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CHAPTER TWENTY-SEVEN

CONFIDENTIAL MATERIALS

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Chapter 27. Confidential Materials.

Rule No. 560-X-27-.01. Confidential Materials-Applicant and Recipient Data.

(1) Information regarding Medicaid applicants and recipients is required to be safeguarded by Section 1902(a)(7) of the Social Security Act (SSA), 42 CFR Part 431, Subpart F, the Health Insurance Portability and Accountability Act (HIPAA), and 45 CFR Part 164. Confidential materials or categories of information relating to Medicaid applicants and recipients include, but are not limited to, the following:

- (a) Lists of names, addresses, and Medicaid eligibility numbers;
- (b) Medical services provided;
- (c) Social and economic conditions and circumstances;
- (d) Medicaid or other State or Federal government agency evaluation of personal information;
- (e) Medicaid data, including but not limited to, diagnosis and past history or disease or disability;
- (f) Fair hearing records.

(2) Confidential information relating to applicants and recipients may be used or disclosed only for purposes directly connected with the administration of the State Plan and in accordance with the Agency HIPAA Privacy Compliance Manual or other appropriate authority.

Author: Bill Butler, General Counsel

Statutory Authority: Code of Alabama, Section 41-22-12; Social Security Act §1902(a)(7); State Plan §4.3; 42 CFR §431.300, et seq.; and 45 CFR §164.102, et seq.

History: Rule effective October 1, 1982. Emergency rule effective April 5, 1985. Amended July 9, 1985. Emergency rule effective November 16, 1987. Amended February 9, 1988. **Amended:** Filed March 22, 2004; effective June 16, 2004.

Rule No. 560-X-27-.02. Confidential Materials - Other Items.

(1) The following materials or categories of information are declared to be confidential and the same shall not be released to persons outside the Medicaid Agency except as noted below:

- (a) Minutes of the Utilization Review Committee (URC);
- (b) Claims Processing Manual;
- (c) Personnel records of agency personnel;
- (d) Any communications, documents or materials by and between Agency legal counsel and Medicaid Agency personnel which come within the protection of the attorney-client privilege under the common law of Alabama.

(2) Confidential materials referred to in Paragraphs (1)(a), (b) and (c) may be released to persons outside the Medicaid Agency only as follows:

- (a) In response to a valid subpoena or court order;
- (b) To State or Federal auditors, on a need-to-know basis.

(c) With regard to URC minutes, a redacted version which deletes information about third persons may be released to the affected recipient, provider or authorized representative.

(3) Confidential materials referred to in Paragraph (1)(d) shall not be released except by court order.

(4) These confidential materials may be released in other situations in which a need-to-know is demonstrated, if not otherwise prohibited by law and if authorized by the Commissioner, Deputy Commissioners or the Agency General Counsel.

Author: Bill Butler, General Counsel

Statutory Authority: Social Security Act §1902(a)(7); State Plan §4.3; 42 CFR §431.300, et seq.; and 45 CFR §164.102, et seq.

History: Rule effective October 1, 1982. **Amended:** Filed March 22, 2004; effective June 16, 2004.