the subject must authorize the release of any additional information to the county boards, etc.

Attorney

Legal reference: 441 IAC 9.7(2)“a”

You may deem the appearance of an attorney before the Department on behalf of a person who is the subject of a confidential record to constitute consent to disclose Department records about the subject to the subject's attorney.

This includes Legal Aid. If the office has any doubt as to the attorney's identity or representation, then the office may request more information. Examples are:

- ◆ Checking with the subject,
- ◆ Checking with the attorney's office, or
- ◆ Getting a release from the client.

Medical Emergency

Legal reference: 441 IAC 9.7(2)“c”

You may authorize release of confidential information to medical personnel in a medical emergency if the subject is unable to give or withhold consent. Advise the subject of the release as soon as possible after the release of information.

Opportunity to Agree or Object to Release of Health Information

Legal reference: 441 IAC 9.7(3) and 441 IAC 9.7(3)“c,” 45 CFR 164.510(b)

Medicaid or *hawk-i* or the Department facilities may use or disclose protected health information without a written authorization when the subject:

- ◆ Is informed in advance of the use or disclosure and
- ◆ Has the opportunity to agree to or prohibit or restrict the use or disclosure, in accordance with the applicable requirements below.

Medicaid or *hawk-i* or the Department facilities may orally inform the subject of and obtain the subject's oral agreement or objection to a use or disclosure permitted as described below.

Involvement in Care and Notification Purposes

Legal reference: 441 IAC 9.7(3)“a” and “b,” 45 CFR 164.510(b)(1)(i) and (ii)

The Department facilities may disclose protected health information to the following people, so long as the protected health information is directly relevant to the identified person's involvement with the subject's care or with payment related to the subject's health care:

- ◆ A family member or other relative,
- ◆ A close personal friend of the subject, or
- ◆ Any other person selected by the subject.

The Department facilities may use or disclose protected health information to notify, or assist in notifying (including identifying or locating) the following people of a subject's location, general condition, or death:

- ◆ A family member,
- ◆ A personal representative of the subject, or
- ◆ Another person responsible for the care of the subject.

When the Subject Is Present

Legal reference: 441 IAC 9.7(3)“c” and “d,” 45 CFR 264.510(b)(2)

When the subject is present for, or otherwise available before, a permitted use or disclosure and has the capacity to make health care decisions, the Department may use or disclose the protected health information in the following circumstances:

- ◆ The Department has obtained the subject's agreement;
- ◆ The Department has provided the subject with the opportunity to object to the disclosure, and the subject does not express an objection; or
- ◆ The Department reasonably infers from the circumstances, based on the exercise of professional judgment that the subject does not object to the disclosure.

The Department may orally inform the subject of and obtain the subject's oral agreement or objection to a use or disclosure as described under [Opportunity to Agree or Object to Release of Health Information](#).

In each of these circumstances, the Department shall document the subject's agreement or objection to the use or disclosure of protected health information to another identified person.

When the Subject Is Not Present

Legal reference: 441 IAC 9.7(3)"d," 45 CFR 164.510(b)(3)

Department facilities shall exercise professional judgment to determine whether the disclosure to another person is in the best interests of the subject if:

- ◆ The subject is not present, or
- ◆ The opportunity to agree or object to the use or disclosure is not practical due to the subject's incapacity or an emergency circumstance.

Department facilities may use professional judgment and their experience with common practice to make reasonable inferences of the subject's best interest in allowing a person to act on behalf of the subject to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of protected health information.

Facilities shall disclose only the protected health information that is directly relevant to the person's involvement with the subject's health care. In circumstances as described above, the Department facilities shall document the following:

- ◆ The protected health information that was released.
- ◆ Who received the protected health information.
- ◆ When the protected health information was released.
- ◆ How the protected health information was released.
- ◆ The basis for the professional judgment that the disclosure of the protected health information was in the best interests of the subject.

For Disaster Relief Purposes

Legal reference: 441 IAC 9.7(3)“e,” 45 CFR 164.510(b)(4)

When Medicaid or *hawk-i* or the Department facilities have determined through professional judgment that the requirements would interfere with the ability to respond to emergency disaster relief efforts, the following notification requirements do not apply:

- ◆ [Involvement in Care and Notification Purposes](#)
- ◆ [When the Subject Is Present](#)
- ◆ [When the Subject Is Not Present](#)

Medicaid or *hawk-i* or the Department facilities shall document the basis for their decision in these circumstances.

PEOPLE WHO MAY EXERCISE RIGHTS OF THE SUBJECT

Legal reference: 441 IAC 9.15(1) and (2), 45 CFR 164.502(g) and 45 CFR 502(g)(2) and (3)

When the subject is an adult, including an emancipated minor, the subject's legal or personal representative may also exercise the subject's rights under this chapter, except as provided under [Scope of Authority](#) and [Exceptions to Exercise of Rights of the Subject](#).

When the subject is an unemancipated minor, only the subject's legal representative shall exercise the subject's rights under this chapter, except in the situations described below.

Exceptions:

- ◆ When the policies under [Scope of Authority](#) and [Exceptions to Exercise of Rights of the Subject](#) apply. Where the Department otherwise deals with the minor as an adult, as in the case of minor parents under the Family Investment Program, the minor may exercise these rights.
- ◆ Where otherwise specifically provided by law, the minor may exercise these rights.
- ◆ Minor subjects shall be granted access to their own records upon request, subject to the limits in [RELEASE TO THE SUBJECT OF THE INFORMATION](#).

The subject's representative may be anyone the subject designates, but should not be a Department employee. The term representative does not necessarily mean a legal representative. The designee may be a friend, doctor, spouse, other relative, attorney, etc.

When the subject authorizes someone to act on the subject's behalf, such as to apply for assistance, this should be construed to authorize the Department to release enough information to accomplish the task, e.g., determine eligibility for assistance.

Scope of Authority

Legal reference: 441 IAC 9.15(3)"a," 45 CFR 164.502(g)(1)

Legal and personal representatives may act only within the scope of their authority. For protected health information, the designation of a legal or personal representative must reflect the subject's ability to make health care decisions and receive protected health information.

Example: Under the scope of authority of court-appointed conservators and protective payees appointed by the Department, these representatives have access to and authority to release only the following information:

- ◆ Name and address of subject.
- ◆ Amounts of assistance or type of services received.
- ◆ Information about the economic circumstances of the subject.

Under the Iowa Juvenile Code, section 232.2, the following definitions apply:

- ◆ **"Guardian"** means a person who is not the parent of a child, but who has been appointed by a court or juvenile court having jurisdiction over the child to make important decisions which have a permanent effect on the life and development of that child and to promote the general welfare of that child.

A guardian may be a court or a juvenile court. Guardian does not mean conservator, as defined in Iowa Code section 633.3, although a person who is appointed to be a guardian may also be appointed to be a conservator.

Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the rights and duties of a guardian with respect to a child shall be as follows:

- To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric, or surgical treatment.
 - To serve as guardian ad litem, unless the interests of the guardian conflict with the interests of the child or unless another person has been appointed guardian ad litem.
 - To serve as custodian, unless another person has been appointed custodian.
 - To make periodic visitations if the guardian does not have physical possession or custody of the child.
- ◆ **“Guardian ad litem”** means a person appointed by the court to represent the interests of the child in any judicial proceeding to which the child is a party.
- ◆ **“Custodian”** means a stepparent or a relative within the fourth degree of consanguinity to a minor child who has assumed responsibility for that child, a person who has accepted a release of custody or a person appointed by a court or juvenile court having jurisdiction over a child. The rights and duties of a custodian with respect to a child shall be as follows:
- To maintain or transfer to another the physical possession of that child.
 - To protect, train, and discipline that child.
 - To provide food, clothing, housing, and medical care for that child.
 - To consent to emergency medical care, including surgery.
 - To sign a release of medical information to a health professional.

All rights and duties of a custodian shall be subject to any residual rights and duties remaining in a parent or guardian.

For more interpretation of the responsibilities that the Department takes when it is appointed guardian or custodian, see 13-D, [STATUTORY AUTHORITY OF GUARDIAN](#), and 13-J, [Authorization From Parents or Guardian](#).

Determine the scope of access to grant to a person with a **power of attorney** by the terms of the document designating that status. For example, a person who holds a durable power of attorney for health care decisions on behalf of a subject would be acting appropriately when accessing the subject’s protected health information. A person who holds a general durable power of attorney for a subject would not.

Probate Guardian

Legal reference: Iowa Code Chapter 633

Give guardians the same access to the client's file as the client has. Under the Iowa Probate Code, a **guardian** may be granted the following powers and duties, which may be exercised without prior court approval:

- ◆ Providing for the care, comfort, and maintenance of the ward, including the appropriate training and education to maximize the ward's potential.
- ◆ Taking reasonable care of the ward's clothing, furniture, vehicle, and other personal effects.
- ◆ Assisting the ward in developing maximum self-reliance and independence.
- ◆ Ensuring the ward receives necessary emergency medical services.
- ◆ Ensuring the ward receives professional care, counseling, treatment or services as needed.
- ◆ Any other powers or duties the court may specify.

The court may take into account all available information concerning the capabilities of the ward and any additional evaluation deemed necessary, and may direct that the guardian have only a specially limited responsibility for the ward. In that event, the court shall state those areas of responsibility that the guardian shall supervise and all others that the ward shall retain.

A guardian may be granted the following powers that may be exercised only upon court approval:

- ◆ Changing, at the guardian's request, the ward's permanent residence if the proposed new residence is more restrictive of the ward's liberties than the current residence.
- ◆ Arranging the provision of major elective surgery or any other nonemergency major medical procedure.

From time to time, upon a proper showing, the court may alter the respective responsibilities of the guardian and the ward, after notice to the ward and an opportunity to be heard. (Iowa Code section 633.35)

Conservators

Legal reference: Iowa Code Chapter 633

Under the Iowa Probate Code, the **conservator** shall have the full power, without prior order of court, with relation to the estate of the ward:

- ◆ To collect, receive, receipt for any principal or income, and to enforce, defend against or prosecute any claim by or against the ward or the conservator to sue on and defend claims in favor of, or against, the ward or the conservator.
- ◆ To sell and transfer personal property of a perishable nature and personal property for which there is a regularly established market.
- ◆ To vote at corporate meetings in person or by proxy.
- ◆ To receive additional property from any source.
- ◆ To continue to hold any investment or other property originally received by the conservator, and also any increase thereof, pending the timely filing of the first annual report.

Conservators shall have the following powers subject to the approval of the court after hearing on such notice, if any, as the court may prescribe:

- ◆ To invest the funds belonging to the ward.
- ◆ To execute leases.
- ◆ To make payments to, or for the benefit of, the ward in any of the following ways.
 - Directly to the ward;
 - Directly for the maintenance, welfare and education of the ward;
 - To the legal guardian of the person of the ward;
 - To anyone who at the time has the custody and care of the ward.
- ◆ To apply any portion of the income or of the state of the ward for the support of any person for whose support the ward is legally liable.
- ◆ To adjust, arbitrate, compromise or settle any claim by, in favor of, or against the ward or the conservator.
- ◆ To do any other things that the court determines to be to the best interests of the ward and the ward's state. (Iowa Code sections 633.646 and 633.647)

Give court-appointed conservators and protective payees appointed by the Department access to the following information:

- ◆ The name and address of client.
- ◆ Amounts of assistance received.
- ◆ Information about the economic conditions or circumstances of the client.
- ◆ Type of services received.

Unless circumstances are highly unusual, executors or administrators of estates of deceased clients have the same access as a conservator. Unusual circumstances include things like an adverse relationship between the executor, the deceased client, and other relatives; reason to believe there will be a lawsuit over settling the estate; or a suspicious death in an institution that might result in a claim against the state.

If there are any questions, check with the Attorney General's Office. Route questions for the attorney general through the service area manager.

Exceptions to Exercise of Rights of the Subject

The following sections describe exceptions to the policies allowing another person to exercise the rights of the subject of information:

- ◆ [Abuse, neglect, and endangerment situations](#)
- ◆ [Deceased subjects](#)
- ◆ [Failure to act in good faith](#)
- ◆ [Information about minors](#)
- ◆ [Mental health information](#)
- ◆ [Substance abuse information](#)
- ◆ [Other protected information](#)

Abuse, Neglect, and Endangerment Situations

Legal reference: 441 IAC 9.15(3)“e,” 45 CFR 164.502(g)(5)

In the exercise of your professional judgment, you may elect not to treat a person as a subject's personal representative when:

- ◆ You have reasonable belief that the subject has been or may be subjected to domestic violence, abuse, or neglect by the person; or
- ◆ You have reasonable belief that treating the person as a personal representative could endanger the subject.

You may exercise this professional judgment notwithstanding a state law or any other requirement of this chapter.

Deceased Subjects

Legal reference: 441 IAC 9.15(3)“g,” 45 CFR 164.502(g)(4)

Treat a person as a personal representative if, under applicable law, that person is an executor, administrator, or other person with authority to act on behalf of a deceased subject or of the subject’s estate.

Failure to Act in Good Faith

Legal reference: 441 IAC 9.15(3)“d”

If you have reason to believe that the legal or personal representative is not acting in good faith in the best interests of the subject, you may refuse to release information on the authorization of the legal or personal representative.

Information About Minors

Legal reference: 441 IAC 9.15(3)“f,” Iowa Code section 598.41, 45 CFR 164.502(g)(3)

Iowa law requires that unless otherwise ordered by the court in a custody decree, both parents shall have legal access to information concerning their child, including medical records.

HIPAA regulations state that a parent, guardian, or other person acting in place of a parent may access protected health information about the minor if the law requires it. This is true even when the person does not represent the minor for protected health information.

Therefore, in some cases the Department may release information about a child receiving services or assistance to the child’s parent who is not on the Department’s case. This includes former or current client’s case records based on the request. For child support and child welfare policy on release of information to parents, see:

- ◆ [Child Support Recovery](#)
- ◆ 17-C, [Engaging the Family](#) and [Developing the Initial Case Plan](#)

Normally, information from income maintenance cases is not released to someone who is not a member of the eligible group unless the household specifically permits the release by naming a person as the household's representative or signing an authorization form.

The following procedures address requests for information about a child's participation in income maintenance programs from a parent who is not or was not on the case for the period indicated on the request. **Note:** A response must be provided to the requester no later than the 20th day.

If a parent who is not on the case requests information about a child whom the parent believe is or was receiving assistance from the Department, including *hawk-i*, ask the parent to submit the request in writing.

The parent may submit the written request either to the local office or to the Field Operations Support Unit (FOSU), 5th Floor Hoover Bldg., 1305 E Walnut Street, Des Moines, IA 50319-0114. A parent who is requesting **only** information regarding *hawk-i* benefits may submit the request to Healthy and Well Kids in Iowa (*hawk-i*) Program, PO Box 71336, Des Moines, IA 50325-9958.

- ◆ If the parent contacts central office to request the information, immediately forward the request to the FOSU. FOSU will immediately send the request to the child's appropriate worker based on the requested information.
- ◆ If the parent has contacted a local office other than the office that has or did have the child's case, immediately forward the written request to the correct local office.
- ◆ If the parent requests information that includes non-specific requests for information (i.e. "all benefits" or "all medical benefits") received for a certain time period, information regarding any *hawk-i* benefits and Medicaid benefits received must be included in the response to the request.

If the local office receives such a written request, staff should immediately contact *hawk-i* at: 1-800-257-8563. If the *hawk-i* office receives such a request, the request will be immediately forwarded to FOSU.

FOSU will determine which local Department office should handle the request. The local Department office will be responsible for contacting *hawk-i* for any information there might be regarding the child.

Respond as follows:

- ◆ If there are no records on the child that correspond to the information requested, respond in writing to the requester by stating that the Department does not have the information.
- ◆ When there is pertinent information in Department records, send form 470-4375, *Child Records Query*, to the last known address of the parent, caretaker, or legal guardian for the child's case.

Form 470-4375 informs the client of the request and gives the client the opportunity to object to the release of the information. For example, the client's custody decree may specifically prohibit sharing information.

Give the client no more than ten calendar days to return the form. Requests for additional time to respond beyond the ten calendar days cannot be granted, regardless of the reason, because the Department is required by law to respond to the requester within 20 days.

- ◆ If the client agrees to the release, release the requested information in writing within five work days of receiving agreement. Send the client a copy of all information shared with the requesting parent and keep a copy of the information for the case record.
- ◆ If the client does not respond in ten calendar days or does not agree to the release, consult the IM SPIRS Unit about how to respond to the request. Many variables may affect the Department's response to a request of this type.

Information that may be shared when the parent on the case does not respond or does not have sufficient reason to deny the release is as follows:

Program	Information Shared
Child Care Assistance	<ul style="list-style-type: none">• Whether the child received assistance• What months the child received assistance
Family Investment Program	<ul style="list-style-type: none">• Whether the child received assistance• What months the child received assistance
Food Assistance	<ul style="list-style-type: none">• Whether the child received assistance• What months the child received assistance

Program	Information Shared
<i>hawk-i</i>	<ul style="list-style-type: none">• Whether the child received assistance• What months the child received assistance• What services were paid• The amount of payments for services
Medicaid	<ul style="list-style-type: none">• Whether the child received assistance• What months the child received assistance• What services were paid• To whom the services were paid• The amount of payments for services

Mental Health Information

Legal reference: 441 IAC 9.15(3)“b”

Only an adult subject or a subject’s legal representative can consent to the disclosure of mental health information. Personal representatives who are not also legal representatives do not have the authority to release mental health information.

Release records of involuntary hospitalization only as provided in Iowa Code section 229.24. Release medical records of people hospitalized under Iowa Code chapter 229 only as provided in Iowa Code section 229.25.

Substance Abuse Information

Legal reference: 441 IAC 9.15(3)“c”

Only the subject can consent to the disclosure of substance abuse information, regardless of the subject’s age or condition. Neither legal nor personal representatives have the authority to release substance abuse information.

Other Exceptions

Legal reference: 441 IAC 9.15(3)“h”

When, under applicable law, the subject of a confidential record is precluded from having a copy of a record concerning the subject disclosed to a third party, do not treat the third party as a personal representative.

AUTHORIZATION NOT REQUIRED FOR USE OR DISCLOSURE

Legal reference: 441 IAC 9.8(17A,22) and 9.10(17A,22)

The Department releases confidential information without the subject's specific consent for purposes of administering the program for which the information was collected.

You may routinely disclose **open** records without the consent of the subject. You may disclose **confidential** information without the consent of the subject or the subject's representative only if law permits the disclosure. Notices of release of information that are routinely part of a program shall be provided to subjects as required by [Notice to Suppliers of Information](#). The subject's application to participate in the program shall constitute consent for these releases.

Except for release to public officials for use in their official duties, administrative releases shall be made only to people subject to standards of confidentiality comparable to those of the Department. To compare standards, it may be necessary to get them in writing or have a written agreement or memorandum of understanding.

Even though agencies may have comparable confidentiality standards, you may release information only when necessary to administer Department programs, **not** the programs of the other agency. Examples of administration are:

- ◆ Establishing eligibility, determining amount of assistance, and providing services for applicants or recipients.
- ◆ Investigating, prosecuting or defending a civil or criminal proceeding in connection with administration of a program.
- ◆ Administering another federal or federally assisted Department program that provides assistance, in cash or in kind, or services, directly to people based on need. (This provision allows such sharing of information as between FIP and Food Assistance.)
- ◆ Auditing or performing a similar activity, e.g., review of expenditure reports or financial review, conducted in connection with administration of the program by a governmental entity authorized by law to conduct the audit or activity.

In determining whether the information is for administration of the program, it is necessary to look at the use of the information and who is requesting it.

We would release information to:

- A purchase of service provider when necessary to provide the service.
- The county attorney investigating a fraud referral from the Department.

We would not release information to:

- Police with a warrant for a crime not related to a Department program.
- A general relief office wanting income information.

Abuse Investigation

Legal reference: 441 IAC 9.10(12); 45 CFR 160.203(b) and (c) and 164.512(a) to (c) and (f)(6)

The Central Abuse Registry disseminates child abuse information and dependent adult abuse information as provided in Iowa Code sections 235A.15 and 235B.7, respectively. Reports of child abuse assessments and dependent adult abuse evaluations and assessments are submitted to the county attorney as required in Iowa Code sections 232.71B and 235B.3.

Results of the child abuse assessments and dependent adult abuse evaluations and assessments based on a report by a mandatory reporter are communicated to the reporter as required in Iowa Code sections 235A.15(2)“b”(5), 235A.17(2), 235B.6(2)“b”(6), and 235B.8(2).

With regard to disclosures of protected health information about victims of abuse or neglect, follow the legal requirements and procedures outlined in Iowa Code Chapters 232, 235A, and 235B; 441 Iowa Administrative Code Chapters 175 and 176; 17-B(1), [Access to Child Abuse Information](#), and 16-G, [DEPENDENT ADULT PROTECTIVE SERVICES](#). Provide only protected health information relevant to the specific incident to the individual or agency who has legal access.

The HIPAA privacy rule does not relieve mandatory reporters of their responsibility to report suspected child and dependent adult abuse or neglect. The mandatory reporter of suspected child or dependent adult abuse or neglect has immunity under Iowa law from liability for good faith reporting.

Mandatory reporters shall contact either the local Department office or the central abuse hot line with a report of suspected abuse or neglect. In addition to following the Iowa Code, facilities shall also refer to specific abuse reporting procedures within that facility.

When protected health information is disclosed in these circumstances to an entity authorized by law to receive the report, the Department will rely on its existing tracking systems to be the record the disclosure. You do not need to complete form 470-4015, *Record of Disclosure of Health Information*.

Adoption

Legal reference: 441 IAC 9.10(14)

Release adoptive home studies on families who wish to adopt a child to licensed child-placing agencies, to the United States Immigration and Naturalization Service, and to adoption exchanges. Information is released from adoption records as provided in Iowa Code sections 600.16 and 600.24.

Audits

Legal reference: 441 IAC 9.10(2)“a”

Release information concerning program expenditures and client eligibility to staff of the following entities that are responsible for assuring that public funds have been managed correctly:

- ◆ State executive branch agencies,
- ◆ Legislative branch agencies,
- ◆ Federal agencies when those agencies provide program funds.

Most contact with federal representatives for Department programs is at the Central Office level and involves general administration rather than specific client information. However, some functions, such as auditing, federal quality control reviews, and special studies, will necessitate release of confidential information.

Normally, arrangements will be made through Central Office to get the material needed. In rare cases, a field office or facility may be contacted directly, such as when there is a federal suit involving an Iowa client. If this happens, contact the appropriate division for instructions.

Determine in each division the procedures to be used with federal representatives and the methods for authorizing the release of information. See [Health Oversight Activities](#) for information specific to protected health information audits and other health oversight activities.

Child Support Recovery

Legal reference: 441 IAC 9.10(10) and 441 IAC 9.10(19)“a” and “b,” 45 CFR 164.512(a)

Child support recovery workers have access to information, including protected health information, from most Department records for these purposes:

- ◆ Locating absent parents and
- ◆ Establishing and enforcing support obligations.

Information about absent parents and recipients of child support services is released according to the provisions of Iowa statute including Iowa Code section 252B.9.

Information about absent parents and their support obligations is released to attorneys prosecuting support cases, courts with jurisdiction over support cases, and state and federal agencies responsible for support collection and paternity determination, pursuant to Iowa Code section 252B.9. Information is also released to employers pursuant to Iowa Code section 252D.17 and to consumer reporting agencies.

This provision also applies to staff attorneys or contract attorneys representing the Department in child support actions. No subpoena, court order, or client consent is required to release records to CSRU staff or agents for performance of their official duties under Iowa Code Chapter 252B.

Redissemination of information from CSRU files is governed by the CSRU confidentiality regulations and the general Department policies. (See [AVAILABILITY OF RECORDS](#).)

Contracts and Agreements With Other Agencies

Legal reference: 441 IAC 9.10(4)“a”

The Department may enter into contracts or agreements with public or private agencies, such as the Department of Inspections and Appeals, and business associates, including the Medicaid Enterprise units and professional service contractors, in order to carry out the Department’s official duties. Information necessary to carry out these duties may be shared with these agencies.

Business Associate Agreements

Legal reference: 441 IAC 9.1(17A,22) and 441 IAC 9.10(4)“a,” 45 CFR 164.502(e)

See [Definitions](#) for information on identifying a business associate for health information purposes. The following are some current Department business associates by functional areas:

- ◆ Medicaid revenue collections
- ◆ Medical services
- ◆ Medicaid member services
- ◆ Medicaid provider services
- ◆ Medicaid surveillance and utilization review
- ◆ Medicaid provider cost audit and rate setting
- ◆ Pharmacy medical services
- ◆ Pharmacy point of sale
- ◆ Core Medicaid Management Information System
- ◆ Family planning network services
- ◆ *hawk-i*
- ◆ SCHIP enrollment broker
- ◆ Presumptive Medicaid eligibility
- ◆ Disability determination services

You may disclose protected health information to a business associate or allow a business associate to create or receive protected health information on its behalf so long as the Department has assurance that the business associate will appropriately safeguard the information. This assurance requires a written contract with the business associate.

Most business associate contracts are completed through the Department central office divisions or facilities by adding an appropriate provision to the contracts for services.

Federal or Federally Assisted Programs

Legal reference: 441 IAC 9.10(4)“b”

The Department may enter into agreements to share information with agencies administering federal or federally assisted programs that provide assistance or services directly to people based on need if the Department has approval from the federal agencies.

Under these agreements, share only information collected in the following programs:

- ◆ Family Investment Program
- ◆ Child Care Assistance Program
- ◆ Food Assistance Program
- ◆ Refugee Resettlement Program
- ◆ Child Support Recovery Program

IEVS

Legal reference: 441 IAC 9.10(4)“c”

To meet federal income and eligibility verification (IEVS) requirements, the Department has agreements with:

- ◆ Iowa Workforce Development
- ◆ The United States Internal Revenue Service
- ◆ The United States Social Security Administration

The Department releases to these agencies identifying information for people whose income or resources are considered in determining eligibility and the amount of benefits for FIP, Refugee Cash Assistance, Child Care Assistance, Food Assistance, Medicaid, State Supplementary Assistance and Foster Care.

In turn, these agencies provide information to the Department regarding these people. You may use the information received from these agencies for eligibility and benefit determinations.

IEVS agreements are specific to the computerized exchange of information. They do not extend to other kinds of information exchange. Do not call or write the Internal Revenue Service about information obtained from IEVS. Handle communication with the Social Security Administration according to procedures in [6-A](#).

Handle any other communication outside of the IEVS reports according to general procedures for release of information.

Immigration Authorities

Legal reference: 441 IAC 9.10(4)“d”

The Department has an agreement with the United States Citizenship and Immigration Services (USCIS) to exchange information necessary to verify alien status for the purpose of determining eligibility and the amount of benefits for the FIP, Refugee Cash Assistance, Food Assistance, Medicaid, State Supplementary Assistance, and Foster Care.

Identifying information regarding these subjects is released to the USCIS. You may use the information received from USCIS for eligibility and benefit determination.

This agreement is necessary to meet federal requirements under the Immigration Reform and Control Act of 1986 relating to the Systematic Alien Verification for Entitlements (SAVE) program.

PROMISE JOBS and FaDSS

Legal reference: 441 IAC 9.10(4)“e”

To meet federal requirements, the Department has an agreement with Iowa Workforce Development to provide services to FIP clients participating in the PROMISE JOBS program, as described at 4-J, [PROMISE JOBS](#).

Share information necessary to allow Iowa Workforce Development and the subcontractors who administer the Workforce Investment Act (WIA) program on behalf of Iowa Workforce Development to carry out these duties.

The Department has an agreement with the Department of Human Rights to provide services to FIP clients participating in the Family Development and Self-Sufficiency (FaDSS) program. Share information necessary to allow the Department of Human Rights and the FaDSS service providers to carry out these duties.

Income maintenance workers may share health information with PROMISE JOBS and FaDSS following the policies of this chapter regarding the need to know. Generally this would mean that income maintenance workers can share health information, including incapacity or disability information, with PROMISE JOBS or FaDSS staff, on a need to know basis, when that information was learned from the subject during the FIP eligibility process.

If health information was gathered during the Medicaid eligibility process, it is protected health information. Obtain an authorization from the subject before disclosing it to PROMISE JOBS or FaDSS staff.

Note: When health information is gathered from one source for both FIP and Medicaid programs, that information is considered to belong to both programs. In this circumstance, the health information can be shared with PROMISE JOBS as FIP program information.

Emergency Assistance

Legal reference: 441 IAC 9.10(4)“f”

State legislation requires that all Emergency Assistance households apply for and accept benefits for which they may qualify from the following programs before approval for Emergency Assistance:

- ◆ Energy assistance,
- ◆ County general relief, and
- ◆ Veteran’s affairs programs

Therefore, the Department may enter into agreements with the agencies that administer these programs under which they may provide services to Emergency Assistance households, as described under 6-I, [EMERGENCY ASSISTANCE](#). Share information necessary to allow these agencies to carry out these duties.

To carry out requirements in 6-I, [Applying for LIHEAP, VA, and County GR](#), limit the information shared with the energy assistance, general relief, and veteran’s affairs programs to those items that are necessary to determine the client’s eligibility for Emergency Assistance.

Medicaid Disability Determinations

Legal reference: 441 IAC 9.10(4)“g”

The Department has entered into an agreement with the Department of Education, Vocational Rehabilitation, Disability Determination Services to assist with Medicaid disability determinations.

FIP and Food Assistance Eligibility Verification for Schools

Legal reference: 441 IAC 9.10(4)“h”

The Iowa Department of Education and local schools must meet U.S. Department of Agriculture Food and Nutrition Service regulations requiring verification of eligibility of a percentage of households approved for benefits under the School Lunch Program.

The local school needs to confirm the current FIP and Food Assistance program recipient status of a certain number of its School Lunch Program free-meal recipients whose eligibility is based on receipt of FIP or Food Assistance program benefits. The Department of Education is required to audit the verification process completed by the local school food authority.

The Department has entered into an agreement with the Department of Education that will help schools and Department clients to carry out this annual verification process.

When you receive a written request from the local school, respond in writing with the current FIP and Food Assistance program recipient status of the free-meal recipients listed in the request. Do not make any other client-specific information available without written authorization from the client.

County Billing

Legal reference: 441 IAC 9.10(9)

Release information necessary for billing to county governments that pay part of the cost of Medicaid enhanced services, care in an intermediate care facility for the mentally retarded, habilitation services, or home- and community-based waiver services. This information includes member names, identifying numbers, provider names, number of days of care, amount of member payment, and amount of payment due.

Federal Requirements

Legal reference: 441 IAC 9.10(19) a”

Share information with other agencies without a contract or written agreement when federal law or regulations requires it as part of the administration of a program. (This provision is included to cover new legislation or provisions not specifically listed.)

Foster Care

Legal reference: 441 IAC 9.10(13)

Share information concerning a child's need for foster care with foster care review boards and people named in the case plan. For a list of people who receive copies of the case plan, see 17-Appendix, [Family Case Plan, Form 470-3453 and 470-3453\(S\)](#).

You may share protected health information if needed. Consider that protected health information shared in this situation is provided for health care operations. You do not need to complete form 470-4015, *Record of Disclosure of Health Information*, in such instances.

Internal Use

Legal reference: 441 IAC 9.10(1)

You may disclose confidential information to employees and agents of the Department as needed for the performance of their duties. The custodian of the record shall determine what constitutes legitimate need to use confidential records. People affected include:

- ◆ County-paid staff.
- ◆ Fieldwork students and volunteers working under the direction of the Department.
- ◆ Council and commission members.
- ◆ Policy review and advisory committees.
- ◆ Consultants to the Department.

Law Enforcement

Legal reference: 45 CFR 164.512(j)

Confidential information from Department records is not available to law enforcement officials. **Exceptions** to this policy occur when the subject is deceased and when law enforcement officials:

- ◆ Need information to prevent imminent harm to a person;
- ◆ Are participating in a joint investigation of abuse;
- ◆ Need information to prosecute fraud in a program administered by the Department; or
- ◆ Present a request that conforms to special provisions for release of specified information about a FIP or Food Assistance program participant.

The Department is required to follow local protocol for joint assessments when both the assessment worker and law enforcement are involved in a case of child or dependent adult abuse. See 16-E(1), [Persons Involved in an Investigation or Assessment](#), and 16-G, [Authorized Access](#), for details of law enforcement access in these cases.

Only FIP and the Food Assistance program provide for release of confidential information to law enforcement in cases not involving a Department fraud investigation, imminent harm, or a deceased subject. Do not release information acquired in the administration of any other program on this basis. The following sections explain these exceptions.

Threat to Health or Safety for All Programs

Legal reference: 441 IAC 9.10(18)“a,” 45 CFR 160.203(b) - (c), 164.512(c), (f), and (j)

Protective service staff request assistance from law enforcement when the subject of a report appears to be in imminent danger. (See 17-B(1), [Access to Child Abuse Information](#), 16-G, [Observation and Ensuring Safety](#), and 16-G(1), [Rejected Intakes/Information and Referral](#).)

When a client threatens or commits harm to Department staff or property, report the client’s name and details of the threat or act to law enforcement officials. Do not release other information regarding the client’s relationship to the Department.

When you believe a client intends to harm someone, you may warn the intended victim or the police or both. Disclose only the name, identification, and location of the client and the details of the client’s plan of harm.

Threat to Health or Safety for Health Information

Legal reference: 441 IAC 9.10(18)“b,” 45 CFR 164.512(j)

You may use or disclose protected health information when you believe, in good faith, that the use or disclosure is necessary:

- ◆ For law enforcement purposes as described in this chapter; or
- ◆ To prevent or lessen a serious and imminent threat to the health or safety of a person or the public and you are making the disclosure to a person reasonably able to prevent or lessen the threat, including the target of the threat.

In these circumstances, observe all applicable laws and standards of ethical conduct.

When you use or disclose protected health information to avert a threat to health or safety, you are considered to have acted in good faith if:

- ◆ The action is based upon your actual knowledge; or
- ◆ You have relied on a credible representation by a person with apparent knowledge or authority.

When it is necessary to disclose protected health information in these circumstances, the following steps should occur:

- ◆ Report the incident to your supervisor. If you hold a supervisory position, report to your supervisor or administrator. If possible, take this step before reporting the threat to health or safety.
- ◆ The staff member who actually makes the disclosure shall complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or appropriate facility privacy official.

Fraud

Legal reference: 441 IAC 9.10(6); 45 CFR 164.502(a)(1)(i), 164.506, and 164.512(f)(1)

Refer information concerning suspected fraud or misrepresentation to obtain services or assistance to the Department of Inspections and Appeals (DIA) for investigation. The Department has delegated responsibility to DIA for authorizing release of information in these cases to law enforcement, as necessary for purposes of investigation and prosecution.

The information released must be directly connected with the administration of the Department program involved. Do not provide access to Department records to local or other law enforcement agencies seeking information without a release from DIA.

DIA uses form 470-1363, *Approval of Release of Information by Iowa Department of Human Services*, to carry out this function. See [6-Appendix](#) for a sample of the form.

Release of FIP Participant Address

Legal reference: 18 USC 1073; 441 IAC 9.10(16)

The Department may release the address of a **current** Family Investment Program participant to a federal, state, or local law enforcement who fulfills the following requirements:

- ◆ The officer provides the name of the participant.
- ◆ The officer notifies the Department that the location or apprehension of the participant is within the officer's official duties.
- ◆ The officer states that at least one of the following circumstances applies:
 - The participant is fleeing prosecution, custody, or confinement after conviction under state or federal law; or
 - The participant is a probation or parole violator under state or federal law; or
 - The participant has information that is necessary for the officer to conduct official duties.

See also 4-A, [Confidentiality](#). Note that confirmation that an applicant or participant is a fugitive felon or a parole or probation violator makes the person ineligible for FIP. See 4-C, [FLEEING FELONS AND PROBATION OR PAROLE VIOLATORS](#).

When a law enforcement official contacts a Department office requesting information about a FIP client, refer the request to the service area manager or designee.

If the contact is made in person, verify the identification of the law enforcement official and obtain a copy of the warrant or other documentation showing the reason that the person is wanted. Send a copy of the documentation and a memo stating how verification of identity was obtained to the Service area manager or designee.

If the contact is made by mail, forward the request to the Service area manager or designee, and send a reply to the requester explaining the action and stating that verification of the official's identity and the participant's status will be required.

If the request is received by phone, refer the caller to the office of the service area manager or designee, with a similar explanation.

The service area manager or designee is responsible for determining whether the requirements of the federal law are met and shall issue written authorization to the local office to:

- ◆ Authorize the release of the participant's address, or
- ◆ Document the release, if an emergency requires release over the telephone.

Release of Food Assistance Program Information

Legal reference: 7 CFR 272.1(c), 441 IAC 65.49(234)

The Department may release the address, social security number, and photograph of a participant in the Food Assistance program to a federal, state, or local law enforcement officer if the location or apprehension of the participant is within the officer's official duties. The law enforcement officer must demonstrate that at least one of the following circumstances applies:

- ◆ The participant is fleeing to avoid prosecution, custody, or confinement for a felony, or
- ◆ The participant is a probation or parole violator, or
- ◆ The participant has information that the officer needs to conduct official duties related to the investigation.

Use the same procedures as outlined under [Release of FIP Participant Address](#). Note that confirmation that a participant is a fugitive felon or a parole or probation violator makes the person ineligible for the Food Assistance program. See 7-C, [Ineligible Members](#).

Disclosures by Workforce Members Who Are Crime Victims

Legal reference: 441 IAC 9.10(15)“a,” 45 CFR 164.502(j)(2)

When you, as an employee of the Department, are the victim of a crime, you are not considered to have violated the requirements of this chapter if you disclose confidential information to a law enforcement official, provided that:

- ◆ The confidential information disclosed is about the suspected perpetrator of the criminal act and intended for identification and location purposes; and

- ◆ The confidential information disclosed is limited to the following information:
 - Name and address
 - Date and place of birth
 - ABO social security number
 - Blood type and Rh factor
 - Type of injury
 - Date and time of treatment
 - Date and time of death, if applicable
 - A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos

When it is necessary to disclose confidential information in these circumstances, the following steps should occur:

- ◆ Report the incident to your supervisor. If you hold a supervisory position, report to your supervisor or administrator. If at all possible, take this step before notifying a law enforcement official.
- ◆ If protected health information is disclosed in these circumstances, the staff member who actually makes the disclosure shall complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or facility privacy official.

Disclosing Health Information Due to a Crime on Department Premises

Legal reference: 441 IAC 9.10(15)“b,” 45 CFR 164.512(f)(5)

You may disclose protected health information to a law enforcement official when you believe, in good faith, that the information constitutes evidence of criminal conduct that occurred on the premises of the Department.

When it is necessary to disclose protected health information in these circumstances, follow the procedure under [Disclosures by Workforce Members Who Are Crime Victims](#) for reporting and recording the disclosure.

Health Information About Decedents

Legal reference: 441 IAC 9.10(15)“c,” 45 CFR 164.512(f)(4)

You may disclose protected health information about a subject to law enforcement officials when the death of the subject occurred in one of the following circumstances:

- ◆ The death resulted from child abuse or neglect or
- ◆ The death occurred in a department facility.

When protected health information is disclosed in these circumstances, complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or appropriate facility privacy official.

Medicaid Billing

Legal reference: 441 IAC 9.10(8), 45 CFR 164.502(a)(1)(i) and 164.506

Release only the following information to bona fide providers of medical services when the provider is unable to obtain it from the subject and is unable to complete the Medicaid claim form without it:

- ◆ Patient identification number.
- ◆ Health coverage code as reflected on the subject’s medical card.
- ◆ The subject’s date of birth.
- ◆ The subject’s eligibility status for the month that the service was provided.
- ◆ The amount of spenddown.
- ◆ The bills used to meet spenddown.

Program Review

Legal reference: 441 IAC 9.10(3); Iowa Code sections 2.52, 2C.9, 135C.2(4), and 231.42; 45 CFR 164.502(a)(1)(ii) and (a)(2)(ii) and 164.506

The Department releases information concerning a subject’s eligibility and benefits to state or federal officials responsible for determining whether the Department is operating a program lawfully. These officials may request and receive confidential information from the Department as necessary in the performance of the duties of their office.

On the federal level these include, but are not limited to, the following agencies:

- ◆ Department of Health and Human Services, Office of Inspector General.
- ◆ Centers for Medicare and Medicaid Services.

On the state level, these officials include:

- ◆ The Citizens' Aide/Ombudsman.
- ◆ State Auditor's Office.
- ◆ The Long-Term Care Ombudsman in the Department of Elder Affairs.
- ◆ The designated Protection and Advocacy agency.

Do not release confidential information without the subject's consent unless the information sought is directly connected with the administration of Department programs. If the information sought is for other purposes, such as a Treasury agent seeking information about counterfeiting, do not give the information.

Refugee Resettlement Program

Legal reference: 441 IAC 9.10(11)

Contact both the sponsor and the resettlement agency as a part of the verification process to determine eligibility or the amount of assistance for refugees. When a refugee applies for cash or medical assistance, give the refugee's name, address, and phone number to the refugee's local resettlement agency. Make the resettlement agency aware that the family or person desires assistance regardless of whether the refugee is determined to be eligible.

Release for Judicial and Administrative Proceedings

Legal reference: 441 IAC 9.10(5), 45 CFR 160.203(b) and 164.512(e)

The Department releases information to the court as required by the Iowa Code in:

- ◆ Chapter 125, "Chemical Substance Abuse," sections 80, 84, and 86.
- ◆ Chapter 229, "Hospitalization of People with Mental Illness," sections 8, 10, 13, 14, 15, and 22.
- ◆ Chapter 232, "Juvenile Justice," sections 48, 49, 52, 71B, 81, 97, 98, 102, 111, and 117.
- ◆ Chapter 235B, "Adult Abuse," section 3.

When a court subpoenas information that the Department is prohibited from releasing, advise the court of the statutory and regulatory provisions against disclosure of the information and disclose the information only on order of the court.

There are three sources of orders or subpoenas: federal courts, state courts, and administrative agencies. Administrative agencies include civil rights, OSHA, workers' compensation, Social Security Administration, etc. The type of action being taken determines the response.

In the event of the issuance of a subpoena for the case record or for any Department representative to testify concerning an applicant or recipient, call the court's attention, through proper channels, to the statutory provisions and the policies or rules and regulations against disclosure of information.

Release of Health Information for Judicial and Administrative Proceedings

Legal reference: 441 IAC 9.10(5), 45 CFR 160.203(b) and 164.512(e)

You may disclose protected health information in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal under these circumstances:

- ◆ You have determined that de-identified health information will not fulfill the purpose of the inquiry.
- ◆ You disclose only the protected health information expressly authorized by the order.
- ◆ The court authority (judge or administrative law judge) makes the order in the knowledge that the information is confidential.

See [Actions in Which the Department Is a Party](#) and [Actions in Which the Department Is Not a Party](#) for procedures.

When protected health information is disclosed outside of the covered entity in these circumstances, for purposes other than treatment, payment, or health care operations, complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or appropriate facility privacy official.

Actions in Which the Department Is a Party

Legal reference: 441 IAC 9.10(5)

When information is requested in a case in which the Department is a party, release information as directed by the attorney representing the Department. Usually this is done at the direction of the Attorney General or the County Attorney.

When protected health information is disclosed outside of the covered entity in these circumstances, for purposes other than treatment, payment, or health care operations, complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or appropriate facility privacy official.

For example, you may consider that your testimony is provided for health care operations when you testify in juvenile court about a case receiving services. You do not need to complete form 470-4015, *Record of Disclosure of Health Information*, in such instances.

Actions in Which the Department Is Not a Party

Legal reference: 441 IAC 9.10(5)

When a case is neither on behalf of the Department nor against it, do not release information in response to a subpoena. As an employee of the department, always respond to a subpoena by appearing in court with the requested record, but release information only when authorized by a judge.

A neutral action would include divorce actions, law enforcement actions for a non-assistance related crime, etc. When information is sought about a subject on behalf of the subject, the subject should be willing to authorize the release.

When questioned in a court proceeding about confidential information, inform the court of the confidential nature of the information and the penalties for disclosing the information. Make a statement essentially equivalent to the following:

“It is my belief that the requested information is protected from disclosure by Iowa Code section 217.30 (and federal regulation citation, if applicable) and that providing this information may be in violation of Iowa Code section 217.30.

“If I provide the requested information without proper authorization, I may be liable for civil remedies or criminal penalties as provided in Iowa Code sections 217.30(7) and 217.31. I will provide the requested information only if specifically directed to do so by the court.”

You, your supervisor, and the service area manager or designee must review the contents of the case record before the testimony. If the record contains especially sensitive information, request that the sensitive information be presented “in camera” (privately) to avoid needlessly damaging the client.

If the judge directs you to provide the requested confidential information, you shall do so. Follow the court’s instructions in testifying.

When protected health information is disclosed outside of the covered entity in these circumstances, for purposes other than treatment, payment, or health care operations, complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or appropriate facility privacy official.

Following are some examples of circumstances that require you to complete form 470-4015, *Record of Disclosure of Health Information*. Even though a case is active, testimony in these circumstances is not related to treatment, payment, or health care operations:

- ◆ Criminal proceedings against a parent or other relative of a child receiving services.
- ◆ Criminal proceedings against a child receiving services.
- ◆ Dissolution of marriage proceedings when you testify regarding the welfare of a child receiving services or a child with a closed service case.

Research

Legal reference: 441 IAC 9.10(17), 45 CFR 164.502(d) and 164.514(a) to (c)

You may disclose information that does not identify individual subjects for research purposes with the consent of the division director responsible for the records. The division director shall investigate the credentials of the researcher. De-identify information from any source, not only mental health institutes, before giving it to a researcher.

Research Using Mental Health Information

Legal reference: 441 IAC 9.10(17)“a”

You may disclose mental health information for purposes of scientific research as provided in Iowa Code sections 228.5, subsection 3, and 229.25. Requests to do research involving records of a Department institution shall be approved by the research committee of that institution.

Abuse Registry Information Research

Legal reference: 441 IAC 9.10(17)“b,” 175.42(235A), 176.11(235B); Iowa Code sections 235A.15(2)“e”(1) and 235B.6(2)“e”(1)

You may disclose abuse registry information for research purposes if approved by the Central Registry as provided in 16-E(1), [Approval of Release](#), and 16-G, [Authorized Access](#).

Research Using Health Information

Legal reference: 441 IAC 9.10(17)“c,” 45 CFR 164.502(d) and 164.514(a) to (c)

Direct all requests for research involving protected health information to the Security and Privacy Office for disposition.

Upon receiving a request for research involving protected health information, the Security and Privacy Office or facility privacy official shall promptly take the following actions:

- ◆ Require the researcher to provide the following information:
 - The nature of the research,
 - The protocol,
 - The type of information requested, and
 - Any other relevant information available concerning the request.
- ◆ Identify the needs of the researcher and the ability of the Department to provide the requested information.
- ◆ Ensure that all protected health information is de-identified before it is made available for research with the exception given below. If a birth date of a subject is requested for research purposes, the age of the subject rather than the birth date shall be given.

The Security and Privacy Office shall have purview over the sample needed, assuring there is no identification possible by giving the age of the subject whose health information is requested.

Exception: If the researcher needs individual contact with Department clients, the research must demonstrate to the Department that research cannot be conducted without individual contact. When the Department agrees that individual contact is necessary to do the research, the Department shall obtain an authorization from the affected subject.

- ◆ Make the researcher responsible for the costs of obtaining an authorization, if needed as described above; files; and preparation needed for the research.
- ◆ Use the Department's Privacy Tracking System to maintain a record of all requests for research data, the disposition of the request, and a record of specific information released in response to a request.

Service Referrals

Legal reference: 441 IAC 9.10(7)

You may share information concerning clients with service providers under contract to the Department when the Department does not provide the needed service directly.

Share information concerning the client's circumstances and need for service with prospective providers to obtain placement for the client. If the client is not accepted for service, require the provider to return all written information to the Department.

When the information needed by the provider is mental health information or substance abuse information, the specific consent is required. See [Mental Health Information: Voluntary Disclosures](#).

This policy does not authorize free exchange of confidential information between any Department employee and any employee of a contracted service provider. It allows for the exchange of pertinent information necessary to carry out the plan about a mutual client between the Department employee involved with the case and the foster parent or the social worker, psychiatrist, or other staff assigned to the case by the provider agency.

Do not release information about a specific client to a provider when the Department is not purchasing services from that provider for that client. A consent is required in that circumstance.

When the client is being referred for services to an agency from which the Department is not purchasing services, such as homemakers, we must have an authorization from the client or direction from the court.

Use or Disclosure of Protected Health Information

You will find references to the use and disclosure of protected health information under several other headings under [AUTHORIZATION NOT REQUIRED FOR USE OR DISCLOSURE](#). Be sure to search for all the policies that apply to your situation. The following sections explain the situations unique to protected health information when authorization is not required for use and disclosure of health information:

- ◆ [For health oversight activities](#)
- ◆ [When required by law](#)
- ◆ [For purposes of treatment, payment, or health care operations](#)
- ◆ [For public health activities](#)
- ◆ [For victims of abuse or neglect](#)
- ◆ [For decedents](#)
- ◆ [For specialized government functions](#)
- ◆ [For whistle-blowing](#)
- ◆ [Secondary to a permitted use or disclosure](#)
- ◆ [When information is de-identified](#)
- ◆ [As part of a “limited data set”](#)
- ◆ [For premium rating and related purposes](#)

Use or Disclosure for Health Oversight Activities

Legal reference: 441 IAC 9.10(2)“b” and “c,” CFR 164.512(d)

Disclose protected health information to the Secretary of Health and Human Services (HHS) to enable HHS to investigate or determine the Department’s compliance with federal HIPAA regulations. Except as specified at **Exception** below, you may use protected health information or disclose it to other health oversight agencies, for other health oversight activities authorized by law.

“Health oversight activities” include the following activities:

- ◆ Audits
- ◆ Civil, administrative, or criminal investigations
- ◆ Inspections
- ◆ Licensure or disciplinary actions
- ◆ Civil, administrative, or criminal proceedings or actions

Health oversight activities also include other activities necessary for appropriate oversight of:

- ◆ The health care system.
- ◆ Government benefits programs for which health information is relevant to client eligibility (such as Medicaid and *hawk-i*).
- ◆ Organizations subject to government regulatory programs for which health information is necessary for determining compliance with program standards.
- ◆ Organizations subject to civil rights laws for which health information is necessary for determining compliance.

When a health oversight activity or investigation is conducted in conjunction with another oversight activity or investigation relating to a claim for public benefits that are **not** related to health, consider the joint activity to be a health oversight activity.

Exception: When the subject of a record is also the subject of an investigation or activity, do not consider the investigation or activity to be a health oversight activity unless it is directly related to one of the following health-related issues:

- ◆ The receipt of health care;
- ◆ A claim for public health benefits; or
- ◆ Qualification for, or receipt of, public benefits or services when a patient's health is integral to the claim for public benefits or services.

When protected health information is disclosed outside of the covered entity in these circumstances, for purposes other than treatment, payment, or health care operations, complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or appropriate facility privacy official.

Use or Disclosure Required by Law

Legal reference: 441 IAC 9.10(19)“b,” CFR 164.512(a)

Medicaid and *hawk-i* or the Department health care facilities may use or disclose protected health information to the extent that law requires the desired use or disclosure. See [Definitions](#) for a definition of “[required by law](#).”

In most circumstances, verify that the desired use or disclosure complies with and is limited to the relevant requirements of applicable federal or Iowa law.

For routine uses and disclosures required by law, supporting legal documentation need not be reviewed for each individual use or disclosure. Following are some examples of routine uses and disclosures required by law:

- ◆ Child support recovery staff access to protected health information;
- ◆ Notification to the Department of Public Health regarding births, deaths, etc.;
- ◆ Disclosure to the Long-Term Care Ombudsman in the Department of Elder Affairs;
- ◆ Notification of infectious disease by a facility to any person handling the body of a deceased subject.

When protected health information is disclosed outside of the covered entity in these circumstances, for purposes other than treatment, payment, or health care operations, complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or appropriate facility privacy official.

Use or Disclosure for Treatment, Payment, or Health Care Operations

Legal reference: 441 IAC 9.10(21)“a,” 45 CFR 164.506(a) and (c)

Medicaid, *hawk-i*, or the Department facilities may use or disclose protected health information for treatment, payment, or health care operations without authorization from the subject of the protected health information.

See [Definitions](#) for definitions of “[treatment](#),” “[payment](#),” and “[health care operations](#)” in the Department. See [Minimum Necessary Health Information](#), [Requests for Disclosure](#), and [Requests for Disclosure Within the Department](#), for more information on use or disclosure of protected health information.

Use of psychotherapy notes without authorization for treatment, payment, or health care operations and other purposes are subject to the provisions as described under [Psychotherapy Notes](#).

In all other instances, use or disclosure of psychotherapy notes requires an authorization, even when needed for a purpose that is considered to be treatment, payment, or health care operations.

Subject to any exceptions for psychotherapy notes and other applicable policies of this chapter, you may use or disclose protected health information without an authorization in the circumstances described in this section.

Medicaid, *hawk-i*, and the Department health care facilities may use or disclose protected health information for their own treatment, payment, or health care operations. Department uses of protected health information that qualify as treatment, payment and health care operations include, but are not limited to, the following:

- ◆ Treatment: Department facilities providing, coordinating, or managing direct health care and related services.
- ◆ Payment: Income maintenance workers receiving the *Bill Status Turnaround Document* for a Medically Needy client.
- ◆ Health care operations:
 - Income maintenance workers sharing information related to “pay and chase” to answer client questions on why a pharmacist is billing the health insurance.
 - Service workers consulting with a provider relating to a specific service provided to a client.

Medicaid, *hawk-i*, and the Department facilities may:

- ◆ Disclose protected health information for treatment activities of a health care provider.
- ◆ Disclose protected health information to another covered entity or a health care provider for the payment activities of the person or organization that receives the information.

Medicaid, *hawk-i*, and the Department facilities may disclose protected health information to another covered entity for health care operations activities of the covered entity that receives the information, if:

- ◆ Each covered entity either has or had a relationship with the person who is the subject of the protected health information being requested,
- ◆ The protected health information pertains to the relationship, and
- ◆ The disclosure is for one of the following purposes:
 - Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from these activities.
 - Protocol development and population-based activities relating to improving health or reducing health care costs.
 - Case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment.
 - Reviewing the competence or qualifications of health care professionals.
 - Evaluating practitioner performance, provider performance and health plan performance.
 - Conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers.
 - Training of non-health care professionals.
 - Accreditation, certification, licensing, or credentialing activities.

Medicaid, *hawk-i*, and the Department facilities may disclose protected health information for health care fraud and abuse detection or compliance.

Psychotherapy Notes

Legal reference: 441 IAC 9.10(21)“b,” 45 CFR 164.508(a)(2)

As a general policy, the use or disclosure of psychotherapy notes requires an authorization, even when needed for treatment, payment, and health care operations.

Exception: It is not necessary to require the subject’s authorization on form 470-3951, *Authorization to Obtain or Release Health Care Information*, in order to use or disclose psychotherapy notes for the following purposes:

- ◆ To carry out the following treatment, payment, or health care operations:
 - Use for treatment by the originator of the psychotherapy notes;
 - Use or disclosure by Department facilities for their own training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills, in group, joint, family, or individual counseling; or
 - Use or disclosure by the Department to defend itself in a legal action or other proceeding brought by a subject; and
- ◆ To cooperate with an investigation or a compliance review by the Secretary of Health and Human Services,
- ◆ To make disclosures as described at [Uses or Disclosures Required by Law](#),
- ◆ To make disclosures as described at [Health Oversight Activities](#), with regard to the originator of the psychotherapy notes,
- ◆ To make disclosures to coroners and medical examiners as described at [Disclosures About Decedents](#),
- ◆ To make disclosures necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public as described at [Threat to Health or Safety for Health Information](#).

Use or Disclosure for Public Health Activities

Legal reference: 441 IAC 9.10(22), 45 CFR 164.512(b)

Medicaid, *hawk-i*, and the Department facilities may disclose protected health information for the public health activities and purposes described below, if otherwise allowed by state law. This disclosure is in addition to any other disclosure to a public health authority allowed by this chapter, such as a disclosure to report child abuse or neglect.

For purposes of this policy, a “public health authority” includes the following:

- ◆ State and local health departments
- ◆ The Food and Drug Administration (FDA)
- ◆ The Centers for Disease Control and Prevention (CDC)

Medicaid, *hawk-i*, and the Department facilities may disclose protected health information for public health activities and purposes as follows:

- ◆ **General public health activities.** Medicaid, *hawk-i*, and the Department facilities may disclose protected health information to a public health authority that is authorized by law to collect or receive the information for the purpose of preventing or controlling disease, injury, or disability.

The information that may be disclosed includes, but is not limited to, the following:

- The reporting of disease or injury.
- Vital events such as birth or death.
- The conduct of public health surveillance, public health investigations, and public health interventions.

At the direction of a public health authority, Medicaid, *hawk-i*, and Department facilities disclose information to an official of a foreign government agency that is acting in collaboration with a public health authority.

- ◆ **Quality, safety or effectiveness of a product or activity regulated by the FDA.** Medicaid, *hawk-i*, and Department facilities may disclose protected health information to a person or organization subject to FDA jurisdiction for public health purposes related to the quality, safety, or effectiveness of an FDA-regulated product or activity for which the Department has responsibility.

These purposes include:

- To collect or report adverse events (or similar activities with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product).
 - To track FDA-regulated products.
 - To enable product recalls, repairs, or replacement, or look-back (including locating and notifying people who have received products that have been recalled, withdrawn, or are the subject of look-back).
 - To conduct post-marketing surveillance.
- ◆ **People at risk of contracting or spreading a disease.** Medicaid and *hawk-i* or the Department facilities may disclose protected health information to a person who is at risk of contracting or spreading a disease or condition, as necessary to:
- Carry out public health interventions or investigations; or
 - Notify a person that the person has been exposed to a communicable disease to prevent or control the spread of the disease.

When protected health information is disclosed outside of the covered entity in these circumstances, for purposes other than treatment, payment, or health care operations, complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or appropriate facility privacy official.

Disclosures About Victims of Abuse or Neglect

Legal reference: 441 IAC 9.10(23), 45 CFR 164.512(a) and (c)

With regard to disclosures of protected health information about victims of abuse or neglect, follow the legal requirements and procedures outlined in Iowa Code Chapters 232, 235A, and 235B; and 441 Iowa Administrative Code Chapters 175 and 176.

See 17-B(1), [Access to Child Abuse Information](#), and 16-G, [DEPENDENT ADULT PROTECTIVE SERVICES](#), for additional information. Provide only protected health information relevant to the specific incident to individual or agency that has legal access.

The privacy rule does not relieve a mandatory reporter of suspected child abuse or dependent adult abuse of the responsibility to report. The mandatory reporter of suspected child abuse or neglect has immunity under Iowa law from liability for good faith reporting.

Mandatory reporters are to contact either the local county Department office or the child abuse hot line with a report of suspected abuse or neglect. In addition to following the Iowa Code, facilities shall also refer to specific abuse reporting procedures within that facility.

When protected health information is disclosed outside of the covered entity in these circumstances, for purposes other than treatment, payment, or health care operations, complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or appropriate facility privacy official.

Disclosures About Decedents

You may disclose protected health information outside of the covered entity about a deceased subject in one of the following three circumstances, for purposes other than treatment, payment, or health care operations. If so, complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or appropriate facility privacy official.

To Coroners and Medical Examiners

Legal reference: 441 IAC 9.10(24)“a,” 45 CFR 164.512(g)

The Security and Privacy Office or facility privacy official may disclose protected health information about a subject that is contained in a Department designated record set, consistent with all applicable laws, to a coroner or medical examiner for the following purposes:

- ◆ Identifying a deceased person,
- ◆ Determining a cause of death, or
- ◆ Helping the coroner or medical examiner to carry out other duties as authorized by law.

To Funeral Directors

Legal reference: 441 IAC 9.10(24)“b,” 45 CFR 164.512(g)

The Security and Privacy Office or facility privacy official may disclose protected health information about a subject that is contained in a Department designated record set to funeral directors, consistent with all applicable laws, as is necessary for funeral directors to carry out their duties.

If necessary for funeral directors to carry out their duties, the Department may disclose the protected health information before, and in reasonable anticipation of, the client’s death.

For Cadaveric Organ, Eye, or Tissue Donation Purposes

Legal reference: 441 IAC 9.10(25), 45 CFR 164.512(h)

Medicaid, *hawk-i*, or Department facilities may disclose protected health information about a subject who was served by the Department that is contained in its designated record set to an organization engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissues.

Make such disclosures only when the deceased client’s authorized legal representative approves the disclosure and there is evidence that the decedent had given approval for organ, eye, or tissue donation procedures before death.

Forward requests from organ procurement organizations or similar entities for uses or disclosures of protected health information concerning subjects who were served by the Department to the Security and Privacy Office or appropriate facility privacy official for review and disposition.

Provide the following to the Security and Privacy Office or facility privacy official:

- ◆ The identifying information concerning the subject.
- ◆ The name, title, and contact information of the requesting organization.
- ◆ The type of protected health information being requested.
- ◆ Any other relevant information available concerning the request.

Upon receiving information concerning a request from a coroner, medical examiner, or funeral director, the Security and Privacy Office or facility privacy official shall promptly take the following actions:

- ◆ Contact the requesting official to:
 - Confirm the official's identity.
 - Ascertain whether the organization has the necessary specific approvals from the decedent's authorized legal representative and that the decedent indicated approvals for organ, eye, or tissue donation before death.
 - Gather any additional needed information necessary to determine if the subject of the request is a Department client.
 - Discuss any questions about the type of information being requested.
- ◆ If the subject of the request is a Department client, contact appropriate Department staff or review information in the Department's designated record set to determine if protected health information is available that will be helpful in allowing the organ procurement organization or other similar organization carry out their duties.
- ◆ Notify the requesting organization verbally as to whether any protected health information is available and will be released. Protected health information may be released verbally in these situations when appropriate to expedite the duties of the organization.
- ◆ Follow up with a written response to the requesting organization director summarizing the Department's response to the request and listing what information will be provided. Attach copies of any protected health information being released from the Department's designated record set.

Use or Disclosure for Specialized Government Functions

Legal reference: 441 IAC 9.10(26), 45 CFR 160.203(b) and 164.512(k)

A Department health plan or a Department facility may disclose protected health information of a subject when federal law or regulations require the disclosure as part of the administration of a program. **Example:** The Department shares protected health information with the Social Security Administration in determining Medicaid eligibility for State Supplementary Assistance applicants and recipients.

Contact the Security and Privacy Office when questions arise that involve this policy. Examples are, but not limited to, the following:

- ◆ Requests for protected health information from Armed Forces personnel,
- ◆ Requests regarding national security and intelligence activities, or
- ◆ Requests regarding protective services for the President and others.

The Security and Privacy Office will determine the appropriate course of action to follow.

When protected health information is disclosed outside of the covered entity in these circumstances, for purposes other than treatment, payment, or health care operations, complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or appropriate facility privacy official.

Disclosure by Whistle Blowers

Legal reference: 441 IAC 9.10(27), 45 CFR 164.502(j)(1)

As a Department employee, business associate, or employee of a business associate, you may disclose protected health information when you believe, in good faith, that one of the following circumstances is true:

- ◆ The Department or business associate has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or
- ◆ The care, services, or conditions provided by the Department or business associate potentially endangers one or more patients, workers, or the public.

In these circumstances, you may, without penalty, disclose protected health information to any of the following as appropriate:

- ◆ A health oversight agency or public health authority authorized by law to investigate or oversee the conduct or conditions for the purpose of reporting the allegation of failure to meet professional standards or misconduct;
- ◆ Appropriate health care accreditation organization; or
- ◆ An attorney retained by or on behalf of the Department employee, business associate, or business associate employee for the purpose of determining the legal options of the workforce member or business associate.

Disclosure Secondary to Another Use or Disclosure of Health Information

Legal reference: 441 IAC 9.10(28), 45 CFR 164.502(a)(1)(iii)

You may use or disclose protected health information in a manner that is secondary to another use or disclosure that is permitted or required by these rules. **Example:** A visitor in a facility overhears a doctor speaking to a subject about the subject's health.

De-identified Health Information

Legal reference: 441 IAC 9.10(29)“a,” 45 CFR 164.502(d) and 164.514(a), (b), and (c)

Once protected health information is de-identified, it is no longer considered protected. Data shall be de-identified using generally accepted statistical and scientific principles before being shared. Data to be de-identified will be as itemized in 45 CFR 164.514(a), (b), and (c).

Data for which differentiation is still required shall have a code assigned to each file to provide identification. The code used to re-identify the data shall not contain any protected health information or be derived from protected health information.

Limited Data Set

Legal reference: 441 IAC 9.10(29)“b,” 45 CFR 164.514(e)

A limited data set may be shared with a business associate of the Department for purposes of research, public health, and health care operations. A data use agreement shall be made before sharing the limited data set. The limited data set shall have all protected health information as defined in 45 CFR 164.514(e) removed. The Department and the business associate shall define the uses of the limited data set.

Premium Rating and Related Purposes

Legal reference: 441 IAC 9.14(2), 45 CFR 164.514(g)

Medicaid and *hawk-i* shall not use or disclose protected health information received for the purpose of premium rating or other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, except as may be required by law. Refer a request to use or disclose protected health information for premium rating and related purposes to the administrator of the affected program.

Accidental Disclosures

Legal reference: 441 IAC 9.14(5) and 9.14(5)"a" and "b," 45 CFR 164.528(a)(1)

When you become aware that you have accidentally disclosed protected health information to a person or entity who was not entitled to see the information, complete form 470-4015, *Record of Disclosure of Health Information*, and forward it to the Security and Privacy Office or appropriate facility privacy official.

Examples:

- ◆ You may learn that you incorrectly mailed a subject's protected health information to another person instead of the subject when that person returns the misaddressed information to you or otherwise calls the error to your attention.
- ◆ You may learn that you directed protected health information to a health care provider other than the provider authorized by the subject or the subject's personal representative when the provider returns the misdirected information to you or otherwise calls the error to your attention.
- ◆ You may learn that an error in an initial legal settlement determination resulted in the wrong county being billed for Medicaid or state institutional services to a subject.

HEALTH INFORMATION POLICIES AND PROCEDURES

Be sure to look in all applicable sections of this chapter for policies and procedures regarding confidentiality of protected health information. The following sections describe only the policies and procedures that are unique to health information, including:

HIPAA Security and Privacy Office

Legal reference: 45 CFR 164.308(a)(2) and 164.530

The HIPAA Security and Privacy Office is responsible for developing and implementing Department policies and procedures regarding HIPAA security and privacy standards for protected health information. The HIPAA Security and Privacy Office is located in the central office of the Department at the following address:

- ◆ Maintaining processes to ensure the prevention, detection, containment, and correction of security breaches in information technology systems.
- ◆ Working with staff at all levels in the overall planning and implementation of new security and privacy policies.

To carry out these responsibilities, the Security and Privacy Office works cooperatively with Department field staff, Medicaid and *hawk-i* staff, and facility security and privacy officials, seeking input and guidance when needed to make decisions regarding subjects' rights and requests.

Each facility has a designated privacy official and a designated security official. These officials shall carry out the responsibilities of the Security and Privacy Office to the extent possible within the setting of the facility. (See [Definitions](#) for a definition of "[facility](#).") Questions and decisions on issues that cannot be made in the facility setting shall be referred to the Security and Privacy Office.

Accounting of Disclosures of Health Information

Legal reference: 441 IAC 9.14(5) and 441 IAC 9.14(5)"a" and "b," 45 CFR 164.528(a)(1)

At the subject's request, the Department shall provide to the subject an accounting of disclosures of the subject's protected health information made by Medicaid, hawk-i, or Department facilities in the six years before the date on which the accounting is requested. This includes disclosures made by business associates.

The subject's right to receive an accounting of the disclosures of protected health information is limited to the following disclosures that do not require an authorization or an opportunity for the subject to agree or object:

- ◆ For health oversight activities as described at [Use or Disclosure for Health Oversight Activities](#).
- ◆ For judicial and administrative proceedings as described [Release for Judicial and Administrative Proceedings](#).
- ◆ For law enforcement purposes as described in policies applicable to health information under [Law Enforcement](#).
- ◆ For averting a threat to health or safety as described at [Threat to Health or Safety for Health Information](#).

- ◆ To meet requirements of law as described at [Use or Disclosure Required by Law](#).
- ◆ For public health activities as described at [Use or Disclosure for Public Health Activities](#).
- ◆ For disclosures about suspected victims of abuse or neglect as described at [Disclosures About Victims of Abuse or Neglect](#).
- ◆ To coroners, medical examiners, and funeral directors and for purposes of cadaveric organ, eye, or tissue donation as [Disclosures About Decedents](#).
- ◆ For specialized government functions, except for national security or intelligence purposes, as described at [Use or Disclosure for Specialized Government Functions](#).
- ◆ By whistle blowers as described at [Disclosure by Whistle Blowers](#).
- ◆ Accidental disclosures, as discussed at [Accidental Disclosures](#).

Exceptions: A subject **does not have a right** to receive an accounting of disclosures of protected health information, which were made for the following reasons:

- ◆ To carry out treatment, payment, and health care operations as described at [Use or Disclosure for Treatment, Payment, or Health Care Operations](#).
- ◆ Release to the subjects regarding protected health information about them as described at [Access to Protected Health Information](#).
- ◆ Secondary to a use or disclosure otherwise permitted or required as described in [Disclosure Secondary to Another Use or Disclosure of Health Information](#).
- ◆ Pursuant to an authorization as described at [Authorization to Disclose Protected Health Information](#).
- ◆ To person involved in the subject's care or other notification as described at [Opportunity to Agree or Object to Release of Health Information](#).
- ◆ For national security or intelligence purposes as described at [Use or Disclosure for Specialized Government Functions](#).
- ◆ As part of a limited data set, as described at [Limited Data Set](#).
- ◆ Disclosures made before April 14, 2003.

When a subject asks for an accounting of disclosures of the subject's protected health information, require the subject to complete form 470-3985, *Request for List of Disclosures*. See [1-C-Appendix](#) for form instructions.

Help the subject to send a completed form 470-3985, *Request for List of Disclosures*, to the Security and Privacy Office or the appropriate facility privacy official. To request an accounting of their own protected health information, subjects must use a personal identifier (such as the subject's name or social security number). If necessary, help the subject to complete the form with the appropriate personal identifier.

When a local office receives a completed form 470-3985, *Request for List of Disclosures*, forward it to the Security and Privacy Office or the appropriate facility privacy official.

See [Subject's Rights Under HIPAA](#) for more information on local office and facility actions regarding a request for accounting of disclosures of protected health information.

Action on a Request for Accounting of Disclosures

Legal reference: 441 IAC 9.14(5)“b” and “c,” 45 CFR 164.528

The Security and Privacy Office or the facility privacy official shall provide the requested accounting of disclosures of protected health information within 60 days of the date that form 470-3985, *Request for List of Disclosures*, was received.

If the Security and Privacy Office or the facility privacy official is unable to provide the requested accounting within 60 days, the Office or official shall notify the subject in writing within this 60-day period of the reasons for the delay and the date by which the accounting will be provided. Only one such extension, up to a maximum of 30 days, shall be allowed.

As described at [Other Verification Requirements for Health Information](#), the Security and Privacy Office or facility privacy official will verify that the requester is either the subject whose protected health information is being requested or is a valid personal representative of that subject.

The Security and Privacy Office or the facility privacy official shall also verify that:

- ◆ The subject's right to receive an accounting has not been temporarily suspended, as described at [Suspension of the Right to Receive an Accounting](#);
- ◆ The request is for a time period not exceeding six years; and
- ◆ The beginning date of the requested protected health information is on or after April 14, 2003.

Providing an Accounting

Legal reference: 441 IAC 9.14(5)“b”(2) and “d,” and 9.14(8); 45 CFR 164.528(b) and (e) and 164.530(e)(j)(2)

The Security and Privacy Office or the facility privacy official shall obtain the required documents to fulfill the request and provide an accounting to the subject that shall include the following elements:

- ◆ The date of the disclosure,
- ◆ The name of the person or organization that received the protected health information and, if known, the address of that person or agency,
- ◆ A brief description of the protected health information that was disclosed, and
- ◆ A brief statement of the purpose of the disclosure that reasonably informs the subject of the basis for the disclosure or, if available, a copy of a written request for a disclosure.

Summarize multiple disclosures to the same person or organization during the period covered by the accounting by providing the following information:

- ◆ Include all the elements listed above for the first disclosure,
- ◆ List the frequency or number of the disclosures made during the period covered by the accounting, and
- ◆ Provide the date of the last such disclosure during the accounting period.

The Department shall provide the first accounting to a subject in any 12-month period without charge. The Department may impose reasonable fees for each subsequent accounting provided by the same subject within the 12-month period. Explain these charges in advance so that the requester has the opportunity to withdraw or modify their request in order to avoid or reduce the fee. See [Fees](#) for information on fees.

The Department shall retain the information required for accounting purposes for a period of six years from the date of its creation or the date when it was last in effect, whichever is later. The Department shall retain a copy of the written or electronic accounting that is provided to a subject.

Suspension of the Right to Receive an Accounting

Legal reference: 441 IAC 9.14(5)“e,” 45 CFR 164.528(a)(2)

A health oversight agency or law enforcement official may provide the Department with a written statement that an accounting to a subject would be reasonably likely to impede the agency’s activities and specify the time for which a suspension is required.

When this occurs, Medicaid, hawk-i, or the Department facility shall suspend a person’s right to receive an accounting of disclosures made to the agency or official for the period specified in the statement.

If the statement from a health oversight agency or law enforcement official is received orally instead of in writing, the Security and Privacy Office or facility privacy official shall take the following steps to impose the suspension:

- ◆ Document the oral statement in the Privacy Tracking System, including the identity of the agency or official making the statement.
- ◆ Limit the temporary suspension of the subject’s right to an accounting to no longer than 30 days.
- ◆ Honor the period for suspension noted in a written statement subsequently submitted by the health oversight agency or law enforcement official before the end of the 30-day suspension.

Appeals

Legal reference: 441 IAC 9.14(7), 45 CFR 164.530(d)(1)

When a subject disputes a decision by the Security and Privacy Office, a facility privacy official, or a licensed health care professional on any of the requests listed below, the subject may appeal the decision. No one may limit or interfere with this right.

- ◆ A request for restriction on use of disclosure of protected health information as described at [Right to Request Privacy Protection for Health Information](#).
- ◆ A request for confidential communication of protected health information as described at [Request to Change How Health Information Is Provided](#).

- ◆ A request for access to protected health information as described at [Access to Protected Health Information](#).
- ◆ A request to amend protected health information as described at [Review and Amendment of Health Information](#).
- ◆ A request for accounting of disclosures as described at [Accounting of Disclosures of Health Information](#).

The appeal may be mailed to the Appeals Section or submitted electronically at <https://dhssecure.dhs.state.ia.us/forms/>. Assist the subject in making the appeal if needed. See 1-E, [APPEALS AND HEARINGS](#), for the address of the Appeals Section and a complete explanation of the appeal process.

Complaints

Legal reference: 441 IAC 9.14(6), 45 CFR 164.530(d)(1)

A person who believes that Medicaid or *hawk-i*, a Department facility, or a business associate is not complying with the rules on protected health information or with federal HIPAA regulations may file a complaint with the Department.

In addition, a person who believes that Medicaid or *hawk-i*, a Department facility, or a business associate is not complying with HIPAA policies may file a written complaint with the Secretary of the U.S. Department of Health and Human Services (HHS).

It is possible that a person who is dissatisfied with the disposition of a complaint made by the Department after investigation by the Diversity Program Unit will pursue the complaint with the Secretary of HHS.

See [Complaints to Other Entities](#) for other ways that the Department may receive complaints with regard to protected health information.

Complaints to the Department

Legal reference: 441 IAC 9.14(6) and (8), 45 CFR 164.530(d)(1) and (j)(2)

A person may file a complaint with the Department in the following circumstances:

- ◆ The person believes that the Department or a member of the Department's workforce, including business associates, is not complying with the HIPAA regulations or the policies and procedures of Medicaid or *hawk-i* or a Department facility with regard to use or disclosure of protected health information.
- ◆ The person believes that the conduct, behavior, or adverse action of a member of the Department's workforce, including business associates, was related to the inappropriate use or disclosure of protected health information.

A person may file a complaint with the Department in one of the following ways:

- ◆ The person may use form 470-3981, *HIPAA Complaint*. Help the person to complete the form if necessary. See [1-C-Appendix](#) for instructions.

Complaints may be delivered personally or by mail to the Diversity Program Unit. Complaints regarding facilities may be delivered personally or by mail to the facility privacy official.

- ◆ The person may write a letter or an e-mail message, with the following elements, to the Diversity Program Unit or the applicable facility privacy official:
 - The subject's name.
 - How the subject can be reached.
 - The nature of the complaint.
- ◆ If a person complains to you in person or through a telephone conversation and is unable to put the allegation in writing:
 - Put the three elements of the complaint, as described above, in writing on behalf of the complainant. You may use form 470-3981, *HIPAA Complaint*, for that purpose.
 - Note on the form that you have completed the form on behalf of the complainant.
 - Forward the complaint to the Diversity Program Unit.

Complaints to the Secretary of HHS should be mailed to the Region VII Office of Civil Rights (OCR) at the following address:

Region VII, Office for Civil Rights
U.S. Department of Health and Human Services
601 E. 12th Street—Room 248
Kansas City, MO 64106

Help a person to file a complaint with the Secretary of HHS if you are asked to do so.

The OCR may investigate complaints filed as described above. You may be asked to cooperate in such an investigation. The investigation may include a review of the following:

- ◆ The pertinent policies, procedures, or practices of the Medicaid or *hawk-i* or a Department facility and
- ◆ The alleged acts or omissions concerning compliance with HIPAA policies.

No Waiver of Rights to File a Complaint

Legal reference: 45 CFR 164.530(h)

Do not require any subject to waive the subject's right to file a complaint with the Security and Privacy Office or with the Secretary of HHS as a condition of the provision of treatment, payment, enrollment in a health plan or eligibility for benefits.

When a subject states a belief that this policy has been violated, direct the subject to the Diversity Program Unit or the appropriate facility privacy official. The Diversity Program Unit or the facility privacy official shall explain the process for filing a complaint as described at [Complaints to the Department](#) and [Complaints to the Secretary of HHS](#). Help the subject, upon request, to file the complaint.

Mitigation

Legal reference: 45 CFR 164.530(f)

To the extent possible, the Department shall mitigate any harmful effect that is known to have resulted from a confirmed violation of the policies and procedures of this chapter by the Department or its business associates.

When a complaint investigation confirms a violation of policies and procedures regarding protected health information, the Diversity Program Unit and the Security and Privacy Office shall review the situation and make reasonable attempts to determine what harmful effects, if any, have occurred or may occur in the future as a result of the violation.

The Security and Privacy Office and the Diversity Program Unit shall collaborate with appropriate Department staff to determine how to take all practicable and reasonable steps to mitigate any harmful effects that have already occurred and to prevent any future harmful effects.

In such situations, the Diversity Program Unit and the Security and Privacy Office shall add the following documentation to the complaint documentation:

- ◆ The harmful effects that were identified, and
- ◆ The steps that were taken to mitigate the identified harmful effects.

Subject's Rights Under HIPAA

For specific policies and procedures regarding subject rights under HIPAA, see the following:

- ◆ [Notice of Privacy Rights and Practices](#)
- ◆ [Right to Request Privacy Protection for Health Information](#)
- ◆ [Request to Change How Health Information Is Provided](#)
- ◆ [Access to Protected Health Information](#)
- ◆ [Review and Amendment of Health Information](#)
- ◆ [Accounting of Disclosures of Health Information](#)
- ◆ [Appeals](#)
- ◆ [Complaints](#)

Subjects who wish to exercise their rights under HIPAA policies may contact the Department by telephone, by mail, by e-mail, by fax, or in person. The responsibilities of the intake worker (see [Definitions: "intake worker"](#)) are as follows:

- ◆ Answer general questions regarding HIPAA policies or make the appropriate referral if the intake worker is not able to answer the questions.
- ◆ Provide the address for the Security and Privacy Office when the subject wishes to communicate directly with the Security and Privacy Office.
- ◆ Advise subjects that requests to exercise individual rights may be sent directly to the Security and Privacy Office when appropriate to the intake worker's setting.
- ◆ Upon request, provide the appropriate HIPAA form to initiate action on a subject's request. See [1-C-Appendix](#) for HIPAA-related forms instructions.
- ◆ Explain that the Department does not consider that a subject's request has been received until the Department receives the required form.
- ◆ Help the subject to complete the appropriate request form if necessary.
- ◆ Forward the request to the Security and Privacy Office or appropriate facility privacy official when a completed request form is left with the intake worker or returned to the intake worker's office.
- ◆ Cooperate with the Security and Privacy Office or facility privacy official during the decision-making process to clarify or provide additional information.

Local Office or Facility Action on Subject Rights

It may be possible for the intake worker or other local Department staff to fulfill a subject's request with regard to protected health information that is under the control of the local office or facility. In those instances, take the appropriate action without asking the subject to complete a request form. Examples:

- ◆ When a subject asks for an amendment to protected health information due to an error and the local office acknowledges the error and has the ability to correct the record, the local office should make the correction immediately. No formal request for amendment is necessary. Form 470-3950, *Request to Amend Health Information*, is not required. Normal case documentation procedures apply.

- ◆ When the legal guardian of a subject asks the facility, as a matter of convenience, to change the mailing address for all information about the subject to the guardian's work address rather than the home address, document the change and honor the request. Form 470-3947, *Request to Change How Health Information Is Provided*, is not required. Normal case documentation procedures apply.

If, however, the guardian expresses a desire to change a mailing address to protect the subject's health information, ask the guardian to complete form 470-3947, *Request to Change How Health Information Is Provided*.

Authorizations for Disclosure

See [Authorization to Disclose Protected Health Information](#). Requests for disclosure of protected health information for which an authorization is required may be made to the Department by telephone, by mail, by e-mail, by fax, or in person, from sources outside of the Department or from noncovered components within the Department.

In all instances where an authorization to disclose protected health information is required, the Department intake worker shall take the following steps:

- ◆ Initiate form 470-3951, *Authorization to Obtain or Release Health Care Information*. See 1-C-Appendix for instructions.
- ◆ Complete all portions of the form for which the Department holds the information about the person who is the subject of the request.
- ◆ Ask the subject or appropriate personal representative to sign the form. If the subject or personal representative is not present, send the form to the subject for signature of the subject or the subject's personal representative.
 - When the local office or facility privacy official can provide the information requested in the authorization, ask to have the form returned to the local office or facility privacy official. Provide a stamped, addressed envelope.
 - When the requested information is not available locally, ask to have the form mailed to the Security and Privacy Office. Provide a stamped, addressed envelope.
 - When a form is left with or returned to the local office or facility and the information is not available locally, forward the form to the Security and Privacy Office.

- ◆ If there will be a delay in securing the authorization, notify the requester that you are initiating the authorization. Give the requester as much information as possible about the time it will take to secure the authorization and to provide the requested information.
- ◆ Review an authorization form returned to you to be certain it is valid. If the validity of any authorization is questionable, consult with the Security and Privacy Office. An authorization is not valid if any of the following statements are true:
 - The expiration date has passed.
 - All required elements of the authorization have not been completed.
 - The authorization is known by the Department to have been revoked.
 - Any material information in the authorization is known by the Department to be false.
- ◆ Complete the disclosure to the requester when this is possible at the local level.
 - When the disclosure is completed at the local level, document the disclosure with a copy of form 470-3951, *Authorization to Obtain or Release Health Care Information*, in the appropriate case file.
 - Forward a copy of the form to the Security and Privacy Office. Include a memo or other notation to let the Security and Privacy Office know that the disclosure has been completed. This will inform the Security and Privacy Office that it has no responsibility in this situation except entering the authorization into the Privacy Tracking System.
- ◆ When it is not possible to complete the disclosure at the local level, forward form 470-3951, *Authorization to Obtain or Release Health Care Information*, to the Security and Privacy Office.

When the Department Needs Information From a Health Care Provider

When you must request information from a health care provider for program purposes, follow the policies of the Employees' Manual for your program regarding appropriate forms to authorize the Department as recipient of a subject's health information.

If you find that health care providers are not accepting the regular authorization form, you may use form 470-3951, *Authorization to Obtain or Release Health Care Information*.

- ◆ The information is requested by a professional who indicates that the information requested is the minimum necessary when the professional falls into one of the following categories:
 - A staff member of a Department health plan,
 - A staff member of a Department facility, or
 - A staff member of a business associate of a Department health plan or a Department facility.
- ◆ The disclosure is made to a public official as permitted under [Uses or Disclosures Required by Law](#), if the public official indicates that the information requested is the minimum necessary.
- ◆ The disclosure is in compliance with U.S. Department of Health and Human Services investigations or reviews to ensure Department compliance with minimum necessary standards. See [Complaints to the Secretary of HHS](#) for more information.
- ◆ To comply with state or federal law or with federal HIPAA regulations. See [Uses or Disclosures Required by Law](#) for more information.

The Privacy Office will ensure that the minimum necessary requirements are met when protected health information is provided in response to research requests.

Before an entire medical record is released, a Department facility staff member must have received specific justification that an entire medical record is the amount reasonably necessary to accomplish the purpose of the use, disclosure, or request.

Requests for Disclosure Within the Department

Legal reference: 441 IAC 9.14(1)“b” and “c”

Following are examples of circumstances in which sharing of protected health information within the Department on a “need to know” basis is acceptable:

- ◆ Sharing among income maintenance workers when working on the Medicaid or *hawk-i* programs.
- ◆ Access to Medicaid and *hawk-i* information for FIP and Food Assistance workers when information could affect eligibility or benefits.

Computer Access

Legal reference: 441 IAC 9.14(1)

Department supervisors shall ensure that workers are allowed access only to the minimum necessary protected health information.

When supervisors authorize computer access or change computer access for staff, they must document the job duties or functions that necessitate access to any computer system or application that includes protected health information. This documentation is to be filed in the supervisor's copy of the worker's personnel file. This documentation does not have to be in a specific format.

Notice of Privacy Rights and Practices

Legal reference: 441 IAC 9.14(4), 45 CFR 164.520

Under HIPAA policies, a person has a right to adequate notice of the uses and disclosures that may be made by health plans or Department facilities. The Department shall provide notices of privacy rights that are applicable to the Department health plan or facility. Use the following notices of privacy rights to inform subjects of their rights and the Department's legal duties with respect to protected health information:

- ◆ Comm. 208, *Information About Your Privacy Rights—hawk-i*
- ◆ Comm. 208(S), *Información Sobre De Sus Derechos de Privacidad—hawk-i*
- ◆ Comm. 209, *Information About Your Privacy Rights—Medicaid*
- ◆ Comm. 209(S), *Información Sobre De Sus Derechos de Privacidad—Medicaid*
- ◆ Comm. 210, *Privacy Notice—Independence Mental Health Institute*
- ◆ Comm. 210(S), *Aviso de Privacidad—Independence Mental Health Institute*
- ◆ Comm. 211, *Notice of Privacy Practices—Mt. Pleasant Mental Health Institute*
- ◆ Comm. 211(S), *Aviso de Practicas de Privacidad—Mt. Pleasant Mental Health Institute*
- ◆ Comm. 212, *Notice of Privacy Practices—Cherokee Mental Health Institute*
- ◆ Comm. 212(S), *Aviso de Practicas de Privacidad—Cherokee Mental Health Institute*
- ◆ Comm. 213, *Notice of Privacy Practices—Clarinda Mental Health Institute*

HAWK-I Distribution of Notices

Legal reference: 441 IAC 9.14(4), 45 CFR 164.520(c)(1)

The *hawk-i* program's third-party administrator will maintain a supply of the most current version of the appropriate notice of privacy rights and will make it available to each head of household of which an enrolled child is a member, in the following circumstances:

- ◆ Upon request, and
- ◆ When a child is approved for health care benefits under the *hawk-i* Program.

Facility Distribution of Notices

Legal reference: 441 IAC 9.14(4), 45 CFR 164.520(c)(2)

Department facilities must provide the applicable notices of privacy rights in the following circumstances:

- ◆ On the date of the first service delivery to a subject, or
- ◆ As soon as reasonably practicable after an emergency treatment situation.

Except in an emergency treatment situation, make a good faith effort to obtain a written acknowledgment of the receipt of the appropriate notice of privacy rights. Use form 470-3946, *Acknowledgement of Notice of Privacy Rights and Practices*, or another written acknowledgment appropriate to the facility setting. If you cannot obtain a written acknowledgment, document your good faith efforts to obtain it and the reason why you could not in the case file.

Have the appropriate notice of privacy rights available at the service delivery site for subjects to take with them.

Post the notice in a clear and prominent location where it is reasonable to expect people seeking service from the facility will be able to read the notice.

Whenever the notice of privacy rights is revised, make it available upon request on or after the effective date of the revision and promptly post it as described above.

Electronic Notice

Legal reference: 441 IAC 9.14(4), 45 CFR 164.520(c)(3)

The Department will prominently post all of the notices of privacy rights and make them available for download at <http://www.dhs.iowa.gov>.

The Department will provide any notice of privacy rights to any person by e-mail if a request is made to the HIPAA Security and Privacy Office at HIPAAPrivacy@dhs.state.ia.us.

AVAILABILITY OF RECORDS

Legal reference: 441 IAC 9.11(22)

This policy lists the Department records that are open to the public, those that are confidential, and those that are partially open and partially confidential.

Department records are listed by category according to the legal basis for confidential treatment (if any). A single record may contain information from several categories.

The Department administers several federally funded programs and is authorized by Iowa Code section 22.9 to enforce confidentiality standards from federal law and regulation as are required for receipt of the funds. Where federal authority is cited in this policy, the Department has determined that the right to examine and copy public records under Iowa Code section 22.2 would cause the denial of funds, services, or essential information from the United States government that would otherwise be available to the Department.

The chart indicates whether the records in this category contain personally identifiable information and indicates the legal authority for confidentiality and for the collection of personally identifiable information.

Abbreviations are used in the chart as follows:

<u>Code</u>	<u>Meaning</u>
O	The records are open for public inspection.
C	The records are confidential and are not open to public inspection.
O/C	The record is partly open and partly confidential.
PI	Personally identifiable information.
NA	Not applicable.

AVAILABILITY OF RECORDS

Iowa Department of Human Services
Title 1 General Departmental Procedures
Chapter C Confidentiality and Records

November 18, 2003

Description of Record	Type of Record	Legal Authority for Confidentiality	Personally Identifiable Information	Legal Authority for Personally Identifiable Information
Records of Council, Commission and statutory committees	O/C	Iowa Code 21.5(4)	No	NA
Pharmaceutical and Therapeutics Committee (including information on prices manufacturers or wholesalers charge for pharmaceuticals)	O/C	42 U.S.C. §1396r(8)(b)(3)(D); Iowa Code 550	No	NA
Rule making records	O	NA	No	NA
Declaratory orders	O/C	Iowa Code 217.30	No	NA
Rules and policy manuals	O	NA	No	NA
State plans	O	NA	No	NA
Publications	O	NA	No	NA
Statistical reports	O	NA	No	NA
Financial and administrative records	O	NA	No	NA
Personnel records	O/C	Iowa Code 22.7(11)	Yes	Iowa Code 217.1
Contracts and interagency agreements	O	NA	No	NA
Grant records:				
• Child abuse prevention grant	O	NA	No	NA
• Mental health/mental retardation general allocation grant	O	NA	No	NA
• Mental health/mental retardation special allocation grant	O	NA	No	NA
• Developmental disabilities basic grant	O	NA	No	NA
• Alcohol/drug abuse/mental health block grant	O	NA	No	
• National Institute of Mental Health grant	O	NA	No	
• Pregnancy prevention grant	O	NA	No	NA
• Juvenile community-based services grant	O	NA	No	NA
• Runaway prevention grant	O	NA	No	NA
Collection Service Center Payment Records	O	Iowa Code 252B.9(2)	Yes	Iowa Code 252B.9, 252B.13A, 252B.16
Licensing, registration and approval:				
• Juvenile detention and shelter care facilities	O/C	Iowa Code 217.30	No	NA
• Adoption investigators	O	NA	Yes	Iowa Code 600.2
• Supervised apartment living arrangement	O	NA	No	NA
• Mental health providers	O	NA	No	NA

Description of Record	Type of Record	Legal Authority for Confidentiality	Personally Identifiable Information	Legal Authority for Personally Identifiable Information
• Family-life homes	O/C	Iowa Code 217.30	Yes	Iowa Code 234.6
• Foster care facilities	O/C	Iowa Code 237.9	Yes	Iowa Code 237
• Child care facilities	O/C	Iowa Code 237A.7	Yes	Iowa Code 237A
• Child-placing agencies	O/C	Iowa Code 238.24	No	NA
• Health care facilities	O/C	Iowa Code 135C.19	No	NA
Appeal records	O/C	Iowa Code 217.30	Yes	Iowa Code 217.1
Litigation files	O/C	Iowa Code 217.30, 22.7(4), 622.10	Yes	Iowa Code 217.1
Service provider records:				
• Purchase of service providers	O/C	Iowa Code 217.30	Yes	Iowa Code 234.6
• Medicaid providers	O/C	Iowa Code 217.30, 42 USC 1396a(7), 42 CFR 431.300 to 307 as amended to November 13, 1996	Yes	Iowa Code 249A.4
• Residential care facilities	O/C	Iowa Code 217.30	No	NA
• Long term care facilities	O/C	42 CFR 483.75	Yes	Iowa Code 249A.4
Service or assistance client records:				
• Education and Training Voucher Grant Program	C	Iowa Code 217.30, 237.9, 22.7; 45 CFR §1355.21(a)	Yes	42 CFR §677(f)
• Family Investment Program	C	Iowa Code 217.30, 42 U.S.C. §602(a)(1) and §1306a	Yes	Iowa Code 239B
• John H. Chafee Foster Care Independence Program (Iowa Aftercare Program)	C	Iowa Code 217.30, 237.9; 45 CFR §1355.21(a)	Yes	42 CFR §677(f)
• Preparation for Adult Living Program (PAL)	C	Iowa Code 217.30, 237.9; 45 CFR §1355.21(a)	Yes	42 CFR §677(f)
• Child Care Assistance	C	Iowa Code 217.30	Yes	Iowa Code 237A
• State Supplementary Assistance	C	Iowa Code 217.30	Yes	Iowa Code 249
• Medicaid	C	Iowa Code 217.30; 42 U.S.C. § 1396a(7); 42 CFR 431.300 to 307 as amended to 11/13/96	Yes	Iowa Code 249A.4
• <i>hawk-i</i>	C	Iowa Code 514I, 42 CFR 457.1110 as amended to 1/11/01	Yes	Iowa Code 514J.4

AVAILABILITY OF RECORDS

Iowa Department of Human Services
Title 1 General Departmental Procedures
Chapter C Confidentiality and Records

Revised October 5, 2007

Description of Record	Type of Record	Legal Authority for Confidentiality	Personally Identifiable Information	Legal Authority for Personally Identifiable Information
• Food Assistance	C	Iowa Code 217.30; 7 U.S.C. § 2020(e)(8); 7 CFR 272.1(c) and (d) as amended to 1/11/87	Yes	Iowa Code 234.6
• Foster Care	C	Iowa Code 237.9	Yes	Iowa Code 237.3 to 237.5
• Title IV-E Foster Care and Adoption Assistance	C	Iowa Code 217.30; 42 USC § 671(a) (8) 45 CFR 1355.30(1), as amended to November 23, 2001	Yes	Iowa Code 217.1 Iowa Code 600.17 to 600.22
• Refugee Resettlement	C	Iowa Code 217.30; 45 CFR 400.27 as amended to 3/22/00	Yes	Iowa Code 217.1
• Substance abuse	C	Iowa Code 125.37 and 125.93; 38 USC § 4132; 42 USC § 29 dd. 3 and ee. 3; 42 CFR Part 2, as amended to 10/1/02;	Yes	Iowa Code 125, 218, 219, 234.6, and 249A.4
• State institution client records	C	Iowa Code 218.22, 229.24, and 229.25	Yes	Iowa Code 218.1
Program records:				
• Adoption	C	Iowa Code 600.16 and 600.24	Yes	Iowa Code 600.8 and 600.16
• Child abuse	C	Iowa Code 235A.13, 235A.15, 235A.16, and 235A.17	Yes	Iowa Code 235A.14
• Child support recovery	O/C	Iowa Code 252B.9 and 252G.5, 42 USC 654(26), 42 USC 654a(d)	Yes	Iowa Code 252A through 252K, 144.13, 144.26, 232.147, 234.39, 595.4, 598.22B, and 600.16A
• Dependent adult abuse	C	Iowa Code 235B.6	Yes	Iowa Code 235B.6
Client records may contain information from restricted sources:				
• Federal tax returns	C	Iowa Code 422.20(2); 26 U.S.C. § 6103	Yes	Iowa Code 217.1, 234.6(7), 239B, 249A, 252B
• Department of Revenue	C	Iowa Code 421.17, 422.20(1)	Yes	Iowa Code 252B.5 and 252B.9

Description of Record	Type of Record	Legal Authority for Confidentiality	Personally Identifiable Information	Legal Authority for Personally Identifiable Information
• Iowa Workforce Development	C	Iowa Code 217.30; 42 USC § 503(d) and (e)	Yes	Iowa Code 217.1, 234.6(7), 239B, 249A, 249C, 252B.9
• Income and Eligibility Verification System	C	Iowa Code 217.30; 42 USC § 1230 b-7	Yes	Iowa Code 217.1, 234.6(7), 239B, 249A
• Juvenile court	C	Iowa Code 232.48, 232.97 and 232.147 to 232.151	Yes	Iowa Code 232 and 234.6
• Department of Public Safety	C	Iowa Code 692.2, .3, .8 and .18	Yes	Iowa Code 237.8, 237A.5, 252B.9
• United States Department of Health and Human Services	C	Iowa Code 217.30; 42 CFR § 401.134(c), as amended to 11/12/81	Yes	Iowa Code 217.1, 234.6(7), 239B, 249, 249A, 252B
• Quality Improvement Organization	C	Iowa Code 217.30; 42 USC 1320c-9; 42 CFR 475 and 480	Yes	Iowa Code 249A.4
Other information:				
• Mental health information	C	Iowa Code 228.2(1)	Yes	Iowa Code 217, 219, 222, 229
• Information received by a licensed social worker	C	Iowa Code 154C.5	Yes	Iowa Code 217.1
• Debtors to the Department	C	Iowa Code 537.7103(3)	Yes	Iowa Code 217.1
• Health care facility complaint and citation records	C	Iowa Code 135C.19	No	Iowa Code 249A.4, 135C.19
• Hospital records, medical records, and professional counselor records	C	Iowa Code 22.7(2)	Yes	Iowa Code 218, 219, 222, 229
• Privileged communication and work products of attorneys representing the Department	C	Iowa Code 22.7(4), Iowa Code of Professional Responsibility for Lawyers, Canon 4	No	NA
• Identity of volunteer informant who does not consent to release	C	Iowa Code 22.7(18)	No	Iowa Code 217.1
• School records	C	Iowa Code 22.7(1)	Yes	Iowa Code 218.1 and 234.6
• Library circulation records	C	Iowa Code 22.7(13), (14)	No	Iowa Code 217.1
• Sealed bids prior to public opening	C	Iowa Code 72.3	No	NA
• Protected health information	C	Health Insurance and Portability and Accountability Act of 1996	Yes	Iowa Code 218.1, 249A.4, 514I.4

Iowa Code section 22.11, subsection 2, provides that after July 1, 1988, agencies are not allowed to use any personally identifiable information that is not in a record system described in rules as required by the law. When new kinds of records are created, the staff responsible shall notify the person responsible for the confidentiality rules, so that they can be added.

The following sections summarize this content of the referenced laws and regulations. If a custodian's decision is challenged, staff should refer to the actual text.

Recipients of Services or Assistance

Legal reference: Iowa Code section 217.30

The following information relative to people receiving services or assistance from the Department shall be held confidential:

- ◆ Names and addresses and the types of services or amounts of assistance provided, except as noted below.
- ◆ Information concerning the social or economic circumstances of particular subjects.
- ◆ Agency evaluations of information about a particular subject.
- ◆ Medical or psychiatric data, including diagnosis and past history of disease or disability, concerning a particular person.

This information shall not be disclosed to or used by any person or agency except for purposes of administration of the programs of services or assistance, except for disclosure to public officials for their official duties related to program administration. This information shall not be disclosed to or used by people or agencies outside the Department unless they are subject to standards of confidentiality comparable to these.

This is the general confidentiality provision in the Department's authorizing legislation. Some programs may have more specific or limiting provisions, but all programs of service or assistance have this basic protection. These standards also apply to recipients of county general relief.

Operations of the Department that are not included as "programs of service or assistance" include regulatory administration (licensing, certification, or approval), contracts and grants, policy making, and personnel. Some of these functions may have confidentiality protection through another statute, but they are not covered by this provision.

Disclosure or use of information regarding the cost, purpose, number of people served or assisted, or results of any program administered by the Department is not restricted, as long as the information does not identify particular people served or assisted.

This section of the Code authorizes the confidentiality of appeal decisions, declaratory orders, and records on purchase of service providers, residential care facilities, family-life homes, and juvenile detention and shelter care facilities to the extent that they contain information identifying particular clients of the Department. These records shall be made public only after removing or de-identifying the client-specific portions.

Exceptions

Legal reference: Iowa Code section 217.30

Confidential information about clients (except for medical and psychiatric information) shall be disclosed to public officials when the information is needed in connection with their official duties (relating to law enforcement, audits and other purposes) **directly connected** with the Department's program of service or assistance.

The General Assembly has determined that this release to public officials is directly connected with administration of Department programs and is essential for their proper administration.

These standards can be limited or restricted to the extent necessary to make a program eligible for federal funds if it is definitely established that a provision of the policy would cause ineligibility.

State Facilities

Legal reference: Iowa Code sections 218.21 and 218.22

These policies apply to all facilities operated by the Department: the Glenwood Resource Center; the Woodward Resource Center; the Mental Health Institutes at Cherokee, Clarinda, Independence, and Mount Pleasant; the State Training School; and the Iowa Juvenile Home.

Iowa Code section 281.21 requires the Department to keep a permanent record of every person committed to any of the state facilities. The record shall contain the name, residence, sex, age, nativity, occupation, civil condition, date of entrance or commitment, date of discharge, whether a discharge was final, condition of the person when discharged, the name of the institutions from which and to which the person has been transferred, and if dead, the date and cause of death.

Except with the consent of the administrator in charge of the facility or on a court order, records required by Iowa Code section 218.21 shall be accessible only to:

- ◆ The administrator of the division of the Department in control of the institution,
- ◆ The director of the Department,
- ◆ Assistants and clerks authorized by the administrator or the director.

Involuntary Hospitalization

Legal reference: Iowa Code section 229.24

All records pertaining to involuntary hospitalization on an application for voluntary hospitalization under Iowa Code Chapter 229 are subject to inspection only upon an order of the court for good cause shown.

However, the facility may release information to any person designated in a written authorization from the person who was the subject of the proceeding or that person's parent or guardian. The facility is also permitted to release information necessary for properly billing for care and treatment.

See [Medical Records of Hospitalized Mentally Ill People](#) for requirements on release of this type of information.

Medical Records of Hospitalized Mentally Ill People

Legal reference: Iowa Code section 229.25

The records maintained by a hospital or other facility that relates to the examination, custody, care, and treatment of any person hospitalized voluntarily or involuntarily under Iowa Code Chapter 229 shall be confidential.

The chief medical officer of the facility shall release appropriate information under any of the following circumstances:

- ◆ The information is requested by a licensed physician, attorney or advocate who provides the chief medical officer with a written waiver signed by the person about whom the information is sought.
- ◆ The information is sought by a court order.
- ◆ The person or the person's guardian signs an informed consent to release information. The consent shall designate specifically the person or agency to whom the information is to be sent. The information may be sent only to that person or agency.

The chief medical office may release information when:

- ◆ The records are requested for the purpose of research into the causes, incidence, nature, and treatment of mental illness. Information shall not be provided in a way that discloses patients' names or which otherwise discloses any patient's identity.
- ◆ A voluntary or involuntary patient requests that information be released to the patient's spouse during a consultation, and the chief medical officer deems that it is in the best interest of the patient and the spouse to do so.

“Informed consent” means the request for release of information has been explained to or for the benefit of the signer and the consent is given freely and voluntarily without fear of retribution or withdrawal of services.

See [AVAILABILITY OF RECORDS: Mental Health Information](#) for applicable requirements.

Mental Health Information

Legal reference: Iowa Code section 228.2

Except as specified in this chapter, a mental health professional, data collector, or employee or agent of a mental health professional, of a data collector, or of a mental health facility shall not disclose or permit the disclosure of mental health information.

“Mental health professional” means a person who has all of the following qualifications:

- ◆ The person holds at least a master’s degree in a mental health field, including, but not limited to, psychology, counseling and guidance, nursing, or social work or is a physician and surgeon or an osteopathic physician and surgeon.
- ◆ The person holds a current Iowa license if practicing in a field covered by an Iowa licensure law.
- ◆ The person has at least two years of post-degree clinical experience, supervised by another mental health professional, in assessing mental health needs and problems and in providing appropriate mental health services.

“Data collector” means a person other than a mental health professional or an employee of or agent for a mental health facility who regularly assembles or evaluates mental health information. Employees of the Department who do not meet the definition of a mental health professional and who do not work in an institution are included in this definition.

“Mental health facility” means a community mental health center, hospital, clinic, office, health care facility, infirmary, or similar place in which professional services are provided.

“Mental health information” means oral, written, or recorded information which indicates the identity of a person receiving professional services and which relates to the diagnosis, course, or treatment of the person’s mental or emotional condition. (This could be any condition recognized in a standard diagnostic manual, such as mental illness, degenerative neurological conditions, organic brain syndrome, or mental retardation.)

“Professional services” means diagnostic or treatment services for a mental or emotional condition provided by a mental health professional.

These policies cover both release of mental health information generated by Department staff and redissemination of mental health information obtained from other providers.

Compulsory Disclosures

Legal reference: Iowa Code section 228.6

A mental health professional or an employee or agent of a mental health facility may disclose the following mental health information to the extent necessary as follows:

- ◆ Medical records of a person hospitalized under Iowa Code Chapter 229;
- ◆ Information for billing and collection of patient charges at the mental health institutes as specified in Iowa Code sections 230.20, 230.21, 230.25, and 230.26;
- ◆ Evidence on judicial proceedings resulting from a report of child abuse under Iowa Code section 232.74;
- ◆ Juvenile records under Iowa Code section 232.147;
- ◆ Information under any other state or federal law relating to human health or safety and requiring compulsory reporting or disclosure.

Mental health information acquired by a mental health professional pursuant to a court-ordered examination may be disclosed pursuant to court rules.

Mental health information may be disclosed by a mental health professional to the extent necessary to initiate or complete civil commitment proceedings under Iowa Code Chapter 229.

Mental health information may be disclosed in a civil or administrative proceeding in which a person's mental or emotional condition is offered as an element of a claim or a defense by the person (age 18 or older), the person's legal representative, or a party claiming or defending through a beneficiary of the person (if the person is deceased).

See the relevant Iowa Code section for more information.

Administrative Disclosures

Legal reference: Iowa Code section 228.5

Mental health information relating to a person may be disclosed to employees or agents of the same mental health facility or to other providers of professional services or their employees or agents to the extent necessary for the provision of administrative and professional services to the person.

A mental health professional or a mental health facility may disclose information necessary for the collection of a fee to an agent providing collection services if the person 18 years or older who received the services, or the person's legal representative, has received written notice that the fee is due and has failed to arrange for payment within a reasonable time.

If a civil action is filed for the collection of the fee, additional mental health information shall not be disclosed in the litigation, except to the extent necessary to respond to a motion of the person or the person's legal representative for greater specificity or to dispute a defense or counterclaim.

A mental health professional or an employee or agent of a mental health facility may disclose mental health information if necessary for the purpose of conducting:

- ◆ Scientific and data research
- ◆ Management audits
- ◆ Program evaluations

The information may be disclosed only to people who have demonstrated and provided written assurances of their ability to ensure compliance with the provisions of Iowa Code Chapter 228. These people shall not directly or indirectly identify anyone in any report of the research, audit, or evaluation in any manner.

Department facilities are each considered to be separate facilities under this policy. Transfer of mental health information from an institution to a local office or to another institution is a voluntary disclosure, not an administrative one.

The person or the person's legal representative shall be informed that mental health information will be disclosed to employees or agents of the mental health facility to the extent necessary for provision of administrative and professional services.

Disclosure for Claims Administration and Peer Review

Legal reference: Iowa Code section 228.7

A mental health professional or an employee or agent of a mental health professional, data collector, or mental health facility may disclose mental health information to a third-party payer or a peer review organization if:

- ◆ The disclosure is made in accordance with the prior written consent of the patient or the patient's legal representative; and
- ◆ The third-party payer or peer review organization has filed a written statement with the Commissioner of Insurance in which the filer agrees to:
 - Instruct its employees and agents to maintain the confidentiality of mental health information and of the penalty for unauthorized disclosure.
 - Comply with the limitations on use and disclosure of mental health information specified in Iowa Code Chapter 228.
 - Destroy the information when it is no longer needed.

A third-party payer or a peer review organization shall not use or disclose mental health information to any person except to the extent necessary:

- ◆ To administer claims submitted or to be submitted for payment;
- ◆ To conduct a utilization and quality control review of mental health care services provided or proposed to be provided;
- ◆ To conduct an audit of claims paid; or
- ◆ As otherwise authorized by law.

Employees or agents of a self-insured employer that have not filed a statement with the Commissioner of Insurance shall not be granted routine or ongoing access to mental health information unless the employees or agents have signed a statement indicating that:

- ◆ They are aware that the information shall not be used or disclosed except as provided in Iowa Code Chapter 228; and
- ◆ They are aware of the penalty for unauthorized disclosure.

An employee or agent of a third-party payer or a peer review organization who willfully uses or discloses mental health information in violation of Iowa Code Chapter 228 is guilty of a serious misdemeanor. The sentence for a person convicted under section is a fine not to exceed \$500 in the case of a first offense and not to exceed \$5000 in the case of each subsequent offense.

Voluntary Disclosures

Legal reference: Iowa Code section 228.3

A person age 18 or older or a person's legal representative may consent to the disclosure of mental health information relating to that person by signing a voluntary written authorization.

A third-party payer may only request a person to consent to the disclosure of mental health information if necessary to determine the person's entitlement to benefits or the amount of benefits payable for professional services provided to the person. This information is limited to:

- ◆ Administrative information, meaning the person's name, age, identifying number, sex, address, dates and character of professional services provided, fees for the services, third-party payer number, name and location of the facility where the treatment is received, the date of the person's admission to the facility, and the name of the person's attending physician or attending mental health professional.
- ◆ Diagnostic information, meaning the therapeutic characterization of the type found in a professionally recognized diagnostic manual.
- ◆ The person's voluntary or involuntary status.
- ◆ The estimated time during which treatment might continue.

If the third-party payer still questions the person's entitlement to benefits, the payer can request that further information be shared with another mental health professional for an independent evaluation. No information beyond what is listed above shall be shared with the payer.

“Third-party payer” means a provider of accident and health benefits or medical, surgical or hospital benefits, whether on an indemnity, reimbursement, service, or prepaid basis. Examples include insurers, nonprofit health service corporations, health maintenance organizations, governmental agencies, employers and the Medicaid program.

Form of Authorization

Legal reference: Iowa Code section 228.3

A voluntary authorization for the release of mental health information shall:

- ◆ Specify the nature of the mental health information to be disclosed.
- ◆ Specify the people or type of people authorized to disclose the information.
- ◆ Specify the purposes for which the information may be used both at the time of the authorization and in the future.
- ◆ Advise the subject of the subject's right to inspect the disclosed information at any time.
- ◆ State that the authorization may be revoked and state the conditions of revocation.
- ◆ Specify the length of time for which the authorization is valid.
- ◆ Contain the date on which the authorization is signed.

Provide a copy of the authorization to the subject or to the subject's legal representative, if the representative authorized the disclosure. Include the authorization form in the subject's record.

Form 470-0429, *Consent to Obtain and Release Information*, meets these requirements. Generally, no other form shall be used to authorize disclosure of mental health information unless the user has determined that it meets these requirements.

Staff may use form 470-3951, *Authorization to Obtain or Release Health Care Information*, for this purpose, as it meets the requirements above in addition to being a HIPAA-compliant authorization form.

Revocation of Authorization

Legal reference: Iowa Code section 228.4

A subject or the subject's legal representative may revoke a prior authorization by providing a written notification to both the recipient of the information and the person authorized to disclose the information.

Effective upon receipt of the revocation, do not disclose mental health information pursuant to the revoked authorization. However, you may use mental health information previously disclosed for the purposes stated in the original authorization.

Record of Disclosure

Legal reference: Iowa Code section 228.2

When you disclose mental health information, keep a record of the disclosure. Include the date of the disclosure and the name of the recipient of the information.

Give a statement to the recipient of the information to inform the recipient of the restriction on disclosure, that unauthorized disclosure is unlawful, and that civil damages and criminal penalties may be applicable to unauthorized disclosure.

Form 470-0429, *Consent to Obtain and Release Information*, contains the required notice. You can satisfy the notice requirement by giving the recipient a copy of the release, form 470-0429, to the recipient of the information.

Form 470-0429 contains a section for this record-keeping requirement on the back of the copy of the form that is kept in the subject's record. If you use another form or if a compulsory or administrative release is made without use of this form, meet these requirements by using separate notes and statements.

Form 470-3951, *Authorization to Obtain or Release Health Care Information*, to be used by facility staff, satisfies the notice and record-keeping requirement.

A record of disclosures is not required for administrative releases, but the person receiving the information shall be given a statement prohibiting redisclosure of the information unless otherwise authorized under this chapter.

Redissemination

Legal reference: Iowa Code section 228.2

Do not disclose mental health information received, except as specifically authorized under [Compulsory Disclosures](#), [Administrative Disclosures](#), or [Voluntary Disclosures](#). However, you may transfer mental health information at any time to another facility, physician, or mental health profession in the following circumstances:

- ◆ In cases of a medical emergency, or
- ◆ If the subject or the subject's legal representative requests the transfer in writing for the purposes of receipt of medical or mental health professional services.

When information is redisseminated, follow the procedure under [Record of Disclosure](#).

Substance Abuse Information

Legal reference: Iowa Code sections 125.37 and 125.93

Records of facilities that provide care, maintenance, or treatment for substance abusers are confidential and are privileged to the patient.

The director of the facility may make information available from patients' records for purposes of research into the causes and treatment of substance abuse. This information shall not be published in a way that discloses patients' names or other identifying information.

You may disclose a patient's records to medical personnel in a medical emergency with or without the patient's consent.

This protection covers records of the identity, diagnosis, prognosis, or treatment that are maintained in connection with substance abuse programs.

HIV-Related Information

Legal reference: Iowa Code Chapter 141A

“HIV-related information” means any information that is likely to identify, directly or indirectly, someone as:

- ◆ Having been tested for (regardless of the results of the test), or
- ◆ Suspected of having HIV because of high-risk activities, or
- ◆ Actually having HIV infection, antibodies to HIV, AIDS, or related infections or illnesses.

All HIV-related information is confidential. This policy covers access to or disclosure of HIV-related information pertaining to a specific person who has applied for, receives, or formerly received treatment, services, or benefits and to the person’s family members.

Clients and their families have a right to privacy concerning disclosure of information related to HIV infection. Disclosure of HIV-related information could result in the client’s suffering loss of privacy, harassment, and discrimination; unauthorized disclosures by Department staff could lead to individual liability as well as criminal or civil penalties against the Department and its personnel.

The right to decide to whom information may be disclosed generally belongs to the person about whom the information pertains, and not to Department employees.

HIV-related information is confidential regardless of the source, including whether the information is obtained.

- ◆ Intentionally, or unintentionally;
- ◆ From the client, the client’s family, or from another source;
- ◆ Through oral, written, or electronic communication.

While assisting a client, you may acquire HIV-related information about a family member. For example, a social worker arranging services for a child with HIV infection may know that the child’s mother also has the disease. Although the client is the child, the social worker has an obligation not to disclose the mother’s HIV status without her consent.

All persons who work for or provide services to the Department are bound by this policy. This includes, but is not limited to: full-time and part-time staff members, independent contractors, consultants, licensees, temporary employees, interns, and volunteers.

Any one who is likely to work with HIV-related information shall receive training in the meaning of the policy and procedures it requires. All of the people subject to the policy are required to review the policy and agree to follow its procedures. Employees are subject to disciplinary and other adverse actions for any violations.

Foster parents, preadoptive parents, and other out-of-home caregivers should review the confidentiality policy before they take physical custody of a child. In particular, they should be instructed not to disclose HIV-related information about the child's biological parents or other family members.

Informed Consent for Disclosure of HIV-Related Information

Legal reference: Iowa Code section 141A.9; 441 IAC 202.6(1)

A client, or in appropriate circumstances, the client's parent or legal guardian, must give specific, written, informed consent to disclosure of HIV-related information.

Inform clients, or if appropriate, their parents or legal guardians, of the Department's policy on access to and disclosure of HIV-related information when admitted or upon application for services.

Note: The fact that a client chooses to disclose HIV-related information to a person covered by this policy does not mean that the Department or the person to whom the disclosure was made has the right to disclose this information to others. Presume that Iowa law prohibits further disclosures unless the client consents or a court order has allowed the disclosure.

If the HIV-related information concerns a family member, then the family member must give specific, written, informed consent to any disclosures. Use form 470-3225, *Authorization to Release HIV-Related Information*, to record the consent. The written consent includes:

- ◆ The person or agency to receive the HIV-related information.
- ◆ The period during which the consent is effective.
- ◆ The client's right to revoke the consent.
- ◆ Precisely what information the Department is authorized to disclose.
- ◆ The purpose of the disclosure.

Competency to Give Consent

Clients have the right to disclose HIV-related information about themselves to anyone they choose, including other clients. However, because of emotional or cognitive impairments or age, some clients may not understand or appreciate the potential consequences of disclosure. Counsel clients about the potential risks of disclosure.

Adults with developmental disabilities are presumed to be legally competent to give or deny consent to disclosure of HIV-related information unless they have been adjudicated incompetent to make this type of health care decision. If a substitute decision maker has been appointed to make such health care decisions, specific, written informed consent must be obtained from that person.

With the exceptions noted below, children under age 18 do **not** have legal authority to consent to disclosure of HIV-related information. Only the parents, legal guardian, or others as defined by state statute generally have this authority.

Obtain specific, written, informed consent from minors whenever under state law they can consent to their own health care generally, or to HIV testing and treatment specifically. This includes obtaining the minor's consent to disclose to parents, unless such disclosure is required by law.

According to Iowa law, a minor may voluntarily apply for screening or treatment for AIDS and other sexually transmitted diseases. However, the testing facility must notify the legal guardian of a minor who has a positive result on an HIV test, unless the testing facility is precluded by federal statute, regulation, or Center for Disease Control guidelines from doing so.

COMMENT: As a general matter, the person with the legal right to make major health care decisions for the child has the legal right to determine whether HIV-related information can be disclosed. However, the court may be approached for a final decision if that person's decision is contested.

A minor's developmental disability may affect whether the minor has the legal authority to consent to health care, and thus the authority to consent to disclosure. If a question arises about a minor's authority to consent, you may ask the court to determine if the minor has the legal authority to consent.

When a minor or an adult client is legally incompetent to consent to disclosure of HIV-related information, explain to the client, to the extent the client can understand, the purpose of a proposed disclosure and ascertain the client's preference.

Access to HIV-Related Information Within DHS

People who work for or provide services to the Department cannot gain access to HIV-related information, nor disclose this information to anyone else within the Department, unless:

- ◆ The client (or the client's parent or legal guardian) has authorized access or disclosure through specific, written consent, or
- ◆ A court order has been obtained allowing disclosure.

Similarly, access to or disclosure of HIV-related information about a client's family member is prohibited unless consent is received. However, specific written consent is not required to inform licensed medical personnel providing care to the client when knowledge of the test results is necessary to provide care or treatment.

This permission covers licensed medical personnel providing HIV-related diagnosis, treatment, or care and **not** health care workers providing general medical care to a patient. This does not mean that HIV-related information is irrelevant to the provision of general health care, but only that the patient must give specific consent before HIV-related information is disclosed.

Ask the client (or if appropriate, the client's parent or legal guardian) to give specific written consent for access to or disclosure of HIV-related information when the person applies for or receives treatment, services, or benefits. To the extent feasible, identify for the client the staff members who need access to the HIV-related information.

A client's specific, written consent is not required in order to conduct internal DHS-approved research or evaluations, so long as:

- ◆ Release of HIV-related information is authorized by the designated staff member and is consistent with applicable federal and state laws, and
- ◆ The information to be disclosed does not identify a specific client either directly or indirectly.

Refusal to Consent to DHS Access

A client's refusal to give specific written consent for access to or disclosure of HIV-related information does not influence the client's eligibility for services or benefits. If the client refuses to give consent, obtain a court order before disclosing HIV information to staff who have a need to know in order to:

- ◆ Plan, arrange, or provide referral for HIV-related diagnosis, treatment, and services to a client.
- ◆ Carry out essential administrative or reimbursement functions relating to the provision of HIV-related diagnosis treatment or services to the client.

Allowing a staff member access to HIV-related information must serve the needs of the client, not the needs of the staff member or anyone else. The extent of access allowed under this standard will vary depending on the type of services provided.

Allowable Access

All staff members who gain access to a client's written or computer records containing confidential HIV information must note in the client's record their name, the date, and the reason for needing to review the client's records. Periodically, the designated staff member will review client's records to ensure compliance with these policies.

Access to or disclosure of HIV-related information without a client's consent is not permissible based on a perceived need to protect staff members, clients, or anyone else from possible exposure to HIV through casual contact.

"Casual contact" means close but nonsexual interaction, such as handshakes, hugging or kissing, sharing a workspace, kitchen, or bathroom facilities; sharing towels, eating or drinking utensils; and exposure to coughing or sneezing.

If someone is exposed to blood or semen of an HIV-positive client, the designated staff member will assess whether a significant risk of transmission exists. If it does, the designated staff member will counsel the person about HIV transmission and the advisability of having an HIV antibody test. The identity of the HIV-positive client should not be revealed.

HIV-related information cannot be released to other clients, or their family members except in accordance with the limited circumstances discussed in [Notification of Sexual or Needle-Sharing Partners](#).

Disclosure of HIV-Related Information Outside the Department

Legal reference: Iowa Code section 141A.9; 441 IAC 202.6(1)

Disclosure of HIV-related information to outside agencies or individuals requires the client's specific, written consent, except if:

- ◆ The client lacks the capacity to give informed consent, and
- ◆ Disclosure of HIV-related information is necessary to protect the client's health from imminent harm, and
- ◆ The urgency of providing treatment precludes getting consent from a substitute decision maker.

A staff member who receives a request for or is considering disclosure of HIV-related information must refer the matter to the "designated staff member," who has sole authority to release HIV-related information to outside agencies or individuals. The only exception to this rule is a medical emergency as discussed above.

Process for Disclosure

The designated staff member will determine if disclosure requires that the client be identified, directly or indirectly.

If the request does not seek identifying information, and other laws do not prohibit disclosure, the designated staff member may release the information.

If the request seeks identifying information, the designated staff member must determine if nonidentifying information can be substituted. If a substitution is possible, the nonidentifying information can be released.

If a substitution is not possible, then the designated staff member must ask the client for specific, written consent to release the information. If the client gives consent, the designated staff member can release the information.

If the client denies consent and state law permits, but does not require that HIV-related information be released, the designated staff member will inform the requester that the information sought is confidential and may not be disclosed.

If the client denies consent, and state law requires that HIV-related information be released, the information will be disclosed.

A designated staff member who has any questions about the applicability of mandatory disclosure provisions shall seek legal consultation through normal procedures.

Documentation of Disclosure

Accompany all written disclosures of HIV-related information with a copy of form 470-3227, *Receipt of HIV-Related Information*. This form prohibits the person or agency from redisclosing this information to anyone else without the client's consent. Obtain the recipient's signature on the form and keep a copy in the case record to document its issuance.

Accompany all oral disclosures of HIV-related information with an oral warning against redisclosure. Send form 470-3227 within 10 days and ask for return of a signed copy.

Note all disclosures of HIV-related information in the client's record. Record all disclosures on the *Release of Confidential HIV-Related Information*, form 470-3234. Include the following information:

- ◆ The date of disclosure.
- ◆ Contents of the disclosure.
- ◆ Recipient of the disclosure.
- ◆ Type of authorization (i.e. upon written consent by the client, statutorily mandated, or court ordered).
- ◆ An indication that notification against redisclosure was made. Include a client's signed consent form authorizing disclosure in the records.

Inform clients of all disclosures made pursuant to a medical emergency, mandatory disclosure provision, or court order.

Notification of Sexual or Needle-Sharing Partners

The Department will conduct HIV outreach and risk reduction educational efforts for all clients and their sexual or needle-sharing partners. In an effort to assist clients, especially children and adolescents in the Department's custody, and their sexual or needle-sharing partners to understand:

- ◆ HIV infection,
- ◆ The behaviors leading to possible exposure, and
- ◆ Ways to protect themselves from contracting the virus.

If you learn that a client, especially a child or adolescent in Department custody, may be placing the client's current sexual or needle-sharing partner at risk of contracting HIV, contact the designated staff member immediately. The designated staff member will determine if significant risk of transmission exists, after consulting with medical personnel and others who are qualified to assess the situation, as appropriate.

In these consultations, the designated staff member must not disclose the client's identity, unless the others have access to HIV-related information. The designated staff member also should meet with the client.

If the designated staff member determines that a significant risk of transmission does not exist, no further action is required.

If the designated staff member determines that a significant risk of transmission exists, arrange for the client to receive education and counseling. Local public health department staff or other health professionals knowledgeable about infectious disease transmission can provide HIV risk-reduction training, and counseling on:

- ◆ The need to cease engaging in risky behaviors, and
- ◆ The necessity of disclosing the HIV status to the client's partner.
- ◆ Counseling shall be provided in accordance with Iowa Code section 141.4.

If the client wishes, the counselor or someone of the client's choosing can disclose or assist the client in disclosing the client's HIV status to the partner, preferably at a joint counseling session. If the client chooses a staff member, the client must sign a special consent form that states that the client has asked the staff member to disclose or assist the client in disclosing the client's HIV status to the partner.

If the client refuses to authorize disclosure of HIV status to the partner, or there are reasonable grounds to believe that the client will not inform the partner, then the designated staff member shall consult with legal counsel for a review of legal obligations and the options available and advice on what actions must be taken.

Note every step in this process in the client's records, including the reasons for the chosen course of action, the people with whom the "designated staff member" consulted, and the procedures followed in making decisions.

Adoption Information

Legal reference: Iowa Code sections 600.16 and 600.24

Do not open any records pertaining to a termination of parental rights or to an adoption to inspection, and do not reveal the identity of the natural parents of an adopted child. However, the agency involved in placement shall contact the adopting parents or the adult adopted child regarding eligibility of the adopted child for benefits based in entitlement or inheritance from the terminated natural parents.

Make information concerning the family medical history (including any known genetic, metabolic, or familial disorders) and the medical and developmental history of the adopted person available at any time to:

- ◆ The adopting parents.
- ◆ The adopted person, providing that person is an adult when the request is made.
- ◆ A descendant of an adopted person.
- ◆ Any person approved by the Department, if the person uses this information solely for the purposes of conducting a legitimate research project or of treating a patient in a medical facility.

You may also allow access to adoption records if:

- ◆ The records were compiled before January 1, 1977;
- ◆ The identity of the natural parents of the adopted person is concealed from the person gaining access to the records; and
- ◆ The person gaining access to the records uses them solely for the purposes of conducting a legitimate research project or of treating a patient in a medical facility.

Child Support Information

Legal reference: Iowa Code Chapters 252A through 252K, and sections 144.13, 144.26, 232.147, 234.39, 595.4, 598.22B, and 600.16A

Make information recorded by the Department under the Child Support Recovery Program available only to:

- ◆ The Child Support Recovery Unit
- ◆ Agencies in other states charged with support collection and paternity determination
- ◆ Courts having jurisdiction in support or abandonment proceedings
- ◆ Attorneys prosecuting a case in which the Child Support Recovery Unit may participate.

Limit use or disclosure of information concerning applicants or recipients of support enforcement services to purposes directly connected with:

- ◆ The administration of the FIP program, the Child Welfare program, the Child Support Recovery program, the Medicaid program, the Social Services Block Grant Program, or the Supplemental Security Income program.
- ◆ Any investigations, prosecution, or criminal or civil proceeding conducted in connection with the administration of one of these programs.
- ◆ The administration of any other federal or federally assisted program which provides assistance (in cash or in kind) or services directly to people on the basis of need.

Disclosure to any committee or legislative body of any information that identifies any applicant or recipient by name or address is prohibited.

Willfully requesting, obtaining, or seeking to obtain paternity determinations or support collection data under false pretenses is an aggravated misdemeanor.

Willfully communicating or seeking to communicate child support recovery information to anyone not authorized to receive it under this chapter is an aggravated misdemeanor.

Knowingly communicating or seeking to communicate such information but without criminal purposes is a simple misdemeanor.

Reasonable grounds for belief that a public employee has violated this policy shall result in immediate removal from all access to paternity determination and support collection data.

See 9-A, [CONFIDENTIALITY OF CHILD SUPPORT INFORMATION](#), for more information about policies and procedures on access and disclosure of information in child support cases.

Family Investment Program Information

Legal reference: 42 USC 602(a)(1) and 1306(a)

Federal regulations restrict use or disclosure of information concerning FIP applicants or recipients to purposes directly connected with:

- ◆ The administration of the approved state plans for FIP, Medicaid, Child Welfare, Child Support Recovery, or Social Service Block Grant;
- ◆ The administration of the Supplemental Security Income program or of any federal or federally assisted program which provides assistance (in cash or in kind) or services directly to people on the basis of need;
- ◆ Any investigation, prosecution, or criminal or civil proceeding conducted with the administration of one of these programs;
- ◆ Any audit or similar activity conducted in connection with the administration of one of these programs by a government entity that is authorized by law to conduct the activity.

Disclosure to any committee or legislative body of any information that identifies any applicant or recipient by name or address is prohibited (other than as specified above.)

“Purposes directly connected with administration” include establishing eligibility, determining amount of assistance, and providing services for applicants and recipients. Activities similar to audits include review of expenditure reports and financial review.

Release information about people applying for or receiving FIP only to people subject to the same standards of confidentiality as the Department.

Inform the family whenever possible of a request for information from an outside source, and obtain permission to make the request. Exceptions are allowed for information requested pursuant to the Information and Eligibility Verification (IEVS) process and for an emergency situation. In an emergency when you cannot obtain the person’s consent for the release of information, notify the person immediately.

If you receive a subpoena for the case record or for the testimony of an agency representative, call the court's attention to the laws and rules governing the confidentiality of case information.

When you release information for administrative purposes, negotiate a formal agreement with the recipient of the information stating the applicable confidentiality provisions and the recipient's commitment to abide by them. See [Contracts and Agreements With Other Agencies](#).

Advise all people with access to information obtained pursuant to IEVS requirements of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.

See [Release for Judicial and Administrative Proceedings](#) for specific instructions on handling subpoenas and testimony.

Food Assistance Information

Legal reference: 7 USC 2020(e)(8), 7 CFR 272.1(c)

Federal regulations limit disclosure of information obtained from applicant or recipient Food Assistance households to people directly connected with the administration or enforcement of the provisions of:

- ◆ The Food Assistance program,
- ◆ Federal assistance programs, or
- ◆ Federally assisted state programs providing assistance on a means-tested basis to low-income people.

Programs eligible for disclosure of Food Assistance information include programs required to participate in the IEVS system, the Child Support Recovery Program, and the Social Security and Supplemental Security Income programs. Disclosure is authorized to the Comptroller General of the United States for audit and examination authorized by law.

Make all information obtained from a Food Assistance household available on request to local, state, or federal law enforcement officials for the purpose of investigating an alleged violation of the Food Assistance law or regulations. See [Law Enforcement](#) for procedures for releasing information about Food Assistance program violations to law enforcement.

Release information to law enforcement only upon a written request that states the identity of the person requesting information, the person's authority to do so, the violation being investigated, and the identity of the person on whom information is requested.

Any recipients of information must adequately protect the information against unauthorized disclosure (to people not authorized under this policy or for purposes not authorized under this policy). Make an administrative release to other agencies only by an agreement negotiated to include the requirements of this section. Protect information received through IEVS as required by the regulations of the information provider.

Upon written request, you may make information in the case file available to a responsible member of the household, its currently authorized representative, or a person acting on the household's behalf. However, you may withhold confidential information, such as the names of people who have given information about the household without the household's knowledge of the nature or status of pending criminal prosecutions.

Foster Care Information

Legal reference: Iowa Code section 237.9

Do not disclose information from or through the Department concerning any of the following directly or indirectly, except as authorized under [Recipients of Services or Assistance](#), or as authorized or required for the reporting of child abuse.

- ◆ A child who has received or is receiving foster care,
- ◆ A relative or guardian of the child,
- ◆ A single-family home licensee, or
- ◆ An individual employee of a licensed facility

Generally, this information can be released only for purposes of administration of the program. (See [Exceptions](#) following the policy on recipients of services or assistance for other special circumstances.)

For foster family homes, this policy has been interpreted to cover only information that is not included on the license, since the license must be posted or made available for inspection. Thus, the names, addresses, licensed capacity, and terms of license for foster family homes are considered to be open records.

For foster group care facilities, only information about children in placement and about individual staff members is confidential. The rest of the licensing file is open to the public.

hawk-i Information

Legal reference: 42 CFR 457.1130

Federal Child Health Insurance Program regulations require states to protect the privacy of individual medical records and any other health and enrollment information maintained with respect to enrollees that identifies particular enrollees. State must implement procedures to:

- ◆ Abide by all applicable federal and state laws regarding confidentiality and disclosure, including laws on:
 - The confidentiality of information about minors;
 - The privacy of minors; and
 - The privacy of individually identifiable health information.
- ◆ Apply the confidentiality protections in federal Medicaid regulations.

Medicaid Information

Legal reference: 42 USC 1396a(7), 42 CFR 431.300-431.306

Federal regulations restrict use and disclosure of information concerning Medicaid applicants and members to purposes directly connected with the administration of the state Medicaid plan. “Purposes directly related to plan administration” include the following:

- ◆ Establishing eligibility
- ◆ Determining the amount of medical assistance
- ◆ Providing service for recipients
- ◆ Conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of Medicaid
- ◆ Referring appropriate recipients of Medicaid to the Child Support Recovery Unit and exchanging necessary information

Note: Unlike the FIP and Food Assistance laws, the Medicaid statute does not allow for sharing Medicaid information with any other federally assisted programs, except under IEVS. Make information exchanged with other agencies under IEVS requirements available only to the extent necessary to assist in the valid administrative needs of the program receiving the information.

The Department must publicize provisions governing the confidential nature of information about applicants and members, including the legal sanctions imposed for improper disclosure and use. The Department must provide copies of the provisions to applicants and members and to other people and agencies to whom it discloses information.

Restrict access to information concerning applicants and members to people who are subject to standards of confidentiality comparable to those of the Department. Negotiate data exchange agreements before requesting information from or releasing information to agencies under IEVS.

Except for exchanges under IEVS or other disclosures required by law, you must obtain permission from the client whenever possible before responding to a request for information from an outside source. If, because of an emergency, time does not permit consent before release, you must notify the person immediately after supplying the information.

If a court issues a subpoena for a case record or for agency staff to testify about a member, you must inform the court of the applicable restriction on the disclosure of information.

The Department shall not publish names of Medicaid applicants or members.

Refugee Resettlement Program Information

Legal reference: 45 CFR 400.11

Do not release information about or obtained from anyone receiving services or assistance under the Refugee Resettlement Program in a form that identifies the person without the person's consent, except for purposes directly connected with and necessary to the administration of the program.

Title IV-E Information

Legal reference: Iowa Code section 217.30; 42 USC 671(a)(8); 45 CFR 1355.30(1)

Restrict use or disclosure of information concerning applicants or recipients under the Title IV-E Foster Care and Adoption Assistance program to purposes directly connected with:

- ◆ The administration of the approved state plans for FIP, Medicaid, Foster Care and Adoption Assistance, Child Welfare, Child Support Recovery, or Social Service Block Grant;
- ◆ The administration of the Supplemental Security Income program or of any federal or federally assisted program which provides assistance (in cash or in kind) or services directly to people on the basis of need;
- ◆ Any investigation, prosecution, or criminal or civil proceeding conducted with the administration of one of these programs;
- ◆ Any audit or similar activity conducted in connection with the administration of one of these programs by a government entity that is authorized by law to conduct the activity.

Disclosure to any committee or legislative body of any information that identifies any applicant or recipient by name or address is prohibited (other than as specified above.)

Federal regulations governing the use of information collected under the IV-E program are the same as those for the FIP program. However, states are free to establish more restrictive policies. Foster care cases are included in the income and eligibility verification system based on these regulations and those for Medicaid.

Tax Return Information

Legal reference: Internal Revenue Code of 1986, sections 6103 and 7213

Upon written request, disclose tax return information to Iowa state tax officials who are charged under state law with the responsibility for administering state tax laws.

Also, upon written request, make disclosures to appropriate federal, state, or local child support enforcement agencies concerning any person with respect to whom child support obligations are sought to be established or enforced with respect to any person to whom support obligation are owing.

Make these disclosures only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, people owing such obligations.

The Social Security Administration uses tax return information from the Internal Revenue Service. Under written agreement, the Social Security Administration shall disclose return information for net earnings from sources such as self-employment, wages, payment of retirement income, and unearned income. These disclosures are made only for purposes of, and to the extent necessary in, determining eligibility for or the correct amount of benefits for:

- ◆ Family Investment Program provided under a state plan approved under part A of Title IV of the Social Security Act;
- ◆ Medical assistance provided under a state plan approved under Title XIX of the Social Security Act;
- ◆ Supplemental Security Income benefits provided under Title XVI of the Social Security Act;
- ◆ Unemployment compensation provided under a state law under section 3304 of the 1986 Internal Revenue Code;
- ◆ Assistance provided under the Food Stamp Act of 1977; and
- ◆ Other state-administered supplementary payment programs approved by the Social Security Administration.

See 14-G, [EXCHANGE OF DATA WITH OTHER AGENCIES](#), for more information.



TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF HUMAN SERVICES

CHARLES M. PALMER, DIRECTOR

November 17, 1998

GENERAL LETTER NO. 1-C-10

ISSUED BY: Bureau of Collections, Division of Medical Services, Division of Economic Assistance

SUBJECT: Employees' Manual, Title I, Chapter C, *Confidentiality and Records*, Contents (pages 1 and 2), revised; pages 18a, 19, 20, 47, 48, 54, and 55 through 58, revised; and pages 18b, 20a, 54a, and 54b, new.

Summary

This chapter is revised to update and clarify policies for handling federal tax information. Major items are:

- ◆ IRS policies on confidentiality and possible penalties shall be discussed annually with staff.
- ◆ County offices shall document on *IRS Log*, form 470-3563, when IRS reports are received and when IRS reports are destroyed.
- ◆ Any files containing IRS data or IRS reports forwarded to another office must be double-sealed and stamped with the word "Confidential" on the outer envelope.
- ◆ A DHS employee must witness the destruction of any IRS reports. If shredding methods are utilized for IRS IEVS reports, the paper strips must be cut so that they are no wider than 5/16". For IRS data, hand-tearing or burying information at a landfill are unacceptable methods of disposal.

Clarification is added on determining the scope of authority for accessing and releasing records granted by a power of attorney.

Information on release of confidential information to law enforcement is also updated to be congruent with FIP and Food Stamp policies published in 4-A and 7-A.

Effective Date

Upon receipt.

Material Superseded

Remove the following pages from Employees' Manual, Title I, Chapter C, and destroy them:

<u>Page</u>	<u>Date</u>
Contents (page 1)	February 7, 1989
Contents (page 2)	February 19, 1991
18a, 19	February 7, 1989
20, 47, 48, 54-58	June 21, 1988

Additional Information

Refer questions about this general letter to your regional benefit payment administrator.



THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
JESSIE K. RASMUSSEN, DIRECTOR

June 20, 2000

GENERAL LETTER NO. 1-C-11

ISSUED BY: Office of Policy Analysis

SUBJECT: Employees' Manual, Title I, Chapter C, ***CONFIDENTIALITY AND RECORDS***, Contents (pages 1 and 2), revised; and pages 27 through 30, revised.

Summary

This chapter is revised to:

- ◆ Remove policies about access to quarterly lists of cash assistance recipients. Senate File 2368, enacted by the Seventy-eighth General Assembly, 2000 Session, removed the statutory authority for the Department to produce this list.
- ◆ Update information about procedures to request child abuse and dependent adult abuse information.

Effective Date

July 1, 2000

Material Superseded

Remove the following pages from Employees' Manual, Title I, Chapter C, and destroy them:

<u>Page</u>	<u>Date</u>
Contents (pages 1 and 2)	November 17, 1998
27-30	June 21, 1988

Additional Information

No quarterly public assistance lists will be published for July 2000. Offices should discard any copies of previous lists.

Refer questions about this general letter to your regional benefit payment or service administrator.



THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
JESSIE K. RASMUSSEN, DIRECTOR

August 29, 2000

GENERAL LETTER NO. 1-C-12

ISSUED BY: Division of Data Management

SUBJECT: Employees' Manual, Title I, Chapter C, *CONFIDENTIALITY AND RECORDS*, pages 13, 14, and 15, revised.

Summary

The prices for making photocopies, accessing computer-stored information, and supervisory time for examining records have been updated. The last changes were twelve years ago and don't accurately reflect actual costs, including the hourly wages of information technology and clerical staff.

Effective Date

Upon release.

Material Superseded

Remove from Employees' Manual, Title I, Chapter C, pages 13, 14, and 15, dated June 21, 1988, and destroy them:

Additional Information

Refer questions about this general letter to your regional administrative officer.



STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
JESSIE K. RASMUSSEN, DIRECTOR

November 13, 2001

GENERAL LETTER NO. 1-C-13

ISSUED BY: Office of Policy Analysis, Division of Economic Assistance

SUBJECT: Employees' Manual, Title I, Chapter C, ***CONFIDENTIALITY AND RECORDS***, Contents (page 2), revised; pages 51, 52, and 52a, revised; and page 52b, new.

Summary

The Department of Human Services (DHS) has entered into an agreement with the Department of Education (DE) and local schools regarding DHS verification of eligibility for free meals in the School Meal Programs. With this agreement, DE and the schools are considered to meet DHS confidentiality standards.

Program names, department names, and cross-references relating to exchange of data with other agencies are also updated.

Effective Date

Upon receipt

Material Superseded

Remove from Employees' Manual, Title I, Chapter C, Contents (p. 2), dated June 20, 2000, and pages 51, 52, and 52a, all dated February 19, 1991, and destroy them.

Additional Information

Refer questions about this general letter to your regional benefit payment administrator.



February 12, 2002

GENERAL LETTER NO. 1-C-14

ISSUED BY: Division of Data Management,
Division of Financial, Health, and Work Supports,
Bureau of Collections

SUBJECT: Employees' Manual, Title I, Chapter C, **CONFIDENTIALITY AND RECORDS**, Contents (page 1), revised; pages 17, 18, 18a, 18b, 19, 20, and 20a, revised; and page 20b, new.

Summary

This chapter is revised to update and clarify policies for handling federal tax information. The highlights of these changes include:

- ◆ Clarification on what is considered federal tax information.
- ◆ Clarification of Internal Revenue Code 7431 and penalties for disclosure.
- ◆ Limitations regarding who can have access to federal tax information.
- ◆ Instructions on how to report a breach of confidentiality regarding federal tax information.
- ◆ Combination locks used to secure federal tax information must have their codes and combinations changed annually.
- ◆ Double sealed envelopes used to mail federal tax information will no longer be stamped "Confidential" on the outer envelope. Only the inside envelope will be stamped as "Confidential – to be opened by authorized personnel only."

Effective Date

Upon receipt.

Material Superseded

Remove the following pages from Employees' Manual, Title I, Chapter C, and destroy them:

<u>Page</u>	<u>Date</u>
Contents (page 1)	June 20, 2000
17, 18	August 30, 1994
18a, 18b, 19, 20, 20a	November 17, 1998

Additional Information

Refer questions about this general letter to your service area manager.



November 18, 2003

GENERAL LETTER NO. 1-C-15

ISSUED BY: Office of Policy Analysis

SUBJECT: Employees' Manual, Title 1, Chapter C, CONFIDENTIALITY AND RECORDS, Title page, revised; Contents (pages 1, 2, and 3, revised, and pages 4 through 7, new); pages 1 through 96, revised, and pages 97 through 174, new.

Summary

This chapter is revised to implement the privacy regulations for the Health Insurance Portability and Accountability Act (HIPAA), which were effective April 14, 2003. The HIPAA privacy standards the Department must meet regarding protected health information are incorporated into the confidentiality and records policies for Department programs. The basis for this chapter, 441 Iowa Administrative Code Chapter 9, "Public Records and Fair Information Practices," has been revised to include HIPAA privacy policies.

All text of the chapter is revised to bring it into the Department's current manual format and style.

Effective Date

November 1, 2003

Material Superseded

Remove the entire Employees' Manual, Title 1, Chapter C, and destroy it, as follows:

Page

Table with 2 columns: Page and Date. Rows include Title Page (June 21, 1988), Contents, p. 1 (February 12, 2002), Contents, p. 2 (November 13, 2001), Contents, p. 3 (February 7, 1989), 1-12 (June 21, 1988), 13-15 (August 29, 2000), 16 (June 21, 1988), 17, 18, 18a, 18b, 19, 20, 20a, 20b (February 12, 2002), 21-26 (June 21, 1988), 27 (June 20, 2000).

28	January 4, 1994
29, 30	June 20, 2000
31-35	June 21, 1988
36	May 21, 1991
37-46	June 21, 1988
47, 48	November 17, 1998
49, 50	June 21, 1988
51, 52, 52a, 52b	November 13, 2001
53	June 21, 1988
54, 54a, 54b, 55-58	November 17, 1998
59-88	June 21, 1988
90, 90a	February 7, 1989
91-96	June 21, 1988

Additional Information

Refer questions about this general letter to your service area manager, to your institution's privacy official, or to the Department's Privacy Office.



STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
KEVIN W. CONCANNON, DIRECTOR

June 22, 2004

GENERAL LETTER NO. 1-C-16

ISSUED BY: Office of Policy Analysis; Information Technology Project Management Office

SUBJECT: Employees' Manual, Title 1, Chapter C, **CONFIDENTIALITY AND RECORDS**, Contents (pages 5 and 6), revised; pages 3 through 6, 8, 9, 10, 15 through 18, 20, 27, 31, 32, 38, 39, 40, 45 through 48, 52, 56, 65 through 75, 77, 81, 94, 104, 105, 106, 109, 110, 112 through 120, 123 through 136, 137 through 142, 146, and 149, revised, and pages 40a, 136a, 136b, and 136c, new.

Summary

The U.S. Department of Health and Human Services published another final HIPAA regulation, "Health Insurance Reform: Security Standards," contained in 45 CFR Parts 160, 162, and 164, as amended to February 20, 2003. This regulation, known as the "security rule," becomes effective April 21, 2005, and is the basis for the Department's policy on the confidentiality, integrity, and availability of protected health information in electronic format.

The name of the Department's Privacy Office has been changed to "Security and Privacy Office" to reflect the additional responsibilities to HIPAA security policies and procedures.

This chapter is revised to incorporate information regarding these changes. These changes are found on the following pages: 3, 16, 18, 32, 38, 39, 45-48, 56, 65-75, 106, 109, 110, 112-115, 118, 119, 124-128, 130, 131, 133-136, 140, 141, 142, and 149.

Within the Department, the Security and Privacy Office is responsible for ensuring that HIPAA compliance is maintained. As part of this endeavor, the Diversity Program Unit is assigned to investigate any complaint regarding the security and privacy of protected health information that is filed against the Department or a member of the Department's workforce, including business associates. This chapter is revised to incorporate information regarding this assignment. These changes are found on the following pages: 136-139.

This chapter is further revised to incorporate corrections in text and legal references and to delete or add certain policy statements. These changes are found on the following pages: 3, 5, 6, 8, 9, 10, 15-18, 20, 27, 32, 38, 52, 68, 77, 81, 94, 104, 113, 114, 116, 120, 130, 132, 134, 141, 142, and 146.

Effective Date

Upon receipt.

Material Superseded

Remove the following pages from Employees' Manual, Title 1, Chapter C, and destroy them:

Page

Contents (pp. 5 and 6)	November 18, 2003
3-6, 8, 9, 10, 15-18, 20, 27, 31, 32, 38-40, 45-48, 52, 56, 65-75, 77, 81, 94, 104, 105 106, 109, 110, 112-120, 123-142, 146, 149	November 18, 2003

Additional Information

Refer questions about this general letter to your service area manager, to your institution's security or privacy official, or to the Department's Security and Privacy Office.



STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
KEVIN W. CONCANNON, DIRECTOR

May 13, 2005

GENERAL LETTER NO. 1-C-17

ISSUED BY: Security Office, Division of Data Management

SUBJECT: Employees' Manual, Title 1, Chapter C, **CONFIDENTIALITY AND RECORDS**, Contents (page 1), revised; pages 39, 40, 40a, and 130 through 133, revised; and page 40b, new.

Summary

This chapter is revised to incorporate information regarding changes on HIPAA security. The U.S. Department of Health and Human Services has published another final HIPAA regulation, "Health Insurance Reform: Security Standards," contained in 45 CFR Parts 160, 162, and 164, as amended to February 20, 2003. This regulation, known as the "security rule," became effective April 21, 2005, and is the basis for the Department's policy on the confidentiality, integrity, and availability of protected health information in electronic format.

Effective Date

Immediately.

Material Superseded

Remove the following pages from Employees' Manual, Title 1, Chapter C, and destroy them:

<u>Page</u>	<u>Date</u>
Contents (page 1)	November 18, 2003
39, 40, 40a, 130-133	June 22, 2004

Additional Information

Refer questions about this general letter to your service area manager, to your institution's security or privacy official, or to the Department's Security and Privacy Office.



STATE OF IOWA

CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
KEVIN W. CONCANNON, DIRECTOR

October 5, 2007

GENERAL LETTER NO. 1-C-18

ISSUED BY: Office of Policy Analysis

SUBJECT: Employees' Manual, Title 1, Chapter C, **CONFIDENTIALITY AND RECORDS**, Contents (pages 4 and 7), revised; pages 1, 2, 5, 6, 21, 23 through 35, 37, 38, 40a, 40b, 50, 55, 56, 61, 62, 72, 78, 82, 92, 93, 94, 95 through 99, 101 through 106, 111, 116, 119, 120, 124, 136a, 151, 152, 153, 155, 156, 157, and 166 through 174, revised; and pages 94a, 94b, and 175 through 182, new.

Summary

This chapter is revised to:

- ◆ Add a new section, "Information About Minors," to replace the section, "Protected Health Information of Minors." The section addresses the Iowa law that requires, unless otherwise ordered by the court in a custody decree, that parents with joint custody of their child have legal access to information concerning their child, including medical records.

Therefore, in some cases the Department may release information about a child receiving services or assistance to the child's parent who is not on the Department's case. The information may come from former or current case records. The section indicates:

- What type of information can be shared according to the specific program.
- What processes and procedures to be used to inform the child's parent, who is or was on the Department's case, of the other parent's request. A new form, 470-4375, *Child Records Query*, is to be used to address this type of request.
- ◆ Transmit changes to the "Fees" section lowering the dollar amounts and updating the personnel classifications used in determining the amount charged to persons requesting copies of public records. These changes are based on recent legal interpretations of the authorizing statute.
- ◆ Add information about confidentiality of HIV-related information that was previously published in Chapter 18-A(2).
- ◆ Make numerous other technical changes in organizational information, cross-references, and language, including:
 - Update of organizational names under the sections, "Applicability of HIPPA Policies" and "Immigration Authorities."

- Update of the list of data processing systems with current systems and functions under the section, “Personally Identifiable Information.” Also under this section, change language under “adoption records” for recipients of social services.
- Addition of the Iowa Adoption Exchange System (IAES), the Birth Certificate Verification (BCV) system, Child Care Provider Display (DCPD) system, and Vehicle Registration and Titling (VRT) system, to the section, “Data Processing Matching,” and removal of the RTS Claims Processing system from this section.
- Change in the address for the Treasury Inspector, General Tax Administration.
- Removal of form 470-1632, *Landlord Questionnaire*, from the list of authorized forms. This form is now obsolete.
- Change in the reference “state hospital-schools” to “state resource centers” under the section, “County Officials.” Also, removed the language of “local-purchase services” from the billing information.
- Change in the language under the section, “Business Associate Agreements,” to reflect some current examples of business function areas.
- Removal of the obsolete reference to the foster care review committee from the section, “Foster Care.”
- Change in the Department of Elder Affairs name, “Long-Term Care Advocate,” to the current name, “Long-Term Care Ombudsman,” throughout the chapter.
- Removal of references to rehabilitative treatment services from the section, “Use or Disclosure for Treatment, Payment, or Health Care Operations.”
- Correction of legal references, form names, form numbers, addresses, and cross-references where appropriate throughout the chapter.

Effective Date

Immediately.

Material Superseded

Remove the following pages from Employees’ Manual, Title 1, Chapter C, and destroy them:

<u>Page</u>	<u>Date</u>
Contents (pp. 4 and 7)	November 18, 2003
1, 2	November 18, 2003
5, 6	June 22, 2004
21, 23-26	November 18, 2003
27	June 22, 2004
28, 29, 30	November 18, 2003
31, 32	June 22, 2004

33, 34, 35, 37	November 18, 2003
38	June 22, 2004
40a, 40b	May 13, 2005
50, 55	November 18, 2003
56	June 22, 2004
61, 62	November 18, 2003
72	June 22, 2004
78, 82, 92, 93	November 18, 2003
94	June 22, 2004
95-99, 101, 103	November 18, 2003
104-106	June 22, 2004
111	November 18, 2003
116, 119, 120, 124, 136a	June 22, 2004
151-153, 155-157, 166-174	November 18, 2003

Additional Information

Refer questions about this general letter to your area income maintenance administrator, your service area manager, or your regional collections administrator.



STATE OF IOWA

CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
CHARLES J. KROGMEIER, DIRECTOR

October 16, 2009

GENERAL LETTER NO. 1-C-19

ISSUED BY: Information Security and Privacy Office, Division of Data Management

SUBJECT: Employees' Manual, Title 1, Chapter C, **CONFIDENTIALITY AND RECORDS**, Contents (page 1), revised; and pages 38, 39, 40, and 105, revised.

Summary

The Chapter 1-C section, "CONFIDENTIALITY: Sanctions for Violation of Client Confidentiality: Protected Health Information," is revised to:

- ◆ Remove details on penalties for violation of the Health Insurance Portability and Accountability Act, based on a request from the Department's Bureau of Human Resources. Violations had been classified as Level 1: Carelessness; Level 2: Unauthorized Access; and Level 3: Malicious, willfulness, or noncompliance for personal gain.
- ◆ Change language to clarify that:
 - A person who violates the Department's privacy or security policies related to protected health information will be subject to discipline, up to and including discharge.
 - Information collected in the investigation of the violation will be turned over to law enforcement and to any applicable licensing agency.

Effective Date

Immediately.

Material Superseded

Remove the following pages from Employees' Manual, Title 1, Chapter C, and destroy them:

<u>Page</u>	<u>Date</u>
Contents (page 1)	May 13, 2005
38	October 5, 2007
39, 40, 40a, 40b	May 13, 2005
105	October 5, 2007

Additional Information

Refer questions about this general letter to your service area manager, facility superintendent, or regional collections administrator.