THE UNIVERSITY OF ARIZONA
HEALTH PLANS

SUBJECT: PROTECTED HEALTH INFORMATION

POLICY: CP 6007

Department of Origin: **Compliance Department**
Responsible Position: **Vice President , Compliance and Audit**
Date(s) of Review and Revision: 12/13; 05/14; 12/14; 01/16
Policy Replaces: N/A

Department Approval:

Approval has completed on CP 600

PURPOSE

To ensure The University of Arizona Health Plan (Health Plan), a division of Banner Health Corporate implements appropriate processes to protect member's Protected Health Information (PHI). The Health Plan educates members, employees and First Tier, Downstream and Related Entities (FDRs) about the ways in which member's may obtain or otherwise manage access to their PHI in accordance with the Health Plan and Corporate's code of conduct and as required by the Health Insurance Portability and Accountability Act's (HIPAA).

APPLICABILITY

This policy applies to all Lines of Business.

POLICY

The Health Plan takes appropriate measures to secure and protect member PHI and communicates these measures to members. The Health Plan provides members with mechanisms to access and manage their PHI.

DEFINITIONS

Please refer to the link below for full definitions for the following terms:
http://sharepoint/sites/hppandp/new/Lists/Definitions/PP%20Definitions.aspx

Addendum
Amend/Amendment
Correction Covered Entity/Entities
First Tier, Downstream and Related Entities (FDR)
Health Insurance Portability and Accountability Act (HIPAA)
Health Plan Record(s)
Late Entry Protected Health Information (PHI)

PROCEDURE

1.0 The Health Plan has established protocols to maintain secured access to the Health Plans computer systems, electronic mail, internet and to remove access for terminated employees upon employee exit. (See Health Plan Policy IS 6019 Security Policy – Computer Systems).

2.0 Mandatory HIPAA Education

As a condition of employment with the Health Plan, all Health Plan employees are required to receive mandatory education on HIPAA within 90 days of hire or association with the Health Plan and annually thereafter.

2.1 All Health Plan FDRs are required to sign a Business Associates Agreement (BAA) and to abide by the BAA's HIPAA requirements.

2.2 The Health Plan Compliance Department ensures annual training and education for Health Plan employees. Participation in these educational programs will be documented in the Banner Learning Center.

3.0 Health Plan Employee "Need to Know"

3.1 In accordance with Health Plan policy CP 6006 Health Plan Privacy and Security Safeguards, only Health Plan employees with legitimate "need to know" may access, use or disclose PHI. Employees may only access, use or disclose the minimum information necessary to perform his or her designated role regardless of the extent of access provided.

3.2 The Health Plan identifies those employees who need access to PHI in order to carry out their duties as well as the type of PHI access is needed.

3.2.1 Each Department is responsible for identifying any conditions that may have an impact on an employee's ability to access and/or disclose the PHI they are authorized to access.

4.0 Minimum Necessary

4.1 The Health Plan will make reasonable efforts to limit access of PHI to what is necessary to carry out Health Plan duties, functions and/or responsibilities.

4.2 Internal and external requests to access PHI must be in compliance with this policy and may be reviewed by the Compliance Department to determine whether it meets the minimum necessary requirements.

4.3 Health Plan employees will only use and disclose the amount of PHI minimally necessary except in the following circumstances:

4.3.1 When the PHI is for use by or a disclosure to a healthcare provider for purposes of providing treatment to the patient;

4.3.2 When the disclosure is to the member or the member's legally authorized representative;

4.3.4 When the disclosure is pursuant to a valid authorization, in which case, the disclosure will be limited to the PHI specified on the authorization;

4.3.5 When the disclosure is to the Secretary of Health and Human Services; or

4.3.6 When the disclosure is required by law**.**

5.0 Health Plan Disclosures of PHI

5.1 The Health Plan will not disclose PHI unless permitted by Banner Health Corporate or Health Plan policies or as required by law. Member Protected Health Information (PHI) may be shared with a Covered Entity for purposes of treatment, payment or operations or with the member or member's authorized representative when requested and properly authorized.

5.2

6.0 Notice of Privacy Practice (NOPP)

6.1 The Health Plan has developed and maintains a HIPAA-compliant NOPP.

6.2 The NOPP is used to notify Health Plan members of their rights and responsibilities with respect to their PHI. The NOPP also advises members of the Health Plan's responsibilities with respect to the PHI the Health Plan creates, collects and maintains.

6.3 The NOPP contains all HIPAA-required elements and describes how the Health Plan may use and disclose a member's PHI. The NOPP states the Health Plan's duties to protect member privacy, provide a notice of privacy practices and abide by the terms of the current NOPP. The NOPP describes a member's rights.

6.4 The NOPP includes a point of contact for further information and for making complaints to the Health Plan.

6.5 The NOPP will be in plain language and consistent with applicable laws, rules and regulations.

6.6 The NOPP will be in English and Spanish and any other language when 1,000 or 5%, whichever is less, members that speak that language have a Limited English Proficiency (LEP).

6.7 The NOPP will be made available to members in paper and on the Health Plan websites. The NOPP will be posted in a clear and prominent place in Health Plan offices.

6.8 The NOPP is made available to prospective members through the Health Plan websites and is included with sales and marketing materials.

6.9 The NOPP will be issued to each new member upon member's enrollment and members will be reminded annually that a current NOPP can be viewed on Health Plan websites and is available upon request.

6.10 The member's right to privacy and right to request a NOPP will be included in member materials which are disseminated to members at time of enrollment and all enrollment renewals or re-enrollment.

6.11 The Customer Care and Marketing Departments are responsible for maintaining and updating the NOPP. Material revisions to the NOPP will require redistribution of the NOPP to all Health Plan members within 60 days of revision.

7.0 Member Rights

7.1 Rights are granted to members related to their Health Plan Record:

7.1.1 The right to inspect their health information and to obtain a copy of their Health Plan Record. Under very limited situations, a member's request may be denied, such as a request for psychotherapy notes.

7.1.2 The right to request an Amendment to their Health Plan Record.

7.1.3 The right to an accounting of disclosures of the member's Health Plan Record made by the Health Plan.

7.1.4 The right to request restrictions on the uses and disclosures of the member's Health Plan Record made by the Health Plan.

7.1.5 The right to request that the Health Plan communicate confidentially with them about their health information in a certain way or at certain locations.

7.1.6 The right to receive a paper copy of the NOPP even if the member has requested or obtained it electronically.

7.1.7 The right to complain to Health Plan, the Department of Health and Human Services or the Office of Civil Rights if the member believes their privacy rights has been violated.

7.1.8 Some rights require action on the part of the member before the Health Plan can respond. This includes the member contacting the Health Plan's Customer Care Center and making any requests in writing and providing a reason that supports their request.

8.0 Member's Right to Inspect or Obtain Copies of Member's Health Plan Records

8.1 The Health Plan has implemented a process to fulfill member requests to access or release some or all of their health information.

8.2 Requests to release Health Plan Records must be accompanied by a member signed authorization. The Health Plan has created an "Authorization for Use, Inspection and Disclosure of Protected Health Information" form (Release Authorization). Either the Release Authorization or member-created alternative may be used. Any member-created forms to release records that are not the Authorization Release may be accepted as long as these alternative forms contain

the ten requirements listed in the Health Plan's Request for Medical Records Desktop.

8.2.1 The Release Authorization must include the following:

8.2.1.1 Information to be disclosed;

8.2.1.2 Name, address etc. of individual/organization to whom the Health Plan Records should be released;

8.2.1.3 Agree/Disagree to release Health Plan Records on Drug/Alcohol Abuse, Psychiatric and HIV/AIDS Genetic Testing records.

8.2.1.4 If a member-created form to release record does not contain the ten requirements, The Health Plan will send the Health Plan's Authorization Form to the requestor for completion before proceeding.

8.2.1.5 Upon receipt of appropriately completed and signed Release Authorization, and a copy of identification (Driver's License or Picture ID) the Compliance Department will review the request and determine if Health Plan Records can be released.

8.3 If the Compliance Department determines the request can be fulfilled, the Compliance Department will collect the requested information and supply a copy to the member. The member will not be a charged if the member has only requested to inspect the member's Health Plan Record.

8.4 Under limited situations where the request may be denied, such as a request for psychotherapy notes, the Compliance Officer will review and approve all denials and the member will be notified of the reasons for the denial in writing. The Health Plan will make clear the member's rights to obtain access to the information if the designated record set that is not available.

8.5 The Health Plan will fulfill member requests within thirty (30) days of receipt of appropriate written request andthe completed Authorization Form.

8.6 In the event the Authorization form is not returned to the Health Plan, the Service Request for Health Plan Records will be closed after 30 days.

9.0 Member's Right to Amend Member's Health Plan Record

9.1 The Health Plan has implemented a process to fulfill a member's requests to Amend the member's Health Plan Records due to the Health Plan Record being incorrect or incomplete.

9.2 Upon receipt of written request to Amend the member's Health Plan Record from a member or a member's authorized representative, the Compliance Department will review the request and consult with licensed clinical professionals or other subject-matter experts from the appropriate Health Plan department to determine if the health information in the Health Plan Record is incorrect or incomplete.

9.3 After the Compliance Department and subject-matter experts evaluate the accuracy and completeness of the Health Plan Record, they will advise the Compliance Officer of their findings. The Compliance Officer will then review

the findings and any associated documents to determine whether to grant or deny the Amendment request.

9.4 If the Compliance Officer determines the Amendment request can be fulfilled, the Compliance Department will ensure the member's Health Plan Record is corrected and will provide the member with written confirmation of the Amendment. When the Correction is made, the Health Plan makes reasonable efforts to see that the corrected information is provided to Health Plan FDRs.

9.5 If the Compliance Officer determines the Amendment request is denied, the Compliance Officer will document the reason(s) for denial and notify the member or member's authorized representative of the denial. Notification of denial must include:

9.5.1 The basis /reason for denial;

9.5.2 A notification of the member's right to submit a written "statement of disagreement" with the denial. If the member submits a written "statement of disagreement", the Health Plan will include the member's "statement of disagreement" in the member's Health Plan Record. The Health Plan must provide documentation of the dispute with any subsequent disclosure of the disputed PHI;

9.6 A description on how the member or member's authorized representative can file a complaint with the Health Plan, the Department of Health and Human Services or the Office of Civil Rights pursuant to HIPAA.

9.7 The Custodian of Records will ensure all Correction Amendments are maintained and stored in accordance with Federal and State laws in accordance with Health Plan Policy CP 6230 Custodian of Records.

9.7.1 The Health Plan will act on the Amendment request within sixty (60) days. If, under certain circumstances, the Health Plan cannot fulfill the request in 60 days, the Health Plan will notify the member in writing of reasons and their intent to extend an additional thirty (30) days.

10. Member's Right to Request to Receive an Accounting of Disclosures of Member's PHI

10.1 The Health Plan's has an implemented process to fulfill a member's request to receive an accounting of the Health Plan's disclosures of the member's PHI.

10.2 The NOPP supplies the member with instructions on how to request an accounting of disclosures. The member must contact the Health Plan's Customer Care Center to obtain and complete an "Accounting for Disclosure Authorization Form" (AD Form).

10.3 Once the member sends the completed AD Form to the Health Plan, the Compliance Department will research the request, collect the requested disclosure information, and send the information (up to six years) to the member.

10.4 The first request is free. Any additional request within a 12 month period may incur a fee.

10.5 The Health Plan will provide the member with an accounting of disclosures within sixty (60) days of request.

11.0 Member's Right to Request a Restriction on Use or Disclosure of Member's Health Information

11.1 The Health Plan has implemented a process to fulfill a member's request for restrictions on use or disclosure of member's Health Plan Record, in electronic or any other form.

11.2 The NOPP supplies the member with instructions on how to request a restriction. The member must submit the request for restriction in writing.

11.3 Once the request is received by the Health Plan, the Health Plan must agree to the restrictions unless the disclosure is for the purposes of carrying out payment or health care operations and is not otherwise required by law. The PHI restriction will be posted as a flag or an alert on the member's account in all Health Plan systems.

11.4 If the Health Plan disagrees to the restrictions, the Compliance Officer will document the reasons for disagreement, which are limited to carrying out payment or health care operations or as otherwise required by law. A written notice of disagreement will be sent to the member.

11.5 The Health Plan may not use or disclose the member's restricted information, except that, if the member who requested the restriction is in need of emergency treatment and the restricted PHI is needed to provide the emergency treatment.

11.6 The termination of a restriction may occur as follows:

11.6.1 The member agrees to or requests a termination in writing;

11.6.2 The member orally agrees to the termination and the oral agreement is documented;

11.6.3 The Health Plan informs the member that it is terminating its agreement to a restriction, except that such termination is not effective for PHI restricted through HIPAA laws and regulations, and is only effective with respect to PHI created or received after the Health Plan has informed the member.

11.7 The Health Plan will fulfill the request within thirty (30) days of receipt of written request.

12.0 Member's Right to Request for Confidential Communication by Alternative Means or Alternative Locations

12.1 The Health Plan has implemented a process for member's requests for confidential communications by alternative means or at alternative locations.

12.2 The NOPP supplies the member with instructions on how to request confidential communications by alternative means or at alternative locations. The member must submit the request in writing.

12.3 Once the request is received by the Health Plan, if the member clearly states that the disclosure of all or part of the member's PHI could endanger the member, the Health Plan must accommodate the request to receive communications of PHI

from the Health Plan by alternative means or alternative locations. The member's contact information will be updated in all Health Plan systems, and an alert will be posted in Siebel on the members account.

12.4 The Health Plan will supply the member with written confirmation of the Health Plan's agreement to the member's request.

12.5 If the Health Plan denies the member's request for any reason, the Health Plan's Compliance Officer will notify the member in writing of the reason for the denial.

12.6 The Health Plan will fulfill the request within thirty (30) days of receipt of written request or immediately (within one business day) if the member clearly states that the disclosure of all or part of the member's PHI could endanger the member.

13.0 Discipline for Non-Compliance

13.1 The Health Plan will take disciplinary action against any employee or FDR who fail to comply with the Banner Health Corporate or Health Plan Code of Conduct, or policies, Federal and State laws and requirements.

13.1.1 Employees and FDRs are made aware that failure to report violations due to negligence or reckless conduct may result in disciplinary action.

13.1.2 Disciplinary actions for FDRs range from contract sanctions to immediate contract termination, as appropriate.

PERFORMANCE AND OUTCOME MEASURES

1.0 The Health Plan is fully compliant to all HIPAA requirements related to member rights and responsibilities.

2.0 The NOPP complies with the Health Insurance Portability and Accountability Act of 1996 (HIPAA)

REFERENCES

1.0 Health Insurance Portability and Accountability Act of 1996 (HIPAA)
2.0 The Health Information Technology for Economic and Clinical Health Act (HITECH)
3.0 Medicare regulations governing Parts C and D found at 42 CFR§ § 422 and 423 respectively.
4.0 NCQA Members Rights and Responsibilities
5.0 The University of Arizona Health Plans Compliance Program and Fraud, Waste and Abuse Program.
6.0 Title 45 of the CFR, Part 164.522
7.0 Title 45 of the CFR, Part 164.526
8.0 Title 45 of the CFR, Part 164.528
9.0 Title 45 of the CFR, Part 164.508
10.0 AHCCCS Contract, Section D, Paragraph 21 Medical Records

ASSOCIATED POLICIES AND PROCEDURES

1.0 Health Plan Policy - CP 6230 Custodian of Records
2.0 Health Plan Policy - CP 6022 Maintenance and Retention of Health Plan Documents
3.0 Health Plan Policy - CP 6006 Health Plan Privacy and Security Safeguards
4.0 Health Plan Policy - IS 6019 Security Policy Computer Systems

ATTACHMENTS

N/A