



Policy: HH.3008
Title: **Member Right to Request Confidential Communications**
Department: Office of Compliance
Section: Privacy

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

Effective Date: 04/01/2003

Revised Date: 11/07/2024

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

I. PURPOSE

This policy describes the process by which a Member may request to receive Confidential Communications from CalOptima Health regarding Protected Health Information (PHI).

II. POLICY

- A. CalOptima Health shall permit Members to request and shall accommodate a reasonable written request to receive communications of PHI by alternative means, such as an alternative phone number or at an alternative address, when there is a risk of personal danger to the Member if, PHI is communicated by telephone, or mail to the Member's home, by CalOptima Health.
- B. CalOptima Health shall permit Members to request and shall accommodate a reasonable written request to receive communications of PHI by alternative means, such as an alternative phone number or at an alternative address, for Sensitive Services.
- C. CalOptima Health may not require an explanation from PACE Participants as to the basis for the request as a condition of providing communications on a confidential basis.

III. PROCEDURE

- A. A Member shall complete and submit a Request for Restriction on Manner/Method of Confidential Communications Form to CalOptima Health's Customer Service Department, which will be routed to the Privacy Department for review.
- B. CalOptima Health's Customer Service Department may assist the Member, or the Member's Personal Representative, in completing the Request for Restriction on Manner/Method of Confidential Communications Form.
- C. With the exclusion of PACE Participants, CalOptima Health shall only grant a request for Confidential Communications in cases in which the Member:
 - 1. Clearly states that the disclosure of all or part of that information could endanger the Member by receiving CalOptima Health information at home; and

2. Provides a valid alternate physical mailing address for written communications, and/or specified phone number for calls and/or voicemail messages from CalOptima Health.
- D. The Privacy Officer or Designee shall review all written requests for Confidential Communications and shall be responsible for coordinating the review, logistics of implementing the request, and the response to the Member.
- E. The Privacy Officer or Designee shall coordinate requests from Members who are enrolled in a Health Network, or other Business Associates, as appropriate.
- F. If the request involves contracted Providers, the Privacy Officer or Designee may ask the Member to submit a separate confidential communication request to the Member's Providers.
- G. The Privacy Officer or Designee shall notify the Member of the decision regarding the request for Confidential Communications as expeditiously as possible, but no later than thirty (30) calendar days of the receipt of the request.
- H. If the Privacy Officer or Designee approves the request, he or she shall notify the following departments of the Member's Confidential Communications status:

Department	Potential Communication Materials Subject to Confidential Treatment
Customer Service	Newsletters, notices regarding preventive health visits, enrollment, Health Network options, or other mass or individual Member mailings, including surveys.
Grievance and Appeals Resolutions	Communication regarding follow-ups or investigation of a Member, Health Network, or Provider complaints.
Care Coordination, Multipurpose Senior Services Program (MSSP), Long Term Care (LTC)	Any care management, disease interventions, notices of actions, or other communications involving contact with the Member.
Pharmacy	Any notice of actions (NOAs), clinical pharmacy issues, or other direct contact with the Member. Communication regarding Pharmacy Authorization notices, transition letters, Explanation of Benefits and Part D information.
Utilization Management or Member's Health Network	Communication regarding authorization status, approval letters, notice of action letters.
Information Technology Services	Provider Portal

- I. If the Privacy Officer or Designee approves the request, he or she shall notify the Information Technology Services (ITS) Department, whereby ITS shall flag the Member's record on the core data systems and/or the healthcare management information system to indicate a Confidential Communication status. Impacted departments will also be notified to ensure appropriate flags are reflected in the relevant information system.
- J. All written requests shall be retained for ten (10) years and in accordance with CalOptima Health Policy HH.2022: Record Retention and Access.

IV. ATTACHMENT(S)

- A. Request for Restriction on Manner/Method of Confidential Communications Form

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.2022: Record Retention and Access
- G. CalOptima Health Policy HH.3000: Notice of Privacy Practices
- H. Department of Managed Health Care (DMHC) APL 22-010 (OPL) Guidance Regarding AB 1184 - Confidentiality of Medical Information
- I. Title 45, Code of Federal Regulations (C.F.R), §§164.502(h) and 164.522(b)(1)(2) and (b)(2)(iii)

VI. REGULATORY AGENCY APPROVAL(S)

Date	Regulatory Agency	Response
03/19/2012	Department of Health Care Services (DHCS)	Approved as Submitted
07/02/2013	Department of Health Care Services (DHCS)	Approved as Submitted
01/19/2022	Department of Health Care Services (DHCS)	File and Use

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
12/01/2022	Regular Meeting of the CalOptima Health 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.3008	Member Right to Request Confidential Communications	Medi-Cal
Revised	04/01/2007	HH.3008	Member Right to Request Confidential Communications	Medi-Cal
Revised	02/01/2008	HH.3008	Member Right to Request Confidential Communications	Medi-Cal
Revised	02/01/2012	HH.3008	Member Right to Request Confidential Communications	Medi-Cal
Revised	02/01/2013	HH.3008	Member Right to Request Confidential Communications	Medi-Cal OneCare
Revised	09/01/2015	HH.3008	Member Right to Request Confidential Communications	Medi-Cal

Action	Date	Policy	Policy Title	Program(s)
Revised	12/01/2016	HH.3008	Member Right to Request Confidential Communications	Medi-Cal OneCare OneCare Connect PACE
Revised	12/07/2017	HH.3008	Member Right to Request Confidential Communications	Medi-Cal OneCare OneCare Connect PACE
Revised	12/06/2018	HH.3008	Member Right to Request Confidential Communications	Medi-Cal OneCare OneCare Connect PACE
Revised	12/05/2019	HH.3008	Member Right to Request Confidential Communications	Medi-Cal OneCare OneCare Connect PACE
Revised	12/03/2020	HH.3008	Member Right to Request Confidential Communications	Medi-Cal OneCare OneCare Connect PACE
Revised	12/20/2021	HH.3008Δ	Member Right to Request Confidential Communications	Medi-Cal OneCare OneCare Connect PACE
Revised	12/31/2022	HH.3008	Member Right to Request Confidential Communications	Medi-Cal OneCare PACE
Revised	09/01/2023	HH.3008	Member Right to Request Confidential Communications	Medi-Cal OneCare PACE
Revised	11/07/2024	HH.3008	Member Right to Request Confidential Communications	Medi-Cal OneCare PACE

IX. GLOSSARY

Term	Definition
Business Associates	<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; or 2. 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.
Confidential Communications	The provision of communications of Protected Health Information (PHI) by alternative means or at alternative locations based upon a Member's reasonable request.
Designee	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.
FACETS	Licensed software product that supports administrative, claims processing and adjudication, Membership data, and other information needs of managed care organizations.
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.
Member	A beneficiary enrolled in a CalOptima Health program.

Term	Definition
Personal Representative	Has the meaning given to the term Personal Representative in section 164.502(g) of Title 45 of, 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 in loco parentis 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 by Member's Authorized Representative.
Protected Health Information (PHI)	<p>Has the meaning given such term in Section 160.103 of Title 45, Code of Federal Regulations. 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"> 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	<p><u>Medi-Cal</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> <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) 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>
Sensitive Services	Those Covered Services related to family planning, a sexually transmitted disease (STD), abortion, and Human Immunodeficiency Virus (HIV) testing.