


COUNTY OF IMPERIAL
DEPARTMENT OF BEHAVIORAL HEALTH SERVICES
POLICY AND PROCEDURE MANUAL

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| SUBJECT: Verification of Identity and Authority | PROCEDURE: 01-16 |
| SECTION: Administration | EFFECTIVE DATE: 4-14-03 |
| REFERENCE: 45 C.F.R. Section 164.514(h) | PAGE: 1 of 8 |
| AUTHORITY: Behavioral Health Director as the Local Mental Health Director and Alcohol and Drug Administrator | SUPERSEDES: New Procedure |
| | APPROVED BY:  |

PURPOSE: To provide guidance for verifying the identity of any person outside of ICBHS requesting the disclosure of protected health information (PHI) and the authority of such person to have access to the PHI, when the identity and/or such authority of the person is unknown to the staff person receiving the request.

SCOPE: The information in this document applies to all members of the workforce that includes employees, contract employees, volunteers, and trainees, etc., granted access to protected health information (PHI).

NOTES: 45 C.F.R. Section 164.514(h) (1) requires that covered entities to verify the identity of any person requesting PHI and the authority of any such person to have access to PHI. Members of the workforce shall never release PHI unless there is a legal reason that permits or requires one to do so. This procedure is to be used if the identity and authority of the person requesting the PHI are not already known ONCE it has been determined that the release is proper.

DEFINITIONS: HIPAA: Health Insurance Portability and Accountability Act. The federal law passed in 1996 that provides national standards for health information.

Individual: Under HIPAA, individual means the person who is the subject of PHI. In this procedure, the term "client" is used to refer to the individual.

Protected Health Information (PHI): Individually identifiable information relating to past, present, or future physical or mental health condition of an individual, provision of health care to an individual, or the past, present, or future payment for health care provided to an individual transmitted or maintained in any form or medium including oral, written, or electronic communication.

Workforce: Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for the covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity. In this procedure, the term "employee" is used to refer to the workforce.

PROCEDURE:

PERSON RESPONSIBLE

ACTION:

1. If the person requesting the PHI is claiming to be the client and in person Then:
 - a. Require a driver's license, passport, state identification, or similar evidence of identity.
 - b. Request his or her social security number or other personal information that can be verified from the medical chart.
 - c. ICBHS may rely on documentation, statements, or representations presented that, on their face, meet the applicable requirements for establishing identity - if reliance is reasonable under the circumstances and is in good faith.

2. If the person requesting the PHI is claiming to be the client, but not in person Then:
 - a. If the request is made over

2. If the person requesting the PHI is claiming to be the client, but not in person (cont.)

Then:

the phone, request information such as an address, telephone number, birth date, or social security number or other information that can be verified from his or her medical record.

- b. Call the requestor back to verify the instructions if the information is to be transmitted by fax, telephone, or e-mail.
- c. ICBHS may rely on documentation, statements, or representations presented that, on their face, meet the applicable requirements for establishing identity - if reliance is reasonable under the circumstances and is in good faith.
- d. Use some other appropriate common-sense means of verifying that the person making the request is in fact the client.

3. If the person requesting the PHI is not the client, but in person with the client

Then:

- a. If the client is known to ICBHS or his or her identity is verified, and the individual is with a person and identifies the person as someone entitled to receive the PHI, this is sufficient verification of the person's identity and authority.

- b. If the client is not known or recognized, verify the client's identity under step 2 above.

- 4. If the person requesting the PHI is not the client, but in person without the client

Then

Use reasonable means to verify identity by:

- a. Require photo identification such as a driver's license, passport, or state identification, or similar evidence of identity.
- b. ICBHS may rely on documentation, statements, or representations that, on their face, meet the applicable requirements for establishing identity - if ICBHS reliance is reasonable under the circumstances and is in good faith.

Use reasonable means to verify authority by:

- a. Require a copy of a valid power of attorney, copy of court order appointing the person guardian of the person, a letter on official letterhead, a subpoena or similar official document to evidence authority.
- b. If the authorization requires a particular documentation, statements, or representations by the person requesting the PHI, request the required items and determine whether the evidence offered is sufficient.

4. If the person requesting the PHI is not the client, but in person without the client (cont.)

Then

c. ICBHS may rely on documentation, statements, or representations that, on their face, meet the applicable requirements for establishing identity - if ICBHS reliance is reasonable under the circumstances and is in good faith.

5. When the person requesting PHI is not the client and not in person

Then

Use reasonable means to verify identity by:

- a. Sending the PHI to a recognizable organizational mailing address; or
- b. Calling the requestor back through the main organization switchboard rather than through a direct dial number to verify the instructions, if the PHI is to be transmitted by fax, telephone, or e-mail; or
- c. Using some other appropriate common-sense means of verifying that the person making the request is in fact the client.

Use reasonable means to verify authority by:

- a. Require a copy of power of attorney, a letter on official letterhead, a subpoena, or similar evidence of authority.

5. When the person requesting PHI is not the client and not in person (cont.) Then

- 1) If the authorization requires a particular documentation, state-ments, or representations by the person requesting the PHI, request the required items and determine whether the evidence offered is sufficient.
- 2) In making this determination, ICBHS may rely on documentation, state-ments, or representations that, on their face, meet the applicable requirements -if our reliance is reasonable under the circumstances and is in good faith.
- 3) For certain disclosures, the permission can be met by administrative subpoena or by a separate written statement that, on its face, shows the requirements have been made.

6. When the person requesting PHI is claiming to be the client's personal representative Then

Establish identity and authority to act for the client by:

- a. Asking questions to determine that an adult acting for a young child has the requisite relationship to the child to support his or her

6. When the person requesting PHI is claiming to be the client's personal representative

Then

status as a personal representative to the child.

- b. Examining a copy of the power of attorney for a personal representative of an adult client or a copy of the court appointment if the personal representative has been appointed by the court, or other reasonable evidence of representative's authority to act for the client.
- c. Examine a copy of the personal representative's appointment as executor of a deceased client's estate or other reasonable evidence of the personal representative's authority.

7. When the person requesting the PHI is claiming to be a public official or acting on behalf of a public official

Then:

Verify identity by:

- a. Requesting presentation of an agency identification badge, other official credentials, or proof of government status.
- b. If the request is made in writing, verification of identity is accomplished if the request is made on the appropriate government letterhead; or

7. When the person requesting the PHI is claiming to be a public official or acting on behalf of a public official (cont.) ..Then:

- c. If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government's authority or other evidence, or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order that establishes that the person is acting on behalf of the public official.

Verify authority of a public official or a person acting on behalf of a public official by:

- a. A written statement of the legal authority under which the information is requested or, if a written of legal authority under which the information is requested would be impracticable, an oral statement of such legal authority; or
- b. If the request is made pursuant to a legal process, warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal, it is presumed to constitute legal authority.

Forms used in this procedure:
None