

**Huerfano County Department of Human Resources
Confidentiality and Protected Health Information Policy and Procedure**

<p>Policy Title: Confidentiality and Protected Health Information Policy and Procedure</p>	<p>Effective Date: 12/17/2024 Revision Date:</p>
<p>Policy Program Area Department of Human Services (All Units)</p>	<p>Authorizing Signature</p>

Reason for Policy: Under the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule for use and disclosure of Medicaid client protected health information (PHI), and the expectations outlined by the Department of Health Care Policy and Financing (HCPF), **Huerfano County** Medicaid technicians do not require a signed business associate contract with respect to uses or disclosures by a health plan that is a government program providing public benefits; however, compliance with requirements for handling of PHI is necessary. 45 C.F.R. § 164.502(e)(1)(ii) (2002).

Definitions:

Business Associate: A business associate creates, receives, maintains, or transmits protected health information on behalf of a covered entity. However, business associates do not include a “government agency, with respect to determining eligibility for, or enrollment in, a government health plan that provides public benefits and is administered by another government agency or collecting protected health information for such purposes.” Therefore, a County Health or Human Services Department is not a business associate.

Covered Entity: A covered entity is obligated to safeguard the privacy of applicant and client Protected Health Information (PHI). A covered entity includes health plans, healthcare clearinghouses, and healthcare providers. As the administrator of Health First Colorado and the Children’s Health Insurance Program, the Department is a health plan and therefore a covered entity.

Disclosure of PHI is the release, transfer, or sharing of such information outside of a County Department of Social/Human Services, unless transmitting data to HCPF

Protected Health Information (PHI) is defined as: information created or received by a health care provider, health plan, employer, or health care clearinghouse; related to any physical or mental health or condition or treatment of an individual, or the payment for health care to an individual; *and* that identifies the individual or can be used to identify the individual. This information can be transmitted or maintained in any other form or medium.

ePHI: PHI in an electronic format.

PII (Personal Identifiable Information) is any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means (examples include but are not limited to name(s), address, social security number, telephone number, email address, etc.)

Policy: Huerfano County must comply with the same HIPAA privacy and security requirements that bind HCPF. This is done by the following processes:

1. Data Ownership

Huerfano County and its affiliates have no ownership rights with respect to PHI of Medical Assistance program applicants and enrollees. All usage of Medical Assistance program data from the statewide automated systems is subject to approval by HCPF. **Huerfano County DHS Director or Assistance Payments Unit Supervisor** will submit any request to the HCPF County Relations team (HCPF_CountyRelations@state.co.us) prior to use of data outside of permitted uses.

2. Permitted Uses

Use of PHI is the sharing, utilization, examination, or analysis of PHI. **Huerfano County** and Medicaid technicians are not to use PHI except for the limited purpose of enrolling an individual in, or determining an individual's eligibility for Medicaid, hearing an appeal on eligibility determinations, and resolving overpayments. **Huerfano County** will not use PHI in any manner that would constitute a violation of the Privacy Rule. Medicaid technicians will use and disclose the minimum PHI necessary to accomplish the purpose of the request, use or disclosure.

Minimum Necessary: only request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure.

3. Permitted Disclosures

Huerfano County including all Medical Assistance technicians are not to disclose PHI in any manner that would constitute a violation of the Privacy Rule. Disclosure of PHI is the release, transfer, or sharing of such information outside of the agency, unless transmitting data to HCPF. Permitted disclosures include:

1. determining an individual's eligibility for, or enrollment in, a Medical Assistance program; hearing the first level of appeal on eligibility determinations; and resolving overpayments
2. proper management and administration of our department;

3. as required by law; or
4. to report violations of law to appropriate federal or state authorities, consistent with 45 CFR Section 164.502(j)(2) and HCPF OM 23-030. Before third party disclosure, **Huerfano County** must obtain
 1. reasonable assurances that disclosed protected health information will be held confidential and only disclosed as required by law or for the purposes for which it was disclosed; and
 2. an agreement from the third party to notify **Huerfano County** within two business days of any known breaches of confidentiality of the protected health information.
4. Appropriate Safeguards

Huerfano County including Medical Assistance technicians shall implement appropriate safeguards in order to prevent the intentional or unintentional use or disclosure of PHI other than as permitted by HIPAA and HCPF. This includes but is not limited to:

1. no unauthorized persons shall have access to PHI,
 2. desktops free of PHI if possible,
 3. files stored in locked cabinets,
 4. computers are locked when not being used,
 5. documents with PHI are not being left on printers or fax machines,
 6. limited emailing of PHI outside of the County to permitted disclosures as described above (Section 3)
 7. all emails with PHI or PII to be sent using HIPAA-compliant encryption
 8. When ePHI sent outside of **Huerfano County**, must use an encrypted device with the decryption provided separately from the device to the recipient.
 9. no emails shall contain PHI or PII in the subject line, even when the email is encrypted
 10. compliant shredding of PHI after use
5. Reporting of Breach, or Unauthorized Use or Disclosure of PHI

Huerfano County Director will report to HCPF in writing any improper use or disclosure of PHI within three (3) business days of becoming aware of such use or disclosure. Report must be submitted to HCPF using the [County Relations Webform](#) or an email to HCPF_CountyRelations@state.co.us.

Huerfano County will work with HCPF to investigate and resolve the issue.

6. Contractors, Vendors and Subcontractors

Any **Huerfano County** vendors including contractors, subcontractors and subrecipients who receive or have access to member PHI shall sign an agreement with the **Huerfano**

County containing restrictions comparable to HIPAA use and disclosure of PHI and further identifying HCPF as a third-party beneficiary with rights of enforcement and indemnification from such contractors in event of any violation of such contract or agreement.

7. HCPF Access to PHI

Huerfano County will make PHI, maintained by **Huerfano County** or its agents or subcontractors, available to HCPF for inspection and copying within ten (10) business days of a request to enable HCPF to fulfill its obligations to permit access to client protected health information under the Privacy Rule.

If **Huerfano County** receives a request from HCPF for PHI, **Huerfano County** will work with HCPF to resolve the request and provide access.

8. Amendment of PHI

If an application or member requests an amendment of PHI directly to **Huerfano County** or its agents or subcontractors, **Huerfano County** must determine the source of the PHI and refer the member to the source for correction.

9. Tracking of Disclosures

The Huerfano County Director of Human Services implements and maintains a tracking process that allows for disclosure information to be collected and maintained by **Huerfano County**, its agents or subcontractors for at least six (6) years after the disclosure, but not before April 14, 2003. Such information shall include:

- A. the date of disclosure
- B. the name of the entity or person who received PHI and, if known, the address of the entity or person
- C. a brief description of PHI disclosed
- D. a brief statement of the purpose of the disclosure

Per 45 C.F.R. Section 164.528, **Huerfano County** does not need to provide any information concerning disclosures made:

- A. to carry out treatment, payment or health care operations, as set forth in 45 C.F.R. Section 164.506;
- B. to clients-of PHI about them as set forth in 45 C.F.R. Section 164.502;

C. pursuant to a client authorization as provided in 45 CFR Section 164.508;

D. to persons involved in the individual's care as set forth in 45 C.F.R. Section 164.510

E. for national security or intelligence purposes as set forth in 45 C.F.R. Section 164.512(k)(2)

F. to correctional institutions or law enforcement officials as set forth in 45 C.F.R. Section 164.512(k)(5)

10. Member access

Members have the right to request a full accounting of how **Huerfano County** has disclosed their PHI. If a request for an accounting of disclosures is received by a representative of the county, the request must be forwarded to HCPF County Relations Team (HCPF_CountyRelations@state.co.us) within five (5) business days of the request receipt.

If a request for accounting disclosures is sent from HCPF to **Huerfano County**, the **Huerfano County Director** is required to provide this information to HCPF within ten (10) business days of the request.

11. Governmental Access to Records

If **Huerfano County** receives a request, made on behalf of the Secretary of the U.S. Department of Health and Human Services (HHS/CMS), the **Huerfano County Director** shall notify HCPF of the request within five (5) business days. If instructed by HCPF, **Huerfano County** shall make its internal practices, books and records available to HHS. A copy will be provided to HCPF at the same time.