STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonia C. Novello, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL: 03 OMM/ADM-3

TO: Commissioners of Social Services

DIVISION: Office of Medicaid Management

DATE: April 16, 2003

SUBJECT: Privacy Notice as required under the Health Insurance Portability & Accountability Act (HIPAA)

SUGGESTED DISTRIBUTION:	Medicaid Directors Managed Care Coordinators
CONTACT PERSON:	Local District Liaison Upstate (518) 474 - 8216 NYC (212) 268 - 6855
ATTACHMENTS:	Attachment I Privacy Notice (English) Attachment II Privacy Notice (Spanish)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
			45 C.F.R §164.520		

I. PURPOSE

The purpose of this Office of Medicaid Management Administrative Directive (OMM/ADM) is to inform local departments of social services of the Privacy Notice that is required by Federal Regulation to be provided to Medicaid recipients.

II. BACKGROUND

HIPAA, the acronym for the Health Insurance Portability & Accountability Act of 1996 (Public Law 104-191), requires all covered programs to provide adequate notice to enrollees by April 14, 2003, and at least once every three years, of the uses and disclosures of protected health information (PHI) that may be made by the covered program. The privacy rule refers to the standards that protect "individually identifiable health information", which is any information that is generated or received by a health care provider, health plan, or health care clearinghouse; and identifies or may be used to identify an individual.

The Department of Health (DOH) and the local departments of social services (LDSS) which administer Medicaid, a covered program, must provide recipients of regular Medicaid, Medicaid Managed Care, Family Health Plus, and Child Health Plus A with information on how their PHI is used, disclosed and how they may access this information.

To fulfill the HIPAA requirement of adequate notice, DOH has developed a Privacy Notice.

III. PROGRAM IMPLICATIONS

A Privacy Notice has been drafted and will be mailed by DOH to Medicaid Heads of Household, which includes regular Medicaid, Family Health Plus, Medicaid Managed Care and Child Health Plus A in April 2003. Those enrolled in Child Health Plus B or the Family Planning Extension Program (FPEP) will not be sent this Notice, because the Medicaid program does not maintain their health information. These individuals should contact their Child Health Plus B or family planning provider with questions about their protected health information.

LDSS must use a Privacy Notice to provide new recipients of regular Medicaid, Medicaid Managed Care, Family Health Plus, and Child Health Plus A with information on how their PHI is used, disclosed and how they may access this information.

IV. REQUIRED ACTION

Beginning April 14, 2003, LDSS are required to include a Privacy Notice with each Medicaid acceptance notice sent to new and reopened regular Medicaid, Medicaid Managed Care, Family Health Plus, and Child Health Plus A cases. For cases initially granted presumptive eligibility, the HIPAA notice is required to be included with the notice of acceptance when the eligibility determination is made. For new Medicaid cases established by the Office of Mental Health (OMH) and the Office of Mental Retardation & Developmental Disabilities (OMRDD) the Privacy Notice should be sent to the same address/location as the notice of acceptance. A privacy notice is also required to be sent to individuals qualifying under the Qualified Medicare Beneficiary (QMB) Program. A privacy notice must also be sent to Family Planning Benefit Program (FPBP) recipients. Mailings to FPBP

recipients must use the applicant's mailing address in the Associated Name field of WMS (if one is provided) to ensure confidentiality.

Every three years the State will do a mass mailing to Medicaid Heads of Household, including regular Medicaid, Family Health Plus, Medicaid Managed Care and Child Health Plus A. The State is working on the most appropriate way to accomplish that task.

A copy of the Privacy Notice will be e-mailed to all LDSS' to provide district staff the opportunity to download and print copies of the Privacy Notice until an adequate supply is available. When printed, a supply will be sent to each district via regular mail. The notice is available in Spanish as well as in English. A copy of this Privacy Notice as well as routine updates on HIPAA will be posted on the NYS Department of Health web site at:
http://www.health.state.ny.us/nysdoh/medicaid/hipaa/hipaamain.htm

Local districts must use this approved Privacy Notice without modification unless this Department has granted approval for a local equivalent. The Department must review and approve any local equivalent Privacy Notice prior to use by the district to ensure that there are no discrepancies with DOH's approved Privacy Notice. Districts requesting to use a local equivalent Notice should send the Notice to the attention of:

Jim Botta
Medicaid Privacy Officer
Division of Policy & Program Guidance
Office of Medicaid Management
New York State Department of Health
Corning Tower, Room 2038, Empire State Plaza
Albany, New York 12237

The Privacy Notice includes phone numbers that Medicaid recipients or their representatives may call to make a request for privacy information or report a privacy problem or complaint. These numbers, 518-486-9057 or 1-800-541-2831, will be directed to the State Medicaid Help Line. As a single point of entry for Medicaid, Family Health Plus, Medicaid Managed Care and Child Health Plus A Privacy Notice related inquiries and questions, State Medicaid Help Line staff will handle requests for basic information and refer complaints and other requests to the designated State office. The designated State office will triage requests and, redirect questions/inquiries to LDSS offices when appropriate. Normal district procedures should be followed on calls referred to their office.

Medicaid recipients or their representatives may also report a complaint to the federal Department of Health and Human Services' Office for Civil Rights at 212-264-3313 or 1-800-368-1019.

Medicaid enrolled providers will be informed about the provisions of the HIPAA Privacy Notice in upcoming issues of the Medicaid Update. Issues of the Medicaid Update are available on the DOH website at:
http://www.health.state.ny.us/nysdoh/mancare/omm/main.htm

V. SYSTEMS IMPLICATIONS

None

VI. ADDITIONAL INFORMATION

Both English and Spanish versions of the Privacy Notice are attached to this directive. When available, an initial supply of the Privacy Notice will be sent to each district.

Copies of the Privacy Notice may be ordered through any of the following means:

1) by mail, with the request addressed to:

New York State Department of Health
11 Fourth Avenue
Rensselaer, New York 12144

2) by fax, to (518) 465-0432.

3) by e-mail, to b0019w@albnydh2.health.state.ny.us

An Administrative Directive providing additional guidelines relative to HIPAA will be issued.

VII. EFFECTIVE DATE

Use of the Privacy Notice is required for new and reopened regular Medicaid, Medicaid Managed Care, Family Health Plus, and Child Health Plus A cases effective April 14, 2003.

Kathryn Kuhmerker
Deputy Commissioner
Office of Medicaid Management

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Privacy Notice

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

Effective April 14, 2003, the New York Medicaid program must tell you how we use, share, and protect your health information. The New York Medicaid program includes regular Medicaid, Medicaid Managed Care, Family Health Plus, and Child Health Plus A. The program is administered by the New York State Department of Health and the Local Departments of Social Services.

Your Health Information is Private.
We are required to keep your information private, share your information only when we need to, and follow the privacy practices in this notice. We must make special efforts to protect the names of people who get HIV/AIDS or drug and alcohol services.

What Health Information Does the New York Medicaid Program Have?
When you applied for Medicaid, Family Health Plus, or Child Health Plus A, you may have provided us with information about your health. When your doctors, clinics, hospitals, managed care plans and other health care providers send in claims for payment, we also get information about your health, treatments and medications.

If you enrolled in Child Health Plus B, the New York Medicaid program does not have your health information. You should contact your Child Health Plus B plan with questions about your health information.

How Does the New York Medicaid Program Use and Share Your Health Information?
We must share your health information when:

- ***You or your representative requests your health information.***
- ***Government agencies request the information as allowed by law such as audits.***
- ***The law requires us to share your information.***

In your Medicaid application, you gave the New York Medicaid program the right to use and share your health information to pay for your health care and operate the program. For example, we use and share your information to:

- ***Pay your doctor, hospital, and/or other health care provider bills.***
- ***Make sure you receive quality health care and that all the rules and laws have been followed.*** We may review your health information to determine whether you received the correct medical procedure or health care equipment.
- ***Contact you about important medical information or changes in your health benefits.***
- ***Make sure you are enrolled in the right health program***.
- ***Collect payment from other insurance companies.***

We may also use and share your health information under limited circumstances to:

- ***Study health care.*** We may look at the health information of many consumers to find ways to provide better health care.
- ***Prevent or respond to serious health or safety problems for you or your community as allowed by federal and state law.***

We must have your written permission to use or share your health information for any purpose not mentioned in this notice.

What Are Your Rights?

You or your representative have the right to:

- Get a paper copy of this notice.
- See or get a copy of your health information. If your request is denied, you have the right to review the denial.
- Ask to change your health information. We will look at all requests, but cannot change bills sent by your doctor, clinic, hospital or other health care provider.
- Ask to limit how we use and share your information. We will look at all requests, but do not have to agree to do what you ask.
- Ask us to contact you regarding your health information in different ways (for example, you can ask us to send your mail to a different address).
- Ask for special forms that you sign permitting us to share your health information with whomever you choose. You can take back your permission at any time, as long as the information has not already been shared.
- Get a list of those who received your health information. This list will not include health information requested by you or your representative, information used to operate the New York Medicaid program or information given out for law enforcement purposes.

See the New York State Department of Health web site for a copy of this notice: www.health.state.ny.us.

1. **For more privacy information, to make a request or to report a privacy problem/complaint*, please contact the Medicaid Help Line Office at: (518) 486-9057 or 1-800-541-2831. TTY users should call 1-800-662-1220. The Help Line will direct your calls to the correct state and local department of social services office.**

2. You may also report a complaint* to: The Office for Civil Rights, Department of Health and Human Services, Jacob Javits Federal Building, 26 Federal Plaza, Suite 3312, New York, New York 10278; (Telephone) (212) 264-3313 or 1-800-368-1019; (Fax) (212) 264-3039; or (TDD) (212) 264-2355.

   ****You will not be penalized for filing a complaint*.**

If we change the information in this notice, we will send you a new notice and post a new notice on the New York State Department of Health web site.

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Notificación de Privacidad

ESTA CARTA DESCRIBE CÓMO SE PUEDE USAR Y DIVULGAR SU INFORMACIÓN MÉDICA CONFIDENCIAL, Y TAMBIÉN CÓMO PUEDE USTED OBTENER ACCESO A ESA INFORMACIÓN. POR FAVOR LEA CON CUIDADO ESTA NOTIFICACIÓN.

A partir del 14 de abril de 2003, el programa de salud de Medicaid de Nueva York tendrá que informarle a usted cómo utiliza, comparte y protege su información médica. El programa de Medicaid de Nueva York incluye: Medicaid regular, Medicaid Manager Care, Family Health Plus y Child Health Plus A. El programa es administrado por el Departamento de Salud Pública del Estado de Nueva York y por los Departamentos Locales de Servicios Sociales.

Su información médica es confidencial.
Nosotros debemos mantenerla confidencial, compartirla sólo cuando sea absolutamente necesario, y observar todas las reglas de privacidad definidas en esta notificación. También estamos obligados a proteger los nombres de las personas que reciben servicios relacionados con el VIH/SIDA, o con el abuso de drogas o alcohol.

¿Qué clase de información médica maneja el programa de Medicaid de Nueva York?
Cuando usted solicitó cualquiera de los servicios de Medicaid, Family Health Plus, Child Health Plus A, usted pudo habernos entregado información acerca de su salud. Cuando sus doctores, clínicas, hospitales, planes de salud y otros proveedores de servicios médicos nos envían las cuentas para el pago, también recibimos información sobre su salud, tratamientos y medicamentos.

Si usted está inscrito en el Child Health Plus B, nosotros no tenemos su información médica. Si tiene alguna pregunta sobre su información médica, por favor comuníquese con su plan Child Health Plus B.

¿Cómo utiliza y comparte su información médica el programa Medicaid de Nueva York?
Nosotros solamente podemos compartir su información médica cuando:

- ***Usted o su representante solicita su información médica.***
- ***Las agencies del gobierno solicitan la información, tal y como lo permite la ley en casos de auditorias.***
- ***La ley exige que compartamos su información.***

En su solicitud de Medicaid, usted le dio al programa de Medicaid de Nueva York el derecho a usar y compartir su información médica para pagar por su atención médica y la debida operación del programa. Por ejemplo, nosotros usamos y compartimos su información para:

- ***Pagarle a su doctor, hospital, y/o pagar otras cuentas de proveedores de atención médica.***
- ***Asegurarnos que usted ha recibido un servicio medico de buena calidad y que todas las regulaciones de la ley hayan sido cumplidas***. Nosotros podremos revisar su información médica para determinar si recibió los procedimientos médicos correctos o para verificar que el equipo usado en su tratamiento haya sido el correcto.
- ***Contactarle a usted para darle información médica importante o informarle acerca de cambios a sus beneficios de salud.***

- ***Asegurarnos que usted está inscrito en el programa de salud adecuado para sus necesidades.***
- ***Cobrar a otras compañías de seguro.***

También podremos usar y compartir su información médica, para:
- ***Revisar la atención médica***. Podremos revisar la información médica de varias personas para buscar mejores formas de proveer atención médica.
- ***Prevenir o responder a problemas serios de salud o de seguridad, no solamente para usted, sino también para toda su comunidad, tal y como lo permiten las leyes del gobierno Federal y del Estado.***

Para cualquier otro caso que no haya sido mencionado en esta carta, nosotros debemos obtener de usted un permiso escrito para poder usar y compartir su información médica.

¿Cuáles son sus derechos?
Usted o su representante tiene derecho a:
- Recibir una copia por escrito de esta notificación.
- Ver o recibir una copia de su información médica, y si esto es negado, tiene derecho a revisar y verificar el porqué fue negado.
- Solicitar el cambio de su información médica. Nosotros revisaremos todas las solicitudes de cambios, pero no podemos modificar las cuentas enviadas por su doctor, clínica, hospital o cualquier otro proveedor de servicios médicos.
- Pedir que limitemos la forma como usamos y compartimos su información médica. Nosotros revisaremos todas las peticiones, pero no siempre estaremos de acuerdo con cada persona.
- Solicitar que nos comuniquemos con usted de diferentes maneras (por ejemplo, usted nos puede pedir que le enviemos su información médica a otra dirección).
- Decidir con quién podemos compartir su información médica. También podrá anular este permiso en cualquier momento, siempre y cuando la información no haya sido compartida todavía.
- Obtener una lista de las personas que han recibido su información médica. Esta lista no incluirá información médica solicitada por usted o su representante, información que haya sido utilizada para la operación del programa Medicaid de Nueva York, o información que haya sido divulgada para el cumplimento de la ley.

- **Visite la página de Internet del Departamento de Salud Pública del Estado de Nueva York para obtener una copia de esta notificación: www.health.state.ny.us.**

1. **Para obtener más información sobre asuntos de privacidad, para hacer una solicitud o si desea reportar un problema o queja, por favor comuníquese con el Medicaid Help Line llamando al: (518) 486-9057 o al 1-800-541-2831. Las personas que usan servicios de teletipo (TTY) pueden llamar al 1-800-662-1220. Su llamada será transferida a la oficina estatal y local de servicios sociales correspondiente.**

2. Usted también podrá presentar una queja a: La Oficina de Derechos Civiles, Departamento de Servicios Sociales y Salud Publica, Jacob Javits Federal Building, 26 Federal Plaza, Suite 3312, New York, NY 10278; (Teléfono) (212) 264-3313 ó 1-800-368-1019; (Fax) (212) 264-3039; o al (TDD – Dispositivo de Telecomunicaciones para Sordos) (212) 264-2355.

**** Usted no será penalizado por presentar una queja.***

Si nosotros modificamos esta información, le enviaremos una nueva notificación, la cual también publicaremos en la página Web del Departamento de Salud Pública del Estado de Nueva York.