

POLICY AND PROCEDURE ON DATA PRIVACY

I. PURPOSE

The purpose of this policy is to establish guidelines that promote participant rights by ensuring data privacy and record confidentiality of participants.

II. POLICY

According to MN Statutes, section 256B.85, subdivision 20c, participants receiving CFSS from an agency-provider or through a Financial Management Services (FMS) provider have protection-related rights that include the rights to:

- Have personal, financial, and medical information kept private, and be advised of disclosure of this information by the agency-provider or FMS provider and the agency-provider's or FMS provider's policies and procedures regarding data privacy.
- Access records and recorded information about the participant in accordance with applicable state and federal law, regulation, or rule.

Orientation to the participant, participant's representative, and/or legal representative will be completed at service initiation and as needed thereafter. This orientation will include an explanation of this policy and their rights regarding data privacy. Upon explanation, a representative from the agency-provider will document that this notification occurred and that a copy of this policy was reviewed.

This agency-provider encourages data privacy in all areas of practice and will implement measures to ensure that data privacy is upheld according to MN Government Data Practices Act, section 13.46. The agency-provider will also follow guidelines for data privacy as set forth in the Health Insurance Portability and Accountability Act (HIPAA) to the extent the agency-provider performs a function or activity involving the use of protected health information and HIPAA's implementing regulations, Code of Federal Regulations, title 45, parts 160-164, and all applicable requirements. The President will exercise the responsibility and duties of the "responsible authority" for all program data, as defined in the Minnesota Data Practices, MN Statutes, chapter 13. Data privacy will hold to the standard of "minimum necessary" which entails limiting protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

III. PROCEDURE**Access to records and recorded information and authorizations**

- A. The participant, participant's representative, and/or legal representative have full access to their records and recorded information that is maintained, collected, stored, or disseminated by the agency. Private data are records or recorded information that includes personal, financial, service, health, and medical information.
- B. Access to private data in written or oral format is limited to authorized persons. The following agency personnel may have immediate access to a participant's private data only for the relevant and necessary purposes to carry out their duties as directed by the *CFSS Service Delivery Plan*:
1. Executive personnel
 2. Administrative personnel
 3. Financial personnel
 4. Management personnel
 5. Support workers
- C. The following entities also have access to participant's private data as authorized by applicable state or federal laws, regulations, or rules:
1. Case manager or care coordinator
 2. Minnesota Department of Human Services and/or Minnesota Department of Health
 3. County of Financial Responsibility or the County of Residence's Social Services

4. The Ombudsman for Mental Health or Developmental Disabilities
 5. US Department of Health and Human Services
 6. Social Security Administration
 7. State departments including Department of Employment and Economic Development (DEED), Department of Education, and Department of Revenue
 8. County, state, or federal auditors
 9. Adult or Child Protection units and investigators
 10. Law enforcement personnel or attorneys related to an investigation
 11. Various county or state agencies related to funding, support, or protection of the participant
 12. Other entities or individuals authorized by law
- D. The agency will obtain authorization to release information of participants when consultants, sub-contractors, or volunteers are working with the agency-provider to the extent necessary to carry out the necessary duties.
- E. Other entities or individuals not previously listed who have obtained written authorization from the participant, participant's representative, and/or legal representative have access to written and oral information as detailed within that authorization. This includes other licensed caregivers or health care providers as directed by the release of information.
- F. Information will be disclosed to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the participant, or other individuals. The agency-provider will ensure the documentation of the following:
1. The nature of the emergency
 2. The type of information disclosed
 3. To whom the information was disclosed
 4. How the information was used to respond to the emergency
 5. When and how the participant, participant's representative, and/or legal representative was informed of the disclosed information
- G. All authorizations or written releases of information will be maintained in the participant's record. In addition, all requests made to review data, have copies, or make alterations, as stated below, will be recorded in the participant's record including:
1. Date and time of the activity
 2. Who accessed or reviewed the records
 3. If any copies were requested and provided

Request for records or recorded information to be altered or copies

- A. The participant, participant's representative, and/or legal representative has the right to request that their records or recorded information and documentation be altered and/or to request copies.
- B. If the participant, participant's representative, and/or legal representative objects to the accuracy of any information, the support worker will ask that they put their objections in writing with an explanation as to why the information is incorrect or incomplete.
1. The written objections will be submitted to the President who will make a decision in regard to any possible changes.
 2. A copy of the written objection will be retained in the participant's record.
 3. If the objection is determined to be valid and approval for correction is obtained, a supervising professional at the agency-provider will correct the information and notify the participant, participant's representative, and/or legal representative and provide a copy of the correction.
 4. If no changes are made and distribution of the disputed information is required, the agency-provider will ensure that the objection accompanies the information as distributed, either orally or in writing.
- C. If the participant, participant's representative, and/or legal representative disagrees with the resolution of the

issue, they will be encouraged to follow the procedures outlined in the *Policy and Procedure on Grievances*.

Security of information

- A. A record of current services provided to each participant will be maintained on the premises where the services are provided or coordinated. Records will be maintained at the agency-provider's program office. Files will not be removed from the premises without valid reasons and security of those files will be maintained at all times.
- B. The agency-provider's supervising professionals will ensure that all information for participants is secure and protected from loss, tampering, or unauthorized disclosures. This includes information stored electronically for which a unique password and user identification is required.
- C. No participant, participant's representative, and/or legal representative, personnel, or anyone else may permanently remove or destroy any portion of the participant's record.
- D. The agency-provider and its personnel will not disclose personally identifiable information about any other participant when making a report to each participant, participant's representative, and/or legal representative and case manager unless the agency has the consent of the participant. This also includes the use of other participant's information in another participant's record.
- E. Written and verbal exchanges of information regarding participants are considered to be private and will be done in a manner that preserves confidentiality, protects their data privacy, and respects their dignity.
- F. All personnel will receive training at orientation on this policy and their responsibilities related to complying with data privacy practices.