



Policy: HH.3005
Title: **Member Request for Accounting of Disclosures**
Department: Office of Compliance
Section: Privacy

CEO Approval: /s/ Michael Hunn 11/20/2024

Effective Date: 04/01/2003

Revised Date: 11/07/2024

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

I. PURPOSE

This policy defines the scope of a Member's right to receive an accounting of Disclosures of the Member's Protected Health Information (PHI) made by CalOptima Health, including Disclosures to or by its Business Associates.

II. POLICY

A. Upon a Member's request, CalOptima Health shall provide an accounting of PHI Disclosures released in the six (6) years prior to the date of the request (or lesser time, if requested).

1. Disclosures excluded from accounting include Disclosures:

- a. To carry out Treatment, Payment, and Health Care Operations;
- b. To individuals of PHI about them;
- c. Incident to a Use or Disclosure otherwise permitted or required;
- d. Pursuant to an authorization;
- e. To persons involved in the individual's care or other notification purposes as provided in Title 45, CFR, §164.510;
- f. For national security or intelligence purposes;
- g. To correctional institutions or law enforcement officials;
- h. As part of a Limited Data Set; or
- i. That occurred prior to the compliance date for CalOptima Health.
- j. For the facility's directory as provided in Title 45, CFR, §164.510 with respect to the Program of All-Inclusive Care for the Elderly (PACE) only.

- B. The Office of Compliance shall track all other Disclosures of PHI not mentioned in Section II.A., in accordance with CalOptima Health Policy HH.3006: Tracking and Reporting Disclosures of Protected Health Information.
- C. Disclosure of PHI is not limited to hard-copy information and may include any information Disclosed by other means, such as verbally, electronic data release, or by facsimile.
- D. CalOptima Health shall temporarily suspend a Member's right to receive an accounting of Disclosures pursuant to a request from a health oversight agency, or law enforcement official if:
 - 1. CalOptima Health receives a written statement from such agency or official that an accounting to the Member would be reasonably likely to impede the agency's activities, and specifying the time for which such a suspension is required; or
 - 2. A health oversight agency, or law enforcement official, provides a verbal statement to CalOptima Health, in which case CalOptima Health shall:
 - a. Document the statement, including the identity of the agency, or official, making the statement;
 - b. Temporarily suspend the Member's right to an accounting of Disclosures subject to the statement; and
 - c. Limit the temporary suspension to no longer than thirty (30) calendar days from the date of the oral statement, unless CalOptima Health receives a written request for suspension.

III. PROCEDURE

- A. A Member may request an accounting of Disclosures of his or her PHI that CalOptima Health released, in the six (6) years prior to the date of the request (or lesser time, if requested), by submitting a Request for an Accounting of Disclosures Form to the Customer Service Department.
- B. The Customer Service Department shall:
 - 1. Provide the Member with a Request for an Accounting of Disclosures Form by U.S. mail, or in person at the CalOptima Health office; and
 - 2. Assist the Member in completing the form, if necessary.
- C. CalOptima Health's Customer Service Department shall forward all requests to the Privacy Officer, or Designee, who shall process the request.
- D. CalOptima Health shall review a Member's request for an accounting of Disclosure from Members enrolled in a Health Network in coordination with the Health Network, or other Business Associate, as appropriate.
- E. CalOptima Health must provide the Member with a written accounting of the Disclosures that meets the following requirements:
 - 1. Except as otherwise provided in Sections II. A.1 or II.D of this Policy, the accounting must include Disclosures of PHI that occurred during the six (6) years, or shorter time period as designated on the Member's request, prior to the date of the request for an accounting, including Disclosures to or by CalOptima Health's Business Associates.

2. Except as otherwise provided in Section III.F of this Policy, the accounting must include for each Disclosure:
 - a. The date of the Disclosure;
 - b. The name of the entity, or person, who received the PHI, and if known, the address of such entity or person;
 - c. A brief description of the PHI disclosed; and
 - d. A brief statement of the purpose of the Disclosure that reasonably informs the individual of the basis for the Disclosure, or in lieu of such statement, a copy of a written request for a Disclosure.
- F. If, during the period covered by the accounting, CalOptima Health has made multiple Disclosures of PHI to the same person or entity for a single purpose under 45 CFR §§ 164.502 (a)(2)(ii) or 164.512, the accounting with respect to such multiple Disclosures, may provide:
 1. The information required by Section III.E. of this Policy for the first Disclosure during the accounting period requested by the Member;
 2. The frequency, periodicity, or number of Disclosures made during the accounting period requested by the Member; and
 3. The date of the last such Disclosure during the accounting period requested by the Member.
- G. The Office of Compliance shall act on the Member's request as follows:
 1. Provide the Member with the accounting within sixty (60) calendar days after the receipt of the request; or
 2. If CalOptima Health is unable to provide the accounting within the sixty (60) calendar days, extend the time by no more than thirty (30) calendar days.
 - a. For an extension, the Office of Compliance shall, within the sixty (60) calendar days after the receipt of the request, provide the Member with a written statement of:
 - i. The reasons for the delay (i.e., why the PHI accounting will not be prepared within sixty (60) calendar days) and
 - ii. The date by which the accounting will be provided;
 - b. The Office of Compliance shall complete the request within the extended time period. CalOptima Health may have only one (1) extension of the time for action on a request for an accounting.

H. Documentation

1. The Office of Compliance shall document the request in the Office of Compliance tracking database that shall include, but not be limited to:
 - a. Date of request;
 - b. Date range requested;
 - c. Name of Member or Member's Personal Representative requesting the accounting;
 - d. Member identification (ID) number;
 - e. Name of staff person who processed the request; and
 - f. Date the accounting was released to Member.
 2. The Office of Compliance shall maintain a copy of the PHI accounting provided to the Member for ten (10) years from the date the request is received.
- I. CalOptima Health shall provide the Member with the first request for an accounting in any twelve (12) month period at no charge. CalOptima Health may charge the Member a reasonable, cost-based fee for each future request within the twelve (12) month period, provided that CalOptima Health informs the Member in advance of the fee, and offers the Member a chance to withdraw, or modify, the request to avoid, or reduce, the fee.

IV. ATTACHMENT(S)

- A. Request for an Accounting of Disclosures Form
- B. Response to Request for Accounting of Disclosures

V. REFERENCE(S)

- A. CalOptima Health Contract with the Centers for Medicare & Medicaid Services (CMS) for Medicare Advantage
- B. CalOptima Health Contract with the Department of Health Care Services (DHCS) for Medi-Cal
- C. CalOptima Health PACE Program Agreement
- D. CalOptima Health Policy HH.3006: Tracking Disclosures of Protected Health Information
- E. CalOptima Health Compliance Plan
- F. CalOptima Health Privacy Program
- G. Guide to Medical Privacy and HIPAA, Thompson Publishing Group, 2002, Section 400-Medical Records Privacy Requirements
- H. NCQA Standard MED4 Privacy and Confidentiality
- I. Title 45, Code of Federal Regulations (CFR), §§ 164.502, 164.512, and 164.528

VI. REGULATORY AGENCY APPROVAL(S)

None to Date

VII. BOARD ACTION(S)

Date	Meeting
12/01/2016	Regular Meeting of the CalOptima Board of Directors

Date	Meeting
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
11/07/2024	Regular Meeting of the CalOptima Health Board of Directors

VIII. REVISION HISTORY

Action	Date	Policy	Policy Title	Program(s)
Effective	04/01/2003	HH.3005	Member Request for an Accounting of Disclosures	Medi-Cal
Revised	04/01/2007	HH.3005	Member Request for an Accounting of Disclosures	Medi-Cal
Revised	01/01/2008	HH.3005	Member Request for an Accounting of Disclosures	Medi-Cal
Revised	07/01/2011	HH.3005	Member Request for an Accounting of Disclosures	Medi-Cal
Revised	01/01/2013	HH.3005	Member Request for an Accounting of Disclosures	Medi-Cal OneCare
Revised	01/01/2014	HH.3005	Member Request for an Accounting of Disclosures	Medi-Cal OneCare
Revised	11/01/2014	HH.3005	Member Request for an Accounting of Disclosures	Medi-Cal
Revised	09/01/2015	HH.3005	Member Request for an Accounting of Disclosures	Medi-Cal
Revised	12/01/2016	HH.3005	Member Request for Accounting of Disclosures	Medi-Cal OneCare OneCare Connect PACE
Revised	12/07/2017	HH.3005	Member Request for Accounting of Disclosures	Medi-Cal OneCare OneCare Connect PACE
Revised	12/06/2018	HH.3005	Member Request for Accounting of Disclosures	Medi-Cal OneCare OneCare Connect PACE
Revised	12/05/2019	HH.3005	Member Request for Accounting of Disclosures	Medi-Cal OneCare OneCare Connect PACE
Revised	12/03/2020	HH.3005	Member Request for Accounting of Disclosures	Medi-Cal OneCare OneCare Connect PACE
Revised	12/20/2021	HH.3005	Member Request for Accounting of Disclosures	Medi-Cal OneCare OneCare Connect PACE

Action	Date	Policy	Policy Title	Program(s)
Revised	12/31/2022	HH.3005	Member Request for Accounting of Disclosures	Medi-Cal OneCare PACE
Revised	09/01/2023	HH.3005	Member Request for Accounting of Disclosures	Medi-Cal OneCare PACE
Revised	11/07/2024	HH.3005	Member Request for Accounting of Disclosures	Medi-Cal OneCare PACE

IX. GLOSSARY

Term	Definition
Business Associate	<p>Has the meaning given such term in Section 160.103 of Title 45, Code of Federal Regulations. A person or entity who:</p> <ol style="list-style-type: none">1. On behalf of such covered entity or of an organized health care arrangement (as defined in this section) in which the covered entity participates, but other than in the capacity of a Member of the workforce of such covered entity or arrangement, creates, receives, maintains, or transmits protected health information for a function or activity regulated by this subchapter, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, patient safety activities listed at 42 CFR 3.20, billing, benefit management, practice management, and repricing; or2. Provides, other than in the capacity of a Member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation (as defined in §164.501 of this subchapter), management, administrative, accreditation, or financial services to or for such covered entity, or to or for an organized health care arrangement in which the covered entity participates, where the provision of the service involves the Disclosure of protected health information from such covered entity or arrangement, or from another Business Associate of such covered entity or arrangement, to the person. <p>A covered entity may be a Business Associate of another covered entity.</p> <p>Business Associate includes:</p> <ol style="list-style-type: none">1. A Health Information Organization, E-prescribing Gateway, or other person that provides data transmission services with respect to protected health information to a covered entity and that requires access on a routine basis to such protected health information.2. A person that offers a personal health record to one or more individuals on behalf of a covered entity.3. A subcontractor that creates, receives, maintains, or transmits protected health information on behalf of the Business Associate.
Designee	<p>A person selected or designated to carry out a duty or role. The assigned designee is required to be in management or hold the appropriate qualifications or certifications related to the duty or role.</p>
Disclosure	<p>Has the meaning in in 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.</p>

Term	Definition
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 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.
Limited Data Set	Protected Health Information (PHI) that Uses the indirect identifiers (State, town or city, zip codes, dates of service, birth, and death) and excludes direct identifiers of the Member or the Member's relatives, employers, or household Members.
Member	A beneficiary enrolled in a CalOptima Health program.
Payment	Has the meaning in 42 Code of Federal Regulations Section 164.501, including: activities carried out by CalOptima Health including: <ol style="list-style-type: none"> 1. Determination of eligibility, risk adjustments based on Member health status and demographics, billing claims management, and collection activities; 2. Review of health care services regarding medical necessity, coverage under a health plan, appropriateness of care, or justification of charges; and, 3. Utilization review activities including pre-certification, preauthorization, concurrent, or retrospective review of services.
Protected Health Information (PHI)	Has the meaning in 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>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 Cal Optima or Business Associates and relates to:</p> <ol style="list-style-type: none"> 1. The past, present, or future physical or mental health or condition of a Member; 2. The provision of health care to a Member; or 3. Past, present, or future Payment for the provision of health care to a Member.

Term	Definition
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 individual or entity that is engaged in the delivery of services, or ordering or referring for those services, and is licensed or certified to do so.</p>
Treatment	Has the meaning in 42 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 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.