

CHELAN-DOUGLAS RSN/PIHP POLICY AND PROCEDURE MANUAL		Chapter:	1.4.2.12
Title:	HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT	Page:	1 of 3
		Date Effective:	April 14, 2003
Subject:	Marketing	Date Revised:	October 14, 2011
		Authorizing Signature:	

AUTHORITY: Authorizing Source: RCW 70.02 45 CFR 164 (HIPAA)

SCOPE: This policy applies to Chelan-Douglas Regional Support Network/Prepaid Inpatient Health Plan (CDRSN/PIHP) and its contractors (agencies/providers), and subcontractors (referred to as contractors or agencies or providers throughout this policy).

PURPOSE: The Chelan-Douglas Regional Support Network (CDRSN), in compliance with the Privacy Rules of HIPAA's Administrative Simplification provisions (the HIPAA Privacy Rules), sets out its policy regarding the use of PHI in conducting marketing activities.

DEFINITIONS: See 1.3.2.0

Per 164.501, marketing is defined as:

- 1) to make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service; or
- 2) an arrangement involving a covered entity whereby PHI is disclosed by the covered entity in exchange for direct or indirect remuneration, so that the other entity or affiliate can make a communication that encourages the purchase or use of its own product or service.

The following are examples of situations that do not meet the definition of marketing:

- 1) Communications that are merely promoting good health and not about a specific product or service does not meet the definition of "marketing." So mailings reminding women to get an annual mammogram, or with information about how to lower cholesterol, about new developments in health care like new diagnostic tools or about health or "wellness" classes, support groups and health fairs are permitted and not considered marketing.
- 2) Communications about government-sponsored programs do not fall within the definition of marketing. There is no commercial component to communications about benefits available through public programs. So covered entity is permitted to use/disclose PHI to communicate about eligibility for Medicare supplement benefits, or SCHIP.

- 3) Covered entities may make communications in newsletter format without authorization so long as the content of such does not fit the definition of “marketing.”

POLICY:

It is the policy of the Chelan-Douglas Regional Support Network to secure an authorization to use or disclose protected health information (PHI) for marketing purposes if any marketing activities are undertaken, in compliance with the Privacy Rule of the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996. [164.501, 164.508(a)(3)] Currently, the Chelan-Douglas Regional Support Network does not engage in any marketing activities as defined by this policy.

Exceptions to the Scope of Marketing Activities so Authorization is not needed:

Marketing does not include:

- 1) oral or written communications that describe the Chelan-Douglas Regional Support Network’s network or covered services; or
- 2) communications about treatment for the patient; or
- 3) communications about case management or care coordination, or recommendations of treatment alternatives and care options, including health care providers or settings of care.

The following are examples of these exceptions:

- 1) Covered entities can convey information to beneficiaries and members about health insurance products offered by the covered entity that could enhance or substitute for existing health plan coverage. For example, if a child is about to age out of coverage under a family’s policy, this provision will allow the plan to send the family information about continuation coverage for the child. This does NOT extend to excepted benefits such as accident-only policies or to other lines of insurance.
- 2) Doctors can write a prescription or refer an individual to a specialist for follow-up tests because these are communications about treatment.

PROCEDURE

Authorization to Use or Disclose PHI for Marketing Purposes:

1. The Chelan-Douglas Regional Support Network will obtain an authorization for any use or disclosure of PHI for marketing, except if the communication is in the form of a:
 - a) face-to-face communication with the consumer; or
 - b) a promotional gift of nominal value provided by the Chelan-Douglas Regional Support Network.
2. If the marketing involves the Chelan-Douglas Regional Support

Network receiving direct or indirect remuneration by a third party, the authorization will state that such remuneration is involved.

SEE ALSO: