

LEARNING THE BASICS

CONFIDENTIALITY

Overview:

It is important that the people who receive support have their privacy protected to the degree mandated by law. Respecting confidentiality is one of a support coordinator's most important ethical obligations. Support coordinators must not discuss an individual's information with anyone outside of their facilities unless prior written approval is obtained. Although the rules and regulations most often reference written records, verbal communications are also protected.

Guiding Principles:

Individuals have a right to have all information about them held in confidence. On August 21, 1996 the Health Insurance Portability and Accountability Act (HIPAA or Public Law 104-191) was enacted by the federal government with the intent to assure health insurance portability, reduce healthcare fraud and abuse, guarantee security and privacy of health information and enforce standards for health information.

For purposes of HIPAA, the Department of Mental Health and its affiliates are considered healthcare agencies, and must comply with the provisions of the statute. The part of HIPAA that most directly impacts DMH is Title II, Subtitle F, which is entitled Administrative Simplification, and includes the provisions on Data Standardization (Code Sets, Transactions and Identifiers), Security and Privacy. Data Standardization requires that healthcare agencies maintain electronic records in uniform formats, thus improving efficiency and effectiveness. Security refers to standards of data integrity and confidentiality which will have to be maintained.

Policies:

All information and records compiled, obtained, or maintained by a Regional Office or TCM provider office in the course of providing services shall be confidential. Any personal identifier, including but not limited to name, interested parties' names, address, telephone number, any identifier traceable to the person served such a social security number, Medicaid or Medicare number, and any listing of personal characteristics which would identify that individual shall be considered to be confidential.

It is the responsibility of all staff to protect the confidentiality of all persons served. Individuals' records are to be accessed by authorized Regional Office staff/TCM provider staff only. All staff must protect the information in an individual's record against loss, tampering or use by unauthorized persons. Any individual information not maintained in the individual's official record shall be maintained in a manner that ensures confidentiality. For example, if a staff person keeps copies of IP's in his or her office, these should be stored in a locked drawer, not left on an open bookshelf.

Information may be disclosed under the following conditions:

1. When authorized by the individual if the individual is his or her own person.
2. To persons or agencies responsible for providing health care services to the individual.
3. To the extent necessary to make a claim for aid or insurance
4. To qualified personnel for the purpose of conducting scientific research, management audits, financial audit, program evaluations provided that the personnel shall not identify the individual or disclose any individual identifier.
5. To Courts as necessary after consultation with the Attorney General's office.
6. To law enforcement officers and public health officers but only to the extent necessary to carry out the responsibilities of their office.
7. Pursuant to an order of a court or administrative agency of competent jurisdiction.
8. To attorneys representing petitioners but only to the extent necessary to carry out their duties.
9. To the Department of Social Services as necessary to report or initiate investigation of abuse, neglect, or rights violations of individuals.
10. To County Boards but only to the extent necessary to carry out their statutory responsibility. (This does not apply to County Boards who are contracted providers of TCM. Information to be shared with contracted TCM providers is outlined in their contracts.)

As established in RSMO 630.167, Abuse and Neglect Investigative reports shall be confidential. Complete copies of all such reports shall be open and available to the parents or other guardians of the individual who is subject of the report, and should go through the Attorney General's office. Any names or any other descriptive information of the complainant or other person mentioned in the reports shall not be disclosed unless the complainant or person specifically consents to the disclosure. All reports shall be admissible in any judicial or administrative proceedings. All reports may be disclosed to law enforcement, public health, or Department of Social Services to the extent necessary for those agencies to carry out their responsibilities.

Support Coordinator Roles and Responsibilities:

1. Assure that supported individuals' confidentiality is maintained. This includes all types of communication and in your personal and professional life. This includes communication with friends, family and former staff/co-workers.
2. Assure all necessary paperwork is completed and permission obtained prior to releasing information concerning the individual.
3. Be familiar with and adhere to your agency's HIPAA policies.

Applicable Rules & Regulations:

<http://www.moga.mo.gov/mostatutes/stathtml/63000001401.html>

<http://dmh.mo.gov/docs/diroffice/dors/DOR8.090->
<http://aspe.hhs.gov/admsimp/pl104191.htm>

<http://dmh.mo.gov/docs/hipaa.pdf>

(110, 140,145,150,167)

- RSMO 630.110 Patient's Rights- limitations
- RSMO 630.140 Records confidential when they may be disclosed, to whom, how, documenting release; exceptions
- RSMO 630.145 Department to release information to next of kin and persons responsible for costs
- RSMO 630.150 Disclosure of absence to be made, when, to whom
- RSMO 630.167 Investigation of report, when made, by whom--abuse prevention by removal, procedure, reports confidential, privileged, exceptions, immunity of reporter, notification--retaliation prohibited--administrative discharge of employee, appeal procedure
- Memorandum of Understanding : Protection and Advocacy November 26, 2002*
- Memorandum of Understanding : County Senate Board 40 , October 28, 2004 *
 - *This will differ per County in the State of Missouri