GENERAL ADMINISTRATION
EMPLOYEE

043 GENERAL OFFICE POLICIES

043.17 Confidentiality Policy

043.17.1 Purpose

The purpose is to maintain the privacy of confidential, personal information that may be provided by Human Services Department (HSD) employees, clients, or consumers in the course of accessing services or employment.

043.17.2 Definitions

A. "Business Associate" means a person or entity that performs certain functions or services on behalf of HSD involving the use or disclosure of individually identifiable confidential information. These include claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, and practice management. They also include, other than in the capacity of the HSD workforce, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for HSD. (8.300.2.7 NMAC 1978, except "health" not "confidential" information.)

B. "Breach of Confidentiality" means unauthorized disclosure or misuse of information obtained in the course or conducted on behalf of HSD-related business activities, including unauthorized disclosure or use of protected health information. This includes failure to guard or shred documents that contain the name, social security number or other confidential information.

C. "Client" means an individual applying for and/or receiving services from HSD. For the purpose of this policy, "client" is synonymous with "customer" and "recipient".

D. "Confidential or Official Information" means information whose disclosure is prohibited by law or regulation or would be contrary to HSD's best interests. Examples of confidential information are Social Security numbers, federal tax information, medical condition and treatment, all protected health information, income, assets, living arrangements including addresses and phone numbers and relationships with family members, HSD network architecture diagrams and IP addresses.

E. "Disclosure" means to release, transfer, provide access to, or divulge in any other manner (verbally, written, or electronic) confidential information outside the HSD

workforce or to an HSD business associate. (Adapted from 8.300.2.7 NMAC 1978)

F. "Minimum necessary" means the least amount of information needed to accomplish a given task. (8.300.2.7 NMAC 1978)

G. "Need to know" means necessary to perform certain functions or services for or on behalf of HSD.

H. "Protected health information" means health information that exists in any form (verbal, written or electronic) that identifies or could be used to identify a recipient (including demographics) and relates to the past, present, or future physical or mental health or condition of that recipient. It also includes health information related to the provision of health care or the past, present, or future payment for the provision of health care to a recipient. (8.300.2.7 NMAC 1978)

043.17.3 Policy

A. An employee may not disclose confidential or official information if the disclosure of such information is prohibited by law or regulation or would be contrary to the best interests of the department or its clients. This includes confidential information from other entities that employees may gain access to through electronic data connections. (HSD Code of Conduct, 041.8.1, Prohibited by Law.)

B. Confidential or official disclosure of information must be the minimum amount necessary and shall be provided on a need to know basis.

C. An employee may not disclose or misuse confidential or official information not generally available to the public, or acquired by virtue of his/her employment with HSD, for his/her own or another's private gain. This includes any information regarding awarding contracts or grants by the department before the official release of such information. (HSD Code of Conduct, 041.8.2 Private Gain)

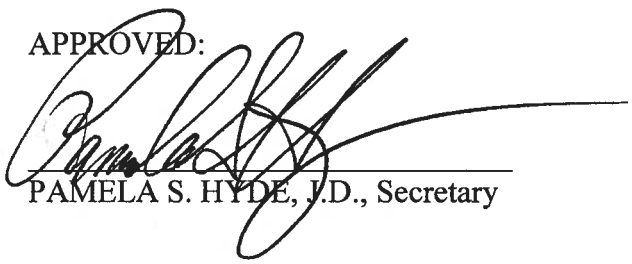
D. An employee must adhere to any additional confidentiality regulations or direction specific to their HSD assignments including the Health Insurance Portability and Accountability Act (HIPAA) and the Internal Revenue Service (IRS).

E. Any breach of confidentiality concerning confidential or official information may result in disciplinary action up to and including dismissal as well as possible prosecution to the fullest extent of the law, where applicable.

043.17.4 References

8.300.2 NMAC 1978 (HIPPA Policies)
45 CFR 160.103 (Public Welfare and Human Services)
IRS Publication 1075

APPROVED: DATE:



PAMELA S. HYDE, J.D., Secretary

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