



# 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)**

<b>SUGGESTED DISTRIBUTION:</b>	Medicaid Directors Managed Care Coordinators
<b>CONTACT PERSON:</b>	Local District Liaison Upstate (518) 474 - 8216 NYC (212) 268 - 6855
<b>ATTACHMENTS:</b>	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

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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](mailto: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.

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Kathryn Kuhmerker  
Deputy Commissioner  
Office of Medicaid Management