Use and Disclosure of Protected Health Information - Administrative and Judicial Proceedings

Scope:
All Employees

Subject:
Use and Disclosure of Protected Health Information - Administrative and Judicial Proceedings

Purpose:
In order to become compliant with the Privacy Rules of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), BlueCross BlueShield of Tennessee must define how protected health information will be used or disclosed in our course of business.

Related Policies and Procedures:
087.LL.055A: Use and Disclosure for Public Interest or Benefit
087.LL.055B: Use and Disclosure for Public Interest or Benefit
087.LL.060: Use and Disclosure of Protected Health Information - Public Purposes

Policy:
We will disclose a member's Protected Health Information in the course of administrative and judicial proceedings, as required by law. In response to court or administrative tribunal orders, we may disclose only the Protected Health Information expressly authorized by the order. BCBST shall follow its internal department procedures when processing such orders.

Subpoena, Discovery Request, or other Lawful Process:

1. In response to a subpoena, discovery request, or other lawful process that is not accompanied by a court or administrative tribunal order, BCBST may disclose Protected Health Information upon receipt of satisfactory assurance (as defined in Section III below) from the party seeking the information that: (1) reasonable efforts have been made to ensure that the individual who is the subject of the Protected Health Information has been notified of the request; or (2) reasonable efforts have been made to secure a qualified protective order (as defined in Section III.) BCBST shall follow its internal department procedures when processing such requests.

2. BCBST may disclose Protected Health Information in response to a subpoena, discovery request or other lawful process without receiving satisfactory assurance if, in accord with 45 C.F.R. 164.512(e)(1)(vi),
Use and Disclosure of Protected Health Information - Administrative and Judicial Proceedings

BCBST makes reasonable efforts to: (a) notify the individual of the request; or (b) seek a qualified protective order.

**Crime Victim:** BCBST must disclose PHI to a law enforcement official seeking information about a suspected crime victim as required by law. Reference pages 4 and 5 in procedure LL.055B for additional information.

**Whistleblower:** BCBST and its Business Associates may disclose PHI as a whistleblower provided it is believed in good faith that BCBST has engaged in conduct considered to be unlawful. Reference page 6 in procedure LL.055B for additional information.

**Identity and Authority Verification:** All disclosures made under this policy shall be made only after the identity and authority of any person requesting such disclosure has been verified, and the requisite documentation required for the disclosure has been obtained, as applicable. Identity and authority verification shall be made pursuant to BCBST’s Identity and Authority Verification Policy and Procedures.

**Accounting of Disclosures:** All disclosures made under this policy must be accounted for pursuant to BCBST’s Accounting of Disclosures of Protected Health Information Policy and Procedures.

**Special Circumstances:**

- **AIDS-HIV-ARC:** BCBST shall not disclose Protected Health Information that is HIV-, AIDS-, or ARC-related, unless expressly authorized by the individual who is the subject of the information to be disclosed, or unless ordered to by a court after an in camera review of the records.

- **Mental Health Information:** BCBST shall not disclose Protected Health Information that is mental health-related unless expressly authorized by the individual who is the subject of the information to be disclosed, or unless a court directs upon its determination that the disclosure is necessary for the conduct of the proceedings before it, and that failure to make the disclosure would be contrary to the public interest.

- **Substance Abuse Information:** BCBST shall not disclose Protected Health Information that is substance abuse-related unless expressly authorized by the individual who is the subject of the information to be disclosed, or unless ordered by a court, provided the purpose of the order is only to authorize a disclosure of information which would
Use and Disclosure of Protected Health Information - Administrative and Judicial Proceedings

otherwise be prohibited under the Federal Substance Abuse Regulations and 42 USC 290dd-2. A court order in and of itself does not compel disclosure. A subpoena must be received in addition to the court order for disclosure to be compelled.

BlueCross BlueShield of Tennessee, Inc., is an Independent Licensee of the BlueCross BlueShield Association.
® Registered marks of the BlueCross BlueShield Association, an Association of Independent BlueCross BlueShield Plans. For suggestions, corrections or access issues, e-mail Corporate Policies & Procedures Web Page Help.