

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

September 29, 2004

MEMORANDUM FOR CHILDRENS DIVISION STAFF

FROM: FREDERIC M. SIMMENS, DIRECTOR

SUBJECT: HIPAA PHI REQUEST FORMS INSTRUCTIONS

DISCUSSION:

For some time now, many of the **“Individual’s Request for Access to Protected Health Information” (aka ‘Exhibit 4’)** forms that are forwarded to the Central Office Divisional Privacy Officer for decisions on whether to allow access to protected health information (PHI) have not been correctly completed, thus lending to (sometimes) lengthy delays in request compliance processing. This memorandum will serve to provide guidelines to address that issue. In addition, there will be discussion pertaining to the **“Authorization for Disclosure of Health Information by the DSS” (aka ‘Exhibit 2’)**.

Most especially, it is important that **Exhibit 4** be completed thoroughly, and completed correctly; this is the form used when an individual (or ‘ascertained’ personal representative) wishes to gain access to specific personal PHI (protected health information) in the possession of the DSS.

- All blocks in the top section of the form should be completed – printed for legibility sake. Include the departmental client number (DCN) if the requester has one. If, to note, the requester is a representative of the individual to whom the requested PHI pertains, the identity and authority of that individual should be reasonably ascertained.
- The next section is the “Specific Information to be Accessed” section.
  1. The requests for access should state as precisely as possible what the requester wants, including dates the information was generated and/or

compiled - again, in a printed format. Such specification does not, however, limit the requester's access to his/her own PHI, but more so serves to aid in making better use of staff time and resources, as well as to better accommodate the requester to communicate what he/she is most interested in.

2. The blocks inquiring as to whether the requester will accept a summary and whether the requester is amenable to paying reasonable costs associated to producing the information should be check-marked as is the case. And there should be a mailing address to send the requested material to if it's established the material can be released and if the requester is agreeable to receiving the material in that manner. The requester (or representative) must accordingly sign and date the form. Assuming that the greater numbers of these forms are completed in the presence of a Family Support or Children's Division staff member, the staff member should assist the requester in accurately and thoroughly completing the areas the requester is responsible for as needed.
- The last section to be completed by the local office is under the heading "For DSS Use Only." This section causes most of the delays in processing information access requests.
    1. In the first blocks of this section, the "Date received" is critical as a control for mandated request compliance time-frames. The 'receiving' employee should print their name, along with that of the Division and county. Then, the employee should sign and indicate the 'signature-signing' date.
    2. After the form is employee-signed (essentially attesting that the request has been received by the Division), a local decision must be made as to whether the request can be complied with.
      - a) If it's decided at the local level that the access request can be fulfilled, the requested information should be conveyed to the requester in the fashion so designated in the "Specific Information to be Accessed" section (i.e. paper, computer disc, microfiche, etc.) as possible. Also, a copy of the request form (indicating the decision) should be given to the requester. Although previous instructions from the FSD/IM side ('Take 45' dated April, 2003 and on the access request form itself) direct that a copy of the (completed) form should be sent to the privacy officer, this instruction is rescinded so long as it's ensured that the completed original is placed in the case file after a copy is given to the requester.
      - b) If it's questionable as to whether the requester should/can have access to what's been requested, and a decision to access can not be supported from the local level, then the "Denial of Access is Recommended" box should be checked. Also, the applicable box(es) must be checked as a premise (or basis) for making such a

recommendation; the 'reason to deny' boxes are situated in two columns under the 'Denial of Access is Recommended' heading. Below those 'denial reasons' is a "comment" line for additional input about how the decision to deny access was arrived at (optional). There is, to note, not very much space to 'comment' in so staff may include an attachment to this form to expound in support of a position.

DO NOT WRITE IN THE BLOCKS BELOW THE 'COMMENTS' LINE!  
That's to be completed by the Divisional Privacy Officer should the form be sent in recommending denial of access to requested information.

If the decision is to recommend denial of access, then the (original) form must be sent to the Divisional (NOT Departmental) Privacy Officer after completion, including any supportive material (i.e. copy of the questionable requested PHI, narrative argument, etc.). The supporting material is essential to aid the Privacy Officer in making a decision about whether the recommendation to deny access should/can be sustained. The Privacy Officer will complete the last (bottom) section of the form and will return that completed original to the staff person for the case file. The Privacy Officer will then notify the requester of the decision as to whether the FSD can comply with the access request. If so, the Privacy Officer will include a copy of the requested material that was sent in with the initial recommendation. If it's decided to uphold the recommendation to deny access, the Privacy Officer will also provide an explanation to the requester.

If an access request is recommended for denial, the form (along with the information in question/supporting narratives) should be mailed -- **in a secure and confidential manner** – to:

**Privacy Officer, Family Support and Children's Divisions**  
**P.O. Box 2320**  
**Jefferson City, MO 65102-2320**

The form '**Exhibit 2**' ("**Authorization for Disclosure of Health Information by DSS**"), is employed by the DSS for an individual (or a bona fide representative) to request direct release of specific PHI to a specified entity/agent. When a requester indicates PHI disclosure is intended for another party – for example, release to a representing attorney in pursuit of Social Security disability benefits – the requester should be encouraged to complete 'Exhibit 2' rather than 'Exhibit 4', as now often appears to be the case. This form, as with 'Exhibit 4', should be thoroughly completed. Although there is not a place on 'Exhibit 2' to make a recommendation not to release, the form is in a revision stage currently. If, meanwhile, it is not believed that certain information can be released to a designated third party as requested by an individual, send the form (confidentially) to the Divisional Privacy Officer with a narrative explaining the

recommendation along with supporting documentation befitting the circumstances – much as should be the formality in working with ‘Exhibit 4’.

Any questions relating to discussion about the above subject documents should go through supervisory channels.

**NECESSARY ACTION:**

- Ensure that all staff having occasion to work with the topic forms is aware of, and can access, this memorandum.

FS/DWO