

Divisions: All Divisions	Policy Number 179.10.20
Subject: USE AND DISCLOSURE OF PHI FOR MARKETING	
Approved: Executive Director	
Approved: Associate Director	
Approved: CADE BOD	
Effective Date: April 14, 2003	
Review Dates:	
Revised Dates:	

Purpose

The purpose of this policy is to provide information for management and workforce members regarding the use and disclosure of a patient's protected health information (PHI) for marketing.

Policy

General Rule on Marketing

Center employees and workforce members may not disclose, use, sell or coerce an individual to consent to the disclosure, use, or sale of PHI for marketing purposes without the consent or authorization of the patient or representative who is the subject of the PHI. This prohibition includes the disclosure, use or selling of prescription drug patterns. Certain marketing activities, as described below, do not require the Center to obtain patient authorization for the use or disclosure of PHI.

Center employees and workforce members shall not disclose identifiable information such as policy numbers or similar access data codes from a patient's policy or transaction account to any non-affiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer unless the patient has authorized the disclosure.

Exceptions to General Rule

Center may use and disclose PHI without obtaining an authorization from the patient to:

- Provide information on health related products and services in a face-to-face encounter with the patient;
- Provide information on common health care communications, such as disease management, wellness programs, prescription refill reminders and appointment notifications;
- Provide the patient with information on participating providers or plans in a network or alternative treatment options;
- Provide sample products to the patient; and
- Provide marketing communication involving promotional gifts of nominal value (e.g. calendars, key chains, etc. that promotes Center or a health care manufacturer's products or services).

Rules for Written Marketing Communication

If the marketing communication is not face-to-face but in written form, Center must make a determination prior to sending out the marketing communication that the product or service being marketed may be beneficial to the health of the patient. In addition, it is required to send envelopes to the patient that has only the addresses of the sender and the recipient and must:

- State the name and phone number of Center or the Center affiliated entity sending the marketing information,
- Explain clearly the recipient's right to have his/her name removed from the sender's mailing list,
- If Center or a Center affiliate for marketing purposes receives a patient's request for removal

from the mailing list, such removal must occur immediately,

- The Center must explain in the communication why the patient has been targeted and how the product or service relates to their health.

Definitions

Marketing: The promotion or advertisement, by The Center, of specific products or services if it receives, directly or indirectly, a financial incentive or remuneration for the use, access, or disclosure of PHI.

Marketing does not include a communication for treatment or health care operations by a health care provider, health plan, or participants in an organized health care arrangement or their affiliated covered entities or business associates.

Revision History