



Policy: HH.3001  
Title: **Member Access to Designated Record Set**  
Department: Office of Compliance  
Section: Privacy

*CEO Approval: /s/ Michael Hunn 11/19/2024*

Effective Date: 04/01/2003

Revised Date: 10/01/2024

Applicable to: ☒ Medi-Cal  
☒ OneCare  
☒ PACE  
☐ Administrative

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## I. PURPOSE

This policy defines the Designated Record Set (DRS) that contains Protected Health Information (PHI) for a Member, maintained by CalOptima Health and the conditions under which the Member, or their Personal Representative, may access, inspect, or obtain a copy of their PHI in the DRS or through a Patient Access Application Programming Interface (API).

## II. POLICY

- A. Except as otherwise provided in Section III.A.9. of this Policy, Members shall have the right of access to inspect and obtain a copy of their PHI in the DRS for as long as CalOptima Health maintains the PHI in the DRS.
- B. CalOptima Health shall provide a Member with access to their PHI in the format requested by the Member, if it is readily producible in such form and format; or, if not, in a readable hard copy form or such other form and format as agreed to by CalOptima Health and the Member.
- C. CalOptima Health shall grant a Member's Personal Representative access to a Member's PHI, in accordance with CalOptima Health Policies HH.3009: Access by Member's Personal Representative and HH.3015: Member Authorization for the Use and Disclosure of Protected Health Information.
- D. CalOptima Health shall implement and maintain a secure, standards-based Patient Access API that shall connect to provider electronic health records and practice management systems, in accordance with requirements specified at 42 CFR section 431.60.
  - 1. CalOptima Health shall permit third-party applications, such as an API, to retrieve data specified in the Patient Access Rule, through the use of common technologies and without special effort from the Member, with the approval and the direction of a Member or Member's Personal Representative.
- E. Any person with knowledge of a violation, or potential violation, of this Policy shall report such information to the Privacy Officer directly, or through the CalOptima Health Compliance and Ethics Hotline at 1-855-507-1805 or email: [privacy@caloptimahealth.org](mailto:privacy@caloptimahealth.org).

### III. PROCEDURE

#### A. Requests for access to inspect or obtain a copy of DRS:

1. A Member shall submit a written request for access to inspect or obtain a copy of their PHI in the DRS by submitting the Individual Request for Access to Protected Health Information (PHI) Contained in the Designated Record Set (DRS) Form (Attachment D) to the Office of Compliance. A Member's Personal Representative may request access to the Member's PHI in accordance with the requirements set forth in CalOptima Health Policy HH.3009: Access by Member's Personal Representative.
  - a. Member or their Personal Representative has the right to direct CalOptima Health to transmit the PHI directly to another person, or entity, as designated by the Member or their Personal Representative, in accordance with CalOptima Health Policy HH.3009: Access by Member's Personal Representative.
    - i. The Member's or their Personal Representative's request to transmit the PHI to another person, or entity, must be in writing, signed by the Member or their Personal Representative, and clearly identify the designated person, or entity, and location (postal address) to send the PHI.
2. A Parent has access to an unemancipated child's Designated Record Set regardless of custody or which parent arranges and/or pays for healthcare services unless the parent's parental rights have been terminated by a court.
  - a. Under California law, if a minor age twelve (12) years and older consents on his or her own behalf for the following services without parental consent, PHI related to these services cannot be released to the parent or the Member's Personal Representative without specific authorization from the minor Member:
    - i. Pregnancy test, prenatal care, or birth control;
    - ii. Testing or Treatment for sexual disease, including Human Immunodeficiency Virus (HIV);
    - iii. Mental health Treatment or counseling;
    - iv. Treatment for rape or sexual assault; and
    - v. Alcohol or substance abuse Treatment.
3. CalOptima Health will restrict the circumstances of the use or disclosure of reproductive health care information if the disclosure may be related to a prohibited purpose. Any investigations against persons seeking, obtaining, providing or facilitating lawful reproductive health care may be such circumstances.
4. While CalOptima Health's DRS contains certain medical and payment records from providers, it does not have complete copies of records created and/or maintained by Providers or entities other than CalOptima Health. If a Member wants such records, they are advised to contact their doctor, Health Network, or other health care Provider. CalOptima Health does maintain medical and billing records for PACE Program participants which may be obtained by the participant or their Personal Representative.

5. CalOptima Health shall process a request to access, inspect or obtain copies of the PHI in the DRS promptly, and unless an extension is required under Section III.A.5., no later than thirty (30) calendar days after receipt of a complete written request.
  - a. If the Member requests their PHI to be sent via mail, CalOptima Health may impose a reasonable, cost-based fee for postage and may charge up to ten cents (\$0.10) per page for copying.
6. If necessary, a thirty (30) calendar day extension may be used to retrieve information that is not readily available.
  - a. For an extension, CalOptima Health must provide the Member, within thirty (30) calendar days after receipt of the request, a written statement of the reasons for the delay and the date by which it will complete its action on the request.
  - b. CalOptima Health may only have one (1) such extension of time for action on a request for access to DRS.
7. The Office of Compliance shall notify the Member, in writing, of the determination on the request. The notice shall contain the information set forth in Section III.E. of this Policy.
8. Verification of Member identification requesting access to inspect or copy the DRS:
  - a. If the Member makes such request in person to the Customer Service Department, Customer Service staff shall:
    - i. Request identification (e.g., Driver License or Member ID card), or ask to verify the Member's date of birth or address based on FACETS™ data; and
    - ii. Provide the Member with a copy of the Individual Request for Access to Protected Health Information (PHI) Contained in the Designated Record Set (DRS) Form (Attachment D) for the Member to complete.
  - b. If the Member request is received by mail or fax, the Office of Compliance staff shall verify the identity of the individual in accordance with CalOptima Health Policy HH.3003: Verification of Identity for Disclosure of Protected Health Information.
9. The Office of Compliance shall accept a request from the Member as valid, provided all information on the request is complete and accurate. All requests shall include:
  - a. An Individual Request for Access to Protected Health Information (PHI) Contained in the Designated Record Set (DRS) Form (Attachment D); or
  - b. A written request that provides sufficient information, as necessary to identify the specific PHI sought; and
  - c. Documentation that verifies the identity of the Member, in accordance with CalOptima Health Policy HH.3003: Verification of Identity for Disclosure of Protected Health Information.

10. The Office of Compliance shall review the request, determine if Member access is appropriate, and which parts of the DRS the Member cannot access.
11. The Office of Compliance may deny Member access in the following circumstances:
  - a. Psychotherapy Notes;
  - b. PHI compiled in reasonable anticipation of, or for Use in, a civil, criminal, or administrative action, or proceeding;
  - c. A CalOptima Health PACE covered health care Provider acting under the direction of the correctional institution may deny, in whole or in part, an inmate's request to obtain a copy of PHI, if obtaining such copy would jeopardize the health, safety, security, custody, or rehabilitation of the individual or of other inmates, or the safety of any officer, employee, or other person at the correctional institution or responsible for transporting of the inmate;
  - d. A Member's access to PHI created or obtained by a CalOptima Health PACE covered health care Provider in the course of research that includes Treatment may be temporarily suspended for as long as the research is in progress, provided that the Member has agreed to the denial of access when consenting to participate in the research that includes Treatment, and the covered health care Provider has informed the Member that the right of access will be reinstated upon completion of the research;
  - e. PHI obtained from someone other than a Provider under a promise of confidentiality, and the access requested would be reasonably likely to reveal the source of the information.
  - f. A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life, or physical safety, of the Member, or another person;
  - g. The PHI makes reference to another person other than the Member, unless that person is a Provider, and a licensed health care professional has determined, in his or her professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or
  - h. The Personal Representative requests for access, and a licensed health care professional has determined, in their professional judgment, that the provision of access to such Personal Representative is reasonably likely to cause substantial harm to the individual, or another person.
12. If the denial is based on any of the reasons as stated in Section III.A.9 f-h, a Member can request to have the denial reviewed by another licensed health care professional by submitting a written request to the CalOptima Health Privacy Officer at 505 City Parkway West, Orange, CA 92868. The licensed health care professional involved in the appeal cannot be the same person as the licensed health care professional who made the original denial decision.
13. If the denial is based on any of the reasons as stated in Section III.A.9 a-e, a Member is not entitled to request that the denial be reviewed.
14. The Office of Compliance shall route the request to the department(s), or business associate responsible for creating, or maintaining, the requested record(s).

15. The responsible department shall locate and send a copy of all requested PHI to the Office of Compliance within seven (7) calendar days of receiving the request.
  16. The Business Associate shall send a copy of the requested PHI to the Office of Compliance within fourteen (14) calendar days of receiving the request.
  17. The Office of Compliance shall review all records for accuracy prior to providing the requested records to the Member or their Personal Representative.
- B. The following departments within CalOptima Health shall maintain the content found in the DRS:
1. Customer Service;
  2. Information Technology Services;
  3. Claims Administration;
  4. Utilization Management;
  5. Case Management;
  6. Pharmacy;
  7. Grievance and Appeals Resolution Services;
  8. Enrollment;
  9. Multipurpose Senior Services Program (MSSP);
  10. Long-Term Services and Supports (LTSS);
  11. Population Health Management;
  12. Behavioral Health; and
  13. Program of All-Inclusive Care for the Elderly (PACE).
- C. Department staff shall provide copies of all requested PHI. Department staff shall inform the Privacy Officer if there are records that require further evaluation to determine the appropriateness of Member access to inspect or copy PHI from the DRS.
- D. The Privacy Officer shall consult with a licensed healthcare professional to determine the appropriateness of Member access to inspect or copy PHI from the DRS.
1. Access to specific types of records may be denied based on the determination of the licensed healthcare professional, as provided by the Health Insurance Portability and Accountability Act of 1996, as amended (HIPAA).
- E. If CalOptima Health does not maintain the PHI that is the subject of the Member's request for access, and CalOptima Health knows where the requested information is maintained, CalOptima Health shall inform the Member of the entity to whom the Member may direct such request.

F. Notification to Member:

1. The Office of Compliance shall notify the Member regarding the record request as follows:
  - a. **Approved:** If CalOptima Health approves the Member's request, CalOptima Health shall provide the Member with a records enclosed notification letter (Attachment H) and the records requested, in accordance with the format and method designated on the Individual Request for Access to Protected Health Information (PHI) Contained in the Designated Record Set (DRS) Form (Attachment D) within thirty (30) calendar days after receipt of the request, but no later than sixty (60) calendar days if an extension is needed.
  - b. **Denied:** If CalOptima Health denies the Member's request, CalOptima Health shall send a notification letter to the Member within thirty (30) calendar days after receipt of the request, but no later than sixty (60) calendar days if an extension is needed, informing the Member of the decision, the reason for denial, and instructions on Member's appeal rights to have the materials reviewed, if applicable. The denial notice shall include a description of how a Member may complain to CalOptima Health, or the Office of Civil Rights (OCR), and contact information for how to file a complaint with CalOptima Health.
  - c. **Approved or denied, in whole or in part:** If CalOptima Health approves a portion of the Member's request and also denies portion of the request, CalOptima Health shall provide the Member with the records requested in accordance with Section III.F.1.a of this Policy. CalOptima Health shall also provide a letter informing the Member of the denial (Attachment E or F, whichever is applicable), in accordance with Section III.F.1.b of this Policy.
  - d. **Invalid Request:** If the request is unable to be processed due to missing information, CalOptima Health will notify the Member or their Personal Representative with an invalid request letter (Attachment G) as soon as possible but no later than within thirty (30) calendar days of receipt.

G. Documentation

1. The Office of Compliance shall retain a record of the requests and related letters, including a copy of information released to the Member, for ten (10) years from the date of the release.

H. Designated Record Set Content

1. The content of CalOptima Health's DRS can be found in the Designated Record Set Matrix (Attachment A).

I. Patient Access API

1. CalOptima Health shall make the following individual-level United States Core Data for Interoperability (USCDI) data that they maintain for dates of services on, or after, January 1, 2016, available to the Member or their Personal Representative:

Type of Information	Time by Which Information Must be Accessible
Adjudicated claims data and cost data, including claims that may be appealed, were appealed, or in the process of appeal	Within one (1) business day after a claim is processed

Type of Information	Time by Which Information Must be Accessible
Encounter data for capitated Providers	Within one (1) business day after receiving data from Providers
Clinical data, including diagnoses and related codes, and laboratory test results	Within one (1) business day after receiving data from Providers
Information about covered outpatient drugs as part of medical services, and updates to such information, including, costs to the Member, and preferred drug list information, if applicable	Within one (1) business day after the effective date of any such information or updates to such information

#### IV. ATTACHMENT(S)

- A. Designated Record Set Matrix
- B. Instruction Sheet for CalOptima Health, Health Insurance Portability and Accountability Act (HIPAA) Authorization for Disclosure of Protected Health Information
- C. Authorization for CalOptima Health to Disclose Protected Health Information (PHI) to Another Person or Entity
- D. Individual Request for Access to Protected Health Information (PHI) Contained in the Designated Record Set (DRS)
- E. Letter: Denial of Access-Subject to Review
- F. Letter: Denial of Access-Not Subject to Review
- G. Letter: Request Invalid
- H. Letter: Records Enclosed

#### V. REFERENCE(S)

- A. California Code, Family Code § 3025
- B. California Code, Health & Safety Code §§ 123110(a), 123115(a)(1);
- C. California Code, Civil Code §§ 56.10, 56.11
- D. CalOptima Health Compliance Plan
- E. CalOptima Health Contract with the Centers for Medicare & Medicaid Services (CMS) for Medicare Advantage
- F. CalOptima Health Contract with the Department of Health Care Services (DHCS) for Medi-Cal
- G. CalOptima Health PACE Program Agreement
- H. CalOptima Health Notice of Privacy Practices
- I. CalOptima Health Policy GG.1618: Member Request for Medical Records
- J. CalOptima Health Policy HH.2022: Record Retention and Access
- K. CalOptima Health Policy HH.3003: Verification of Identity for Disclosure of Protected Health Information
- L. CalOptima Health Policy HH.3004: Member Request to Amend Records
- M. CalOptima Health Policy HH.3009: Access by Member's Personal Representative
- N. CalOptima Health Policy HH.3015: Member Authorization for the Use and Disclosure of Protected Health Information (PHI)
- O. CalOptima Health Privacy Program
- P. CMS Interoperability Rule (85 FR 25510)
- Q. Department of Healthcare Services (DHCS) All Plan Letter (APL) 22-026: Interoperability and Patient Access Final Rule
- R. NCQA Standard MED5 Privacy and Confidentiality: Element A: Factor 2 – 2017
- S. Title 45, Code of Federal Regulations (C.F.R.), §164.501
- T. Title 45, Code of Federal (C.F.R.), § 164.502 (5) (iii)

- U. Title 45, Code of Federal Regulations (C.F.R.), §164.524  
V. Title 45, Code of Federal Regulations (C.F.R.), §164.530(j)(2)  
W. Title 42 Code of Federal Regulations (CFR) Section 431.60

## VI. REGULATORY AGENCY APPROVAL(S)

Date	Regulatory Agency	Response
04/13/2022	Department of Health Care Services (DHCS)	Approved as Submitted
05/02/2023	Department of Health Care Services (DHCS)	Approved as Submitted

## VII. BOARD ACTION(S)

Date	Meeting
12/01/2016	Regular Meeting of the CalOptima Board of Directors
12/07/2017	Regular Meeting of the CalOptima Board of Directors
12/06/2018	Regular Meeting of the CalOptima Board of Directors
12/05/2019	Regular Meeting of the CalOptima Board of Directors
12/03/2020	Regular Meeting of the CalOptima Board of Directors
12/20/2021	Special Meeting of the CalOptima Board of Directors

## VIII. REVISION HISTORY

Action	Date	Policy	Policy Title	Program(s)
Effective	04/01/2003	HH.3001	Member Access to Designated Record Set	Medi-Cal
Revised	04/01/2007	HH.3001	Member Access to Designated Record Set	Medi-Cal
Revised	07/01/2008	HH.3001	Member Access to Designated Record Set	Medi-Cal
Revised	07/01/2011	HH.3001	Member Access to Designated Record Set	Medi-Cal
Revised	01/01/2013	HH.3001	Member Access to Designated Record Set	Medi-Cal
Revised	01/01/2014	HH.3001	Member Access to Designated Record Set	Medi-Cal
Revised	11/01/2014	HH.3001	Member Access to Designated Record Set	Medi-Cal
Revised	09/01/2015	HH.3001	Member Access to Designated Record Set	Medi-Cal
Revised	12/01/2016	HH.3001	Member Access to Designated Record Set	Medi-Cal OneCare OneCare Connect PACE
Revised	05/01/2017	HH.3001	Member Access to Designated Record Set	Medi-Cal OneCare OneCare Connect PACE
Revised	12/07/2017	HH.3001	Member Access to Designated Record Set	Medi-Cal OneCare OneCare Connect PACE



<b>Action</b>	<b>Date</b>	<b>Policy</b>	<b>Policy Title</b>	<b>Program(s)</b>
Revised	12/06/2018	HH.3001	Member Access to Designated Record Set	Medi-Cal OneCare OneCare Connect PACE
Revised	12/05/2019	HH.3001	Member Access to Designated Record Set	Medi-Cal OneCare OneCare Connect PACE
Revised	12/03/2020	HH.3001	Member Access to Designated Record Set	Medi-Cal OneCare OneCare Connect PACE
Revised	12/20/2021	HH.3001	Member Access to Designated Record Set	Medi-Cal OneCare OneCare Connect PACE
Revised	03/01/2023	HH.3001	Member Access to Designated Record Set	Medi-Cal OneCare PACE
Revised	10/01/2024	HH.3001	Member Access to Designated Record Set	Medi-Cal OneCare PACE

## IX. GLOSSARY

<b>Term</b>	<b>Definition</b>
Designated Record Set (DRS)	<p>Has the meaning given such term in Section 164.501 of Title 45, Code of Federal Regulations. A group of records maintained by or for a covered entity that is:</p> <ol style="list-style-type: none"> <li>1. The medical records and billing records about individuals maintained by or for a covered health care Provider;</li> <li>2. The enrollment, Payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or</li> <li>3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.</li> </ol> <p>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 a covered entity.</p>
Disclosure	Has the meaning in Title 45, Code of Federal Regulations Section 160.103 including the following: the release, transfer, provision of access to, or divulging in any manner of information outside of the entity holding the information.
FACETS™	Licensed software product that supports administrative, claims processing and adjudication, Membership data, and other information needs of managed care organizations.
Health Care Operations	Has the meaning given such term in Section 164.501 of Title 45, Code of Federal Regulations including activities including quality assessment and improvement activities, care management, professional review, compliance and audits, health insurance underwriting, premium rating and other activities related to a contract and health benefits, management and administration activities, customer services, resolution of internal grievances, business planning, and development and activities related to compliance with the privacy rule.
Health Network	A Physician Hospital Consortium (PHC), physician group under a shared risk contract, or health care service plan, such as a Health Maintenance Organization (HMO) that contracts with CalOptima Health to provide Covered Services to Members assigned to that Health Network.
Long Term Services and Supports (LTSS)	<p>A wide variety of services and supports that help Members meet their daily needs for assistance and improve the quality of their lives. LTSS are provided over an extended period, predominantly in homes and communities, but also in facility-based settings such as nursing facilities. As described in California WIC Section 14186.1, Medi-Cal covered LTSS includes all of the following:</p> <ol style="list-style-type: none"> <li>1. Community-Based Adult Services (CBAS);</li> <li>2. Multipurpose Senior Services Program (MSSP) services;</li> <li>3. Skilled nursing facility services and subacute care services; and</li> <li>4. In-Home Supportive Services (IHSS).</li> </ol>
Member	A beneficiary enrolled in a CalOptima Health program.

<b>Term</b>	<b>Definition</b>
Multipurpose Senior Services Program (MSSP)	A program approved under the federal Medicaid Home and Community-Based, 1915 (c) Waiver designed to prevent premature institutionalization through provision of comprehensive social and health care management to assist frail elder person who are certifiable for placement in a nursing facility, to remain safely at home at a cost lower than nursing facility care.
Payment	<p>Has the meaning in 42 Code of Federal Regulations Section 164.501, including: activities carried out by CalOptima Health including:</p> <ol style="list-style-type: none"> <li>1. Determination of eligibility, risk adjustments based on Member health status and demographics, billing claims management, and collection activities;</li> <li>2. Review of health care services regarding medical necessity, coverage under a health plan, appropriateness of care, or justification of charges; and</li> <li>3. Utilization review activities including pre-certification, preauthorization, concurrent, or retrospective review of services.</li> </ol>
Personal Representative	Has the meaning given to the term Personal Representative in Section 164.502(g) of Title 45, Code of Federal Regulations. A person who has the authority under applicable law to make health care decisions on behalf of adults or emancipated minors, as well as parents, guardians or other persons acting <i>in loco parentis</i> who have the authority under applicable law to make health care decisions on behalf of unemancipated minors and as further described in CalOptima Health Policy HH.3009: Access, Use, and Disclosure of PHI to a Member's Personal Representative.
Protected Health Information (PHI)	<p>Has the meaning in Title 45 Code of Federal Regulations Section 160.103, including the following: individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium.</p> <p>This information identifies the individual or there is reasonable basis to believe the information can be used to identify the individual. The information was created or received by CalOptima Health or Business Associates and relates to:</p> <ol style="list-style-type: none"> <li>1. The past, present, or future physical or mental health or condition of a Member;</li> <li>2. The provision of health care to a Member; or</li> <li>3. Past, present, or future Payment for the provision of health care to a Member.</li> </ol>

<b>Term</b>	<b>Definition</b>
Provider	<p><u>Medi-Cal</u>: A physician, nurse, nurse mid-wife, nurse practitioner, medical technician, physician assistant, hospital, laboratory, ancillary provider, or other person or institution that furnishes Covered Services.</p> <p><u>OneCare</u>: Any Medicare provider (e.g., hospital, skilled nursing facility, home health agency, outpatient physical therapy, comprehensive outpatient rehabilitation facility, end-stage renal disease facility, hospice, physician, non-physician provider, laboratory, supplier, etc.) providing Covered Services under Medicare Part B. Any organization, institution, or individual that provides Covered Services to Medicare members. Physicians, ambulatory surgical centers, and outpatient clinics are some of the providers of Covered Services under Medicare Part B.</p>
Psychotherapy Notes	Has the meaning given such term in Section 164.501 of Title 45, Code of Federal Regulations. Notes 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 that are separated from the rest of the Member's medical record. Psychotherapy Notes excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of Treatment furnished, results of clinical tests, and any summary of the following items: Diagnosis, functional status, the Treatment plan, symptoms, prognosis, and progress to date
Treatment	Has the meaning in 45 Code of Federal Regulations Section 164.501, including: activities undertaken on behalf of a Member including the provision, coordination, or management of health care and related services; the referral to, and consultation between, health care Providers; and coordination with third parties for services related to the management of the Member's health care benefits.
Use	Has the meaning in Title 45 Code of Federal Regulations Section 160.103, including the following: the sharing, employment, application, utilization, examination, or analysis of the PHI within an entity that maintains such information.