

CHELAN-DOUGLAS RSN/PIHP POLICY AND PROCEDURE MANUAL		Chapter:	1.4.2.17
Title:	HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT	Page:	1 of 6
		Date Effective:	April 14, 2003
Subject:	Right to Restrict Uses and Disclosures of PHI	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 (“HIPAA Privacy Rules”), sets out, in this policy, the requirements for responding to consumer-requested restrictions on the use and disclosure of their protected health information (PHI).

DEFINITIONS: See 1.3.2.0

POLICY: CDRSN will consider all requests that individuals (or a designated representative) submit to us for restriction of the uses and disclosures that we make of the requestor’s PHI for purposes of treatment, payment, and operations. CDRSN policy is to discuss with the requesting individual the potential difficulties that are inherent in such restrictions including potential interference with the individual’s ability to obtain timely and appropriate treatment.

CDRSN will use the “Notice of Privacy Practices” to inform individuals of their right to restrict certain uses and disclosures of PHI. We will use a “Request for Restrictions” form to document all such requests. While CDRSN is not required by the HIPAA Privacy Rule to agree to requested restrictions, our policy reserves the right to agree to restrictions that we determine, in our sole judgment to be in the best interests of the requesting individual.

CDRSN will implement any restrictions to which it agrees, unless otherwise prohibited by applicable laws and regulations and except as otherwise described below. CDRSN also will inform business associates having, in CDRSN’s judgment, a reasonably apparent need to know, of the restriction without disclosing the restricted information

itself.

When the individual requires or reasonably appears to require emergency treatment and restricted PHI is needed to provide such treatment, CDRSN policy is to disclose PHI that is required for such treatment and to accompany it with direction to prohibit any further uses or disclosures of the restricted PHI. In non-emergency situations, when CDRSN receives a request for restricted PHI that reasonably appears to be required for appropriate treatment, we will attempt to locate and discuss with the individual the need to send the PHI and attempt to obtain their agreement to do so. The individual's agreement or disagreement to the release must be documented. If the individual disagrees, CDRSN will communicate to the individual's treating provider that portions of the individual's PHI are restricted and are not being disclosed. This communication should not disclose the restricted information itself.

CDRSN reserves the right to unilaterally terminate any restriction in any case where CDRSN, in its judgment, believes the restriction no longer should be honored. CDRSN policy is to attempt to discuss any such termination with the affected individual seek their agreement with our decision or their acknowledgment of the discussion. All documentation concerning restrictions should be made on CDRSN Request for Restriction form or an attachment to it.

All PHI that CDRSN created or received during any term of restriction will be flagged to assure that any future uses and disclosures of are made in accordance with all restrictions in place for designated periods.

CDRSN will maintain an electronic or written record of any decision relating to a restriction for a minimum of six (6) years from the date of its creation or the last date for which the restriction remains in effect, whichever is later.

PROCEDURES:

Approval, Notification, and Acting On a Restricted Authorization

1. The right of an individual served by CDRSN to ask for a restriction on uses and discloses of their Protected Health Information for treatment, payment and operations is included in CDRSN's Notice of Privacy Practices.
2. If an individual asks about requesting such a restriction, they should be advised:
 - a. CDRSN will not agree to any restriction that in CDRSN's judgment would prevent billing, interfere with our direct treatment of the individual or prevent CDRSN from complying with the Privacy Rule, or other applicable laws and regulations.

- b. By a qualified healthcare professional, of any reasonably apparent possible or potential adverse consequences to the individual's treatment, of restricting disclosure of their PHI. (CDRSN should designate trained staff at each site having responsibility for dealing with restriction requests.)
3. All restrictions must be documented. For example, "The individual has requested and CDRSN has agreed that information about the consumer's diagnosis will not be disclosed to the requesting individual's spouse or therapist providing couples therapy." Similarly, if the request is denied, it also should be documented.
4. The restriction should be word-processed or must be legibly written and should be initialed by the consumer and the staff person.
5. The request then is sent promptly to the Privacy Officer/designee for review, decision as to whether the restriction can be agreed to, and logging.
 - a. The Privacy Officer/designee must respond within 2 business days to the request.
 - b. The request should be returned with approval/denial by the Privacy Officer/designee of the restriction.
 - c. All restrictions must be filed in the individual's record. The record shall be flagged to notify staff that there is a restricted consent.
 - d. Paper records will have a colored sticker applied to the outside of the chart with Restricted Authorization written on it.
 - e. Electronic records will be flagged to notify anyone accessing the record that there is a restricted consent.
6. The billing and other consumer databases as appropriate will be flagged to notify staff of the restriction.
7. Restrictions later terminated or new requests for restrictions will require documentation completed and signed by the individual where the individual can be located and is willing to do so. The request for a new restriction will require a new approval by the Privacy Officer/designee.
8. Anyone authorized member of CDRSN's workforce accessing or copying a record or database must:
 - a. Check in every case to see if there is a restriction;
 - b. Thoroughly read the restriction and determine if it applies to the use intended (Any workforce member who is unsure must consult the Privacy Officer/designee before proceeding.); and
 - c. Determine in consultation with the Privacy Officer/designee, how best to proceed while complying with the restriction, e.g. removing certain documents before copying, not disclosing certain information at treatment team meetings, and so forth.
9. If a request for disclosure comes from an outside individual or entity asking for information that is restricted, the CDRSN workforce member responsible for such disclosure is required to send back

the information requested that is not restricted and attach a note or orally inform the requestor that: “Your request for a disclosure has been partially fulfilled because you have requested information that the consumer has asked us to restrict. Any additional questions should be directed to the consumer.” The CDRSN workforce member shall have no authority to, and shall not disclose the restricted information itself.

Terminating a Restriction

1. Terminating a restriction with the individual’s agreement:
 - a. If the individual agrees to a limited or one-time termination of an agreed restriction for a specific purpose, the disclosure should be documented. The documentation must include memorialization of the individual’s oral or written authorization, the reason for the disclosure, the date and signature of the clinical person responsible for handling the disclosure, and the individual’s signature, if possible.
 - b. The individual may more clearly understand the impact of the restriction on their activities with the CDRSN and may no longer wish to keep the restriction in place.
 - i. This communication can be initiated by an authorized CDRSN workforce member.
 - ii. Any removal of the restriction must be documented. Such documentation should include all information relevant to the restriction removal.
 - iii. In an electronic record, the flag should be removed, but the historical information documenting the restriction must be retained by CDRSN.
 - iv. In a paper record the flag on the front of the chart should be removed.
 - v. Any flags in any of the other databases can be removed.
2. Terminating a restriction without the consumer’s agreement:
 - a. Restrictions can be terminated by the Chelan-Douglas Regional Support Network. In these cases only PHI developed after the date of the restriction will be free of the restriction.
 - b. Terminating a restriction without the individual’s consent should only be done after reasonable efforts to contact the individual where possible, obtaining the individual’s documented agreement with the termination or acknowledgment of advice and consultation about CDRSN’s unilateral termination. .
 - c. Terminations without the consumer’s authorization generally should only occur if the individual’s clinician and the supervisor reasonably believe that:
 - i. The restriction appears to be interfering with the individual’s treatment to a degree that service quality foresee ably will be adversely impacted; or,

- ii. The restriction compromises CDRSN's ability to provide medically necessary care; or
- iii. The restriction exposes CDRSN to non-compliance with applicable laws or regulations.

The Privacy Officer/designee must be consulted with regard to all requests to terminate a restriction.

- d. The individual should be informed either orally or in writing. If orally, the documentation should be affixed on CDRSN's designated form. The documentation should include the reason for termination, approval received from Privacy Officer/designee and/or Clinical Director, method for notifying individual, and effective date of termination.
- e. The flags in the medical record and other databases should note the date of termination of the restriction, but the flag should remain in place.

Emergency Situations

When the individual is in need of emergency treatment and the restricted PHI is needed to provide the emergency treatment, it is necessary for the emergency providers to have the PHI that is restricted:

1. The staff person who will be responsible for the disclosure will attempt to get the consumer's agreement to release the restricted information if the individual can do so or the treatment will not be interfered with. This should be documented
2. If the disclosure is oral, give the restricted information to the emergency provider and inform them that this is restricted information and that disclosures must be made in compliance with the restriction going forward. This should be documented.
3. If the restricted information is sent electronically or in writing, notice should be given in writing to the receiver that this is restricted information and that disclosures must be made in compliance with the restriction going forward. A copy of this written notice should be kept as required by CDRSN policies.

SEE ALSO: Notice of Privacy Practices
Administrative requirements – documentation retention
Business Associate Agreement

Chelan-Douglas Regional Support Network
636 Valley Mall Parkway, Suite 200
East Wenatchee, WA 98802
509-886-6318

REQUEST FOR RESTRICTION ON USE & DISCLOSURE OF PROTECTED HEALTH INFORMATION

Consumer Name: _____

Phone Number (Day): _____ Phone Number (Evening): _____

Street or PO Box: _____ City: _____

State: _____ Zip: _____

1) Protected Health Information to be Restricted:

2) Nature of Restriction:

TO OUR CONSUMERS: You have the right to request that we restrict our use and disclosure of your medical records and information. We do not have to agree to your requested restrictions. If we do agree to the requested restriction, we will abide by the restriction unless a medical emergency requires otherwise.

By your signature below, you acknowledge that you understand and agree to the above information.

Signature of Consumer: _____

Date: _____

Request for Restriction Accepted _____

Request for Restriction Denied _____

Request to Communicate Confidentiality Accepted _____

Request to Communicate Confidentiality Denied _____

This Request for Restriction and Confidential Communication Form is to be made a part of the medical record of: _____ (Consumer Name).