Policy:	HH.3011
Title:	**Use and Disclosure of PHI for Treatment, Payment, and Health Care Operations**
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 describes the requirements for the Use and Disclosure of Member Protected Health Information (PHI) for Treatment, Payment, and Health Care Operations.

II. POLICY

A. CalOptima Health shall maintain the privacy of PHI in compliance with all federal and state laws when Using, or Disclosing, PHI for Treatment, Payment, and Health Care Operations, including applying the Minimum Necessary standard, when applicable.

B. Unless otherwise prohibited by other state or federal law, CalOptima Health may Use or Disclose PHI pertaining to a Member to perform functions, activities, or services for the purposes directly related to the administration of CalOptima Health programs.

C. CalOptima Health may Use and Disclose a Member's PHI without a Member's Authorization for Treatment, Payment, or Health Care Operations in compliance with the Health Insurance Portability and Accountability Act (HIPAA) and other federal and state laws to the extent that they are more protective of the Member's privacy.

D. Uses and Disclosures pursuant to a valid Member Authorization do not need to be tracked pursuant to CalOptima Health Policy HH.3006: Tracking and Reporting Disclosures of Protected Health Information.

III. PROCEDURE

A. CalOptima Health may Use and Disclose PHI for its own Treatment purposes and may Disclose PHI for the Treatment purposes of a health care Provider:

1. Treatment

a. Activities undertaken by designated staff on behalf of a Member that includes:

i. Direct and indirect provision of health care;

ii. Coordination and management of health care and related services;

iii. Referral to and consultation between health care Providers; and

iv. Coordination with third parties for services related to the management of the Member's health care benefits.

b. Examples of Treatment activities include, but are not limited to:

i. Disclosing a Member's PHI to facilitate Long Term Care (LTC) placement;

ii. Referral for home health care, physical therapy, obtaining Durable Medical Equipment (DME) or medical supplies; and

iii. Providing medical information when referring the Member for consultations with other Providers.

c. CalOptima Health may only Use PHI regarding mental health Treatment for its own Treatment purposes.

2. Health Care Operations

a. CalOptima Health may Use and Disclose PHI for its own Health Care Operations. CalOptima Health may only Disclose PHI to another Covered Entity for the Health Care Operations of the other Covered Entity if:

i. Each party has or had a relationship with the Member who is the subject of the PHI being requested;

ii. The PHI pertains to such relationship;

iii. The Disclosure is for the following limited purposes:

a) Quality assessment and improvement activities;

b) Patient safety activities;

c) Population-based activities;

d) Credentialing and peer review;

e) Evaluations of health care performance training programs; and

f) Health care fraud and abuse detection and compliance as described in Title 45, Code of Federal Regulations, Section 164.506(c)(4) and where consistent with the administration of the Medi-Cal program.

b. The Minimum Necessary Rule applies to Uses and Disclosures for Health Care Operations.

3. Payment

a. CalOptima Health may Use and Disclose PHI for its own Payment activities and may Disclose PHI to another Covered Entity, or health care Provider, for the Payment activities of the entity that receives the information for CalOptima Health's health care programs. The Minimum Necessary rule applies to Uses and Discloses for Payment activities:

i. Determination of eligibility and to fulfill responsibility for coverage and provision of health benefits under agency programs;

ii. Reimbursement for provision of health care services and coordination of benefits with other health coverage;

iii. Risk adjustments based on Member health status and demographics, billing, claims management, and collection activities;

iv. Review of health care services regarding Medical Necessity, coverage under a health plan and appropriateness of care or justification of charges;

v. Utilization review activities including precertification, preauthorization, and concurrent and retrospective review of services;

vi. Disclosure to consumer reporting agencies of any of the following PHI relating to collection of premiums, or reimbursement:

a) Name and address;

b) Date of birth;

c) Social Security Number;

d) Payment History;

e) Account number; or

f) Name and address of CalOptima Health.

B. With respect to PHI regarding mental health Treatment that is protected by Section 5328 of the Welfare & Institutions Code, CalOptima Health may Disclose such information and records as follows:

1. Communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the Member, or his or her Personal Representative, shall be obtained before information or records may be Disclosed by a professional person employed by CalOptima Health to a professional person not employed by CalOptima Health who does not have the medical or psychological responsibility for the patient's care.

2. To the extent necessary for a Member to make a claim, or for a claim to be made on behalf of a Member for aid, insurance, or medical assistance to which he or she may be entitled.

3. To CalOptima Health's Business Associate or for Health Care Operations purpose, in accordance with Parts 160 and 164 of Subchapter C of Subtitle A of Title 45 of the Code of Federal Regulations.

IV. ATTACHMENT(S)

Not Applicable

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 Compliance Plan
E. CalOptima Health Privacy Program
F. CalOptima Health Policy HH.3006: Tracking and Reporting Disclosures of Protected Health Information
G. CalOptima Health Policy HH.3019: De-identification of Protected Health Information
H. Title 22, California Code of Regulations, §51009
I. Title 42, Code of Federal Regulations, §431.00 et seq.
J. Title 45, Code of Federal Regulations, §§160, 164.501, 164.502(b), and 164.506
K. Welfare and Institutions Code, §§5328 and 14100.2 (a)

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
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.3011	Use and Disclosure for Treatment, Payment, and Health Care Operations	Medi-Cal
Revised	04/01/2007	HH.3011	Use and Disclosure for Treatment, Payment, and Health Care Operations	Medi-Cal
Revised	01/01/2010	HH.3011	Use and Disclosure for Treatment, Payment, and Health Care Operations	Medi-Cal
Revised	04/01/2013	HH.3011	Use and Disclosure for Treatment, Payment, and Health Care Operations	Medi-Cal
Revised	09/01/2014	HH.3011	Use and Disclosure for Treatment, Payment, and Health Care Operations	Medi-Cal
Revised	09/01/2015	HH.3011	Use and Disclosure for Treatment, Payment, and Health Care Operations	Medi-Cal
Revised	12/01/2016	HH.3011	Use and Disclosure for Treatment, Payment, and Health Care Operations	Medi-Cal OneCare OneCare Connect PACE

Action	Date	Policy	Policy Title	Program(s)
Revised	12/07/2017	HH.3011	Use and Disclosure of PHI for Treatment, Payment, and Health Care Operations	Medi-Cal OneCare OneCare Connect PACE
Revised	12/06/2018	HH.3011	Use and Disclosure of PHI for Treatment, Payment, and Health Care Operations	Medi-Cal OneCare OneCare Connect PACE
Revised	12/05/2019	HH.3011	Use and Disclosure of PHI for Treatment, Payment, and Health Care Operations	Medi-Cal OneCare OneCare Connect PACE
Revised	12/03/2020	HH.3011	Use and Disclosure of PHI for Treatment, Payment, and Health Care Operations	Medi-Cal OneCare OneCare Connect PACE
Revised	12/20/2021	HH.3011	Use and Disclosure of PHI for Treatment, Payment, and Health Care Operations	Medi-Cal OneCare OneCare Connect PACE
Revised	12/31/2021	HH.3011	Use and Disclosure of PHI for Treatment, Payment, and Health Care Operations	Medi-Cal OneCare PACE
Revised	09/01/2023	HH.3011	Use and Disclosure of PHI for Treatment, Payment, and Health Care Operations	Medi-Cal OneCare PACE
Revised	11/07/2024	HH.3011	Use and Disclosure of PHI for Treatment, Payment, and Health Care Operations	Medi-Cal OneCare PACE

IX. GLOSSARY

Term	Definition
Authorization	Has the meaning given such term in 45 CFR Section 164.508 and other federal and state laws imposing more stringent Authorization requirements for the Use and Disclosure of Member PHI e.g. Welfare & Institution Code section 14100.2.
Covered Entity	A health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a transaction covered by Title 45, Code of Federal Regulations, Part 160.
Covered Service	Medi-Cal: Those health care services, set forth in W&I sections 14000 et seq. and 14131 et seq., 22 CCR section 51301 et seq., 17 CCR section 6800 et seq., the Medi-Cal Provider Manual, the California Medicaid State Plan, the California Section 1115 Medicaid Demonstration Project, the contract with DHCS for Medi-Cal, and DHCS APLs that are made the responsibility of CalOptima Health pursuant to the California Section 1915(b) Medicaid Waiver authorizing the Medi-Cal managed care program or other federally approved managed care authorities maintained by DHCS. Covered Services do not include: 1. Home and Community-Based Services (HCBS) program as specified in the DHCS contract for Medi-Cal Exhibit A, Attachment III, Subsections 4.3.15 (Services for Persons with Developmental Disabilities), 4.3.20 (Home and Community-Based Services Programs) regarding waiver programs, 4.3.21 (In-Home Supportive Services), and Department of Developmental Services (DDS) Administered Medicaid Home and Community-Based Services Waiver. HCBS programs do not include services that are available as an Early and Periodic Screening, Diagnosis and Treatment (EPSDT) service, as described in 22 CCR sections 51184, 51340 and 51340.1. EPSDT services are covered under the DHCS contract for Medi-Cal, as specified in Exhibit A, Attachment III, Subsection 4.3.11 (Targeted Case Management Services), Subsection F4 regarding services for Members less than twenty-one (21) years of age. CalOptima Health is financially responsible for the payment of all EPSDT services; 2. California Children's Services (CCS) as specified in Exhibit A, Attachment III, Subsection 4.3.14 (California Children's Services), except for Contractors providing Whole Child Model (WCM) services; 3. Specialty Mental Health Services as specified in Exhibit A, Attachment III, Subsection 4.3.12 (Mental Health Services); 4. Alcohol and SUD treatment services, and outpatient heroin and other opioid detoxification, except for medications for addiction treatment as specified in Exhibit A, Attachment III, Subsection 4.3.13 (Alcohol and Substance Use Disorder Treatment Services); 5. Fabrication of optical lenses except as specified in Exhibit A, Attachment III, Subsection 5.3.7 (Services for All Members); 6. Direct Observed Therapy for Treatment of Tuberculosis (TB) as specified in Exhibit A, Attachment III, Subsection 4.3.18 (Direct Observed Therapy for Treatment of Tuberculosis); 7. Dental services as specified in W&I sections 14131.10, 14132(h), 14132.22, 14132.23, and 14132.88, and EPSDT dental services as described in 22 CCR section 51340.1(b). However, CalOptima Health is

Term	Definition
	responsible for all Covered Services as specified in Exhibit A, Attachment III, Subsection 4.3.17 (Dental) regarding dental services; 8. Prayer or spiritual healing as specified in 22 CCR section 51312; 9. Educationally Necessary Behavioral Health Services that are covered by a Local Education Agency (LEA) and provided pursuant to a Member's Individualized Education Plan (IEP) as set forth in Education Code section 56340 et seq., Individualized Family Service Plan (IFSP) as set forth in California Government Code (GC) section 95020, or Individualized Health and Support Plan (IHSP). However, CalOptima Health is responsible for all Medically Necessary Behavioral Health Services as specified in Exhibit A, Attachment III Subsection 4.3.16 (School-Based Services); 10. Laboratory services provided under the State serum alpha-feto-protein-testing program administered by the Genetic Disease Branch of California Department of Public Health (CDPH); 11. Pediatric Day Health Care, except for Contractors providing Whole Child Model (WCM) services; 12. State Supported Services; 13. Targeted Case Management (TCM) services as set forth in 42 USC section 1396n(g), W&I sections 14132.48 and 14021.3, 22 CCR sections 51185 and 51351, and as described in Exhibit A, Attachment III, Subsection 4.3.11 (Targeted Case Management Services). However, if Members less than twenty-one (21) years of age are not eligible for or accepted by a Regional Center (RC) or a local government health program for TCM services, CalOptima Health must ensure access to comparable services under the EPSDT benefit in accordance with DHCS APL 23-005; 14. Childhood lead poisoning case management provided by county health departments; 15. Non-medical services provided by Regional Centers (RC) to individuals with Developmental Disabilities, including but not limited to respite, out-of-home placement, and supportive living; 16. End of life services as stated in Health and Safety Code (H&S) section 443 et seq., and DHCS APL 16-006; and 17. Prescribed and covered outpatient drugs, medical supplies, and enteral nutritional products when appropriately billed by a pharmacy on a pharmacy claim, in accordance with DHCS APL 22-012. OneCare: Those medical services, equipment, or supplies that CalOptima Health is obligated to provide to Members under the Centers of Medicare & Medicaid Services (CMS) Contract. PACE: Those items and services provided by CalOptima Health under the provisions of Welfare and Institutions Code, section 14132 and the California State Plan, except those services specifically excluded under Exhibit E, Attachment 1 of the CalOptima Health PACE contract, state law, or the California State Plan.

Term	Definition
Credentialing	Medi-Cal: The process of determining a Provider or an entity's professional or technical competence, and may include registration, certification, licensure and professional association membership. OneCare: The process of obtaining, verifying, assessing, and monitoring the qualifications of a Practitioner to provide quality and safe patient care services. PACE: The recognition of professional or technical competence. The process involved may include registration, certification, licensure and professional association membership.
De-identified Information	Health information that does not identify a Member and does not provide a reasonable basis to believe that the information can be Used to identify a Member.
Department of Health Care Services (DHCS)	Medi-Cal: The single State department responsible for the administration of the Medi-Cal Program, California Children's Services (CCS), Genetically Handicapped Persons Program (GHPP), and other health related programs as provided by statute and/or regulation. OneCare: The single State Department responsible for administration of the Medi-Cal program, California Children Services (CCS), Genetically Handicapped Persons Program (GHPP), Child Health and Disabilities Prevention (CHDP), and other health related programs. PACE: The single State Department responsible for administration of the federal Medicaid (referred to as Medi-Cal in California) Program.
Disclosure	Has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations including the following: the release, transfer, provision of access to, or divulging in any other manner of information outside of the entity holding the information.
Durable Medical Equipment (DME)	Medi-Cal: Medically Necessary medical equipment as defined by 22 CCR section 51160 that a Provider prescribes for a Member that the Member uses in the home, in the community, or in a facility that is used as a home. OneCare & PACE: Durable medical equipment means equipment prescribed by a licensed practitioner to meet medical equipment needs of the Member that: 1. Can withstand repeated use. 2. Is used to serve a medical purpose. 3. Is not useful to an individual in the absence of an illness, injury, functional impairment, or congenital anomaly. 4. Is appropriate for use in or out of the patient's home.
Grievance	Medi-Cal: Any expression of dissatisfaction about any matter other than an Adverse Benefit Determination (ABD), and may include, but is not limited to the Quality of Care or services provided, aspects of interpersonal relationships with a Provider or CalOptima Health's employee, failure to respect a Member's rights regardless of whether remedial action is requested, and the right to dispute an extension of time proposed by CalOptima Health to make an authorization decision. A complaint is the same as Grievance. An inquiry is a request for more information that does not include an expression of dissatisfaction. Inquiries may include, but are not limited to, questions pertaining to eligibility, benefits, or other CalOptima Health processes. If

Term	Definition
	CalOptima Health is unable to distinguish between a Grievance and an inquiry, it must be considered a Grievance. OneCare: An expression of dissatisfaction with any aspect of the operations, activities or behavior of a plan or its delegated entity in the provision of health care items, services, or prescription drugs, regardless of whether remedial action is requested or can be taken. A grievance does not include, and is distinct from, a dispute of the appeal of an organization determination or coverage determination or an LEP determination. PACE: A complaint, either written or oral, expressing dissatisfaction with service delivery or the quality of care furnished, as defined by the federal PACE regulation 42 CFR Section 460.120.
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 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.
Health Insurance Portability and Accountability Act (HIPAA)	The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, was enacted on August 21, 1996. Sections 261 through 264 of HIPAA require the Secretary of the U.S. Department of Health and Human Services (HHS) to publicize standards for the electronic exchange, privacy and security of health information, and as subsequently amended.
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.
Long Term Care (LTC)	Medi-Cal: Specialized rehabilitative services and care provided in a Skilled Nursing Facility (SNF), subacute facility, pediatric subacute facility, Intermediate Care Facility/Developmentally Disabled (ICF/DD), ICF/DD-Habilitative (ICF/DD-H), or ICF/DD-Nursing (ICF/DD-N) homes. OneCare: A variety of services that help Members with health or personal needs and activities of daily living over a period of time. Long Term Care (LTC) may be provided at home, in the community, or in various types of facilities, including nursing homes and assisted living facilities.
Medically Necessary or Medical Necessity	Medi-Cal: Reasonable and necessary Covered Services to protect life, to prevent significant illness or significant disability, or alleviate severe pain through the diagnosis or treatment of disease, illness, or injury, as required under W&I Code 14059.5(a) and Title 22 CCR Section 51303(a). Medically Necessary services shall include Covered Services necessary to achieve age-appropriate growth and development, and attain, maintain, or regain functional capacity.

Term	Definition
	For Members under 21 years of age, a service is Medically Necessary if it meets the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) standard of medical necessity set forth in Section 1396d(r)(5) of Title 42 of the United States Code, as required by W&I Code 14059.5(b) and W&I Code Section 14132(v). Without limitation, Medically Necessary services for Members under 21 years of age include Covered Services necessary to achieve or maintain age-appropriate growth and development, attain, regain or maintain functional capacity, or improve, support or maintain the Member's current health condition. CalOptima Health shall determine Medical Necessity on a case-by-case basis, taking into account the individual needs of the child. OneCare: Reasonable and necessary medical services to protect life, to prevent significant illness or significant disability, or alleviate severe pain through the diagnosis or treatment of disease, illness, or injury, as required under W&I Code 14059.5(a) and Title 22 CCR Section 51303(a). Medically Necessary services includes Medi-Cal Services necessary to achieve age-appropriate growth and development, and attain, maintain, or regain functional capacity. PACE: Reasonable and necessary services to protect life, to prevent significant illness or significant disability, or to alleviate severe pain through the diagnosis or treatment of disease, illness, or injury.
Medical Record	Medi-Cal: The record of a Member's medical information including but not limited to, medical history, care or treatments received, test results, diagnoses, and prescribed medications. OneCare: A medical record, health record, or medical chart in general is a systematic documentation of a single individual's medical history and care over time. The term 'Medical Record' is used both for the physical folder for each individual patient and for the body of information which comprises the total of each patient's health history. Medical records are intensely personal documents and there are many ethical and legal issues surrounding them such as the degree of third-party access and appropriate storage and disposal. PACE: Written documentary evidence of treatments rendered to plan Members.
Member	A beneficiary enrolled in a CalOptima Health program.
Minimum Necessary	The principle that a covered entity must make reasonable efforts to Use, Disclose, and request only the minimum amount of protected health information needed to accomplish the intended purpose of the Use, Disclosure, or request for Treatment, Payment or Health Care Operations.
Payment	Has the meaning in 42 Code of Federal Regulations Section 164.501, including: activities carried out by CalOptima Health including: 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.

Term	Definition
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. This information identifies the individual or there is a 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: 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.
Provider	Medi-Cal: 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. OneCare: 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.
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.