



# Bureau of TennCare Policy Manual

Policy No: HIP 06-019	
Subject: Release of Enrollee Records by Court Authorized Requests	
Approval: <i>Don J. Cook</i>	Date: 5/13/2009

## PURPOSE OF POLICY

This policy addresses how the Bureau of TennCare (Bureau) will respond to requests related to court proceedings for enrollee protected health information (PHI), as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

## POLICY

**All Service of Process shall be received only by the Office of General Counsel.**

The Bureau of TennCare shall timely respond to requests in judicial and administrative proceedings for enrollee records maintained by the Bureau. Such requests, referred to in this policy as Court Records Authorizations (CRA), will be processed through the TennCare Privacy Office. The Bureau of TennCare will provide enrollees with all the privacy rights granted by HIPAA and by federal and state laws and regulations.

## DISCUSSION & LEGAL BASIS

This policy addresses only Court Records Authorizations (CRA) for enrollee records. CRAs are those made by or related to a court order, subpoena duces tecum or other legal document in the course of a judicial or administrative law proceeding. It does not apply to routine records authorizations during Bureau operations such as the processing of medical services appeals. It likewise does not apply to court or other legal requests for TennCare records not containing enrollee PHI.

Enrollee PHI is confidential except as use or disclosure is permitted by HIPAA and other federal and state privacy rules.

## PROCEDURE

1. All Court Records Authorizations shall be handled by the TennCare Privacy Office.
2. Any Bureau staff person receiving a Court Records Authorization (CRA) shall forward it to the TennCare Privacy Office:

TennCare Privacy Officer  
P.O. Box 20007  
Nashville, TN 37202

3. Steps of record tracking shall be maintained in a separate desktop procedure. This procedure shall be updated periodically by the TennCare Privacy and Compliance Officer.
4. With Court Order. The Bureau shall release only the information expressly authorized by the order.
5. Without Court Order. In response to a subpoena, discovery request, or other lawful process, requested information may be released as provided by HIPAA and verified by the TennCare Privacy Office.
6. Copy charges shall be applied depending on the nature and scope of the request.
7. When filing objections or other responses, please see Tenn. R. Civ. Pro. 45 and/or applicable Federal provisions.
8. Completion Date. The CRA should be deemed complete when objection or response is mailed. Verification of delivery should be received prior to file closure.

## DEFINITIONS

**Enrollee**: means those currently enrolled in all categories of TennCare Medicaid and TennCare Standard; or, an individual eligible for and enrolled in the TennCare Program or in any Tennessee federal Medicaid waiver program pursuant to Sections 1115 or 1915 of the Social Security Act; or, for purposes of the Bureau Privacy policies, the term may also be used to reference one who was previously an enrollee during a period for which there is a privacy request or compliance inquiry.

**HIPAA**: means Health Insurance Portability and Accountability Act of 1996 and for which administrative simplification, privacy, and security regulations are codified at 45 CFR §§ 160-164.

**Protected Health Information (PHI)**: means information about an individual's health and medical history. It can also include non-medical facts like address, or date of birth, which identify an individual.

**Subpoena:** A command to appear in court to testify as a witness.

**Subpoena Duces Tecum:** A legal paper requiring someone to produce documents or records for examination by the court.

**OFFICES OF PRIMARY RESPONSIBILITY**

TennCare Privacy Officer, Office of General Counsel

**RELATED FORMS**

None

**REFERENCES**

45 CFR §§ 160-164, particularly 45 CFR § 164.512  
Tennessee Compilation of Rules & Regulations 1200-13-11-.01