

Health Insurance Portability and Accountability Act (HIPAA)

Emergency preparedness and recovery planners are interested in the availability of information they need to serve people in the event of an emergency. For example, planners seek to meet the special needs of the elderly or persons with disabilities in the event of an evacuation. The Federal Health Insurance Portability and Accountability Act of 1996 HIPAA Privacy Rule protected individually identifiable health information held information held by "covered entities". The information protected is referred to as protected health information or PHI. **The HIPAA Privacy Rule permits covered entities to disclose PHI for a variety of purposes.** This tool presents avenues of information flow that could apply to emergency preparedness activities.

Disclosure for Emergency Preparedness

1. Who is the source of the information to be disclosed?

Is the source of the information a covered entity? Yes No

Definitions: A Covered Entity is

A health plan – An individual or group plan that provides, or pays the cost of, medical care. Health plans include private entities (e.g., health insurers and managed care organizations) and government organizations (e.g., Medicaid, Medicare, and the Veterans Health Administration).

A health care provider – A provider of health care services and any other person or organization that furnishes, bills, or is paid for health care in the normal course of business. Health care provider (e.g., physicians, hospitals, and clinics) are covered entities if they transmit health information in electronic form in connection with a transaction for which a HIPAA standard has been adopted by HHS. (e.g., billing)

A health care clearinghouse – A public or private entity, including a billing service, repricing company, or community health information system, that processes non-standard data or transactions received from another entity into standard transactions or data elements, or vice versa.

2. Who is the source of the information to be disclosed?

Yes, the source of the information is the individual.

The disclosure may be made!

The individual may disclose the information. The privacy Rule applies only to covered entities and not individuals!

The Privacy Rule does not apply to individual consumers. Individuals may disclose information to any person without regard to the Privacy Rule.

For example, a consumer may provide information directly to anyone without an authorization.

3. **Who is the source of the information to be disclosed?**

No, the source of the information is not a covered entity. The disclosure may be made. The Privacy Rule applies only to covered entities!

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The Privacy Rule does not apply to all persons or entities that regularly use, disclose, or store individually identifiable health information.

The Privacy Rule does not limit the disclosure of information by social service agencies, Centers for Independent Living, paratransit authorities, Protection & Advocacy Organizations or public agencies that perform public health activities, when those agencies are functioning solely in these capacities.

4. **To whom is the information being disclosed?**

Yes, the source of the information is a covered entity. Is the recipient of the information a public health authority (PHA)? Yes No

Many emergency preparedness activities are public health activities (e.g., those that prevent or control disease, injury or disability)

Covered entities may disclose certain protected health information (PHI) to appropriate public health authorities for such activities

An entity that is authorized by law to coordinate disaster relief planning may be a public health authority

5. **Covered entities may disclose PHI to health care providers for treatment purposes!**

A health plan or provider may disclose PHI to a health care provider for treatment, which includes ensuring continuity of care.

6. **The disclosure is to an agency for public health purposes!**

Caution: The disclosure may be made with the individual's authorization

OR

Covered entities may disclose information in a Limited Data Set (LDS), which is specific health information accessed through an agreement with CMS. For more information and examples of LDS visit

http://www.cms.hhs.gov/PrivProtectedData/10_LimitedDataSets.asp