
SUBJECT: VERIFICATION

GENERAL STANDARD (PRIVACY RULE SECTION 164.514(h)):

AHS health care providers and health plans must, except as otherwise indicated below, verify the identity of a person requesting PHI and the authority of such person to have access to PHI, if such identity and authority are not already known to the AHS health care providers or health plans, before disclosing PHI to such person.

PRIVACY RULE:

I. Verification Requirements

A. Prior to any disclosure of PHI, a CE must:

1. Verify the identity of a person requesting PHI and the authority of any such person to have access to PHI, if the identity or any such authority of such person is not known to the CE; and
2. Obtain any documentation, statements or representations (oral or written) from the person requesting the PHI when such documentation, statement or representation is a condition of the disclosure under the Privacy Rule (e.g. certain documentation must be provided to the CE when disclosing PHI for research purposes).

B. The verification requirements are met if the CE:

1. Relies on the exercise of professional judgment in making a use or disclosure for a facility directory, in accordance with Section 164.510(a) of the Privacy Rule (See, Standard and Guidelines on “Facility Directory”), or to family members, other relatives, or close personal friends (or other persons identified by the individual), in accordance with Section 164.510(b) of the Privacy Rule (See, General Standard and Guidelines on “Family Members and Friends”); or
2. Acts on a good faith belief in making a disclosure in accordance with Section 164.512(j) of the Privacy Rule (with respect to uses or disclosures of PHI to avert a serious threat to health or safety).

II. Verification Guidelines

- A. The verification obligations regarding the disclosure of PHI in response to an administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand or similar process as authorized by law, may be satisfied by the administrative subpoena or similar process or by a separate written statement that, on its face, demonstrates that the applicable requirements have been met.
 - B. The documentation required by Section 164.512(i)(2) (to establish a waiver approval for research purposes) may be satisfied by one or more written statements, provided that each is appropriately dated and signed in accordance with Section 164.512(i)(2)(i) and (v) of the Privacy Rule (See, General Standard and Guidelines on “Research”).
 - C. A CE may rely, if such reliance is reasonable under the circumstances, on any of the following to verify identity when the disclosure of PHI is to a public official or a person acting on behalf of the public official:
 - 1. If the request is made in person, presentation of an agency identification badge, other official credentials, or other proof of government status;
 - 2. If the request is in writing, the request is on the appropriate government letterhead; or
 - 3. If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government’s authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes that the person is acting on behalf of the public official.
 - D. A CE may rely, if such reliance is reasonable under the circumstances, on any of the following to verify authority when the disclosure of PHI is to a public official or a person acting on behalf of the public official:
 - 1. A written statement of the legal authority under which the information is requested, or, if a written statement would be impracticable, an oral statement of such authority; or
 - 2. A request made pursuant to legal process, warrant, subpoena, order or other legal process issued by a grand jury or a judicial or administrative tribunal is presumed to constitute legal authority.
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GUIDELINES:

1. AHS health care providers and health plans are required to verify both the identity of a person requesting PHI, **and** the authority of that person to have access to the PHI, **before** disclosing the PHI.
2. This Standard and Guidelines applies solely to the disclosure of PHI by an AHS health care provider or health plan, and only when AHS does not otherwise know the identity and authority of the person requesting the PHI. For example, this verification obligation does not exist when:
 - A. The Vermont State Hospital makes disclosures of PHI to a health care provider, for the treatment of a patient, when the Vermont State Hospital knows that the recipient is a health care provider with a treatment relationship with the patient (in this context, the Vermont State Hospital knows the identity of the provider from its previous dealings, and knows the authority of the provider flows from his/her treatment relationship with the patient); or
 - B. The Department of Prevention, Assistance, Transition, and Health Access (“PATH”) makes disclosures of PHI to the guardian of a Medicaid beneficiary, when the Department knows that such person is the personal representative of that beneficiary (i.e., PATH knows that the guardian has the authority under state law to make health care decisions for the beneficiary), and that the personal representative status is in effect at the time of a disclosure of PHI to the guardian (in this context, PATH knows the identity of the guardian from its previous dealings, and knows the authority of the guardian flows from its status as the person responsible for making health care decisions for the beneficiary).
 - C. In the “PATH example” set forth above, it is important to note that at one point, PATH would have been required to obtain a copy of the guardianship papers from the guardian, to confirm that the guardian had the authority to make health care decisions for the beneficiary, and would, at that same time, also have been required to take appropriate steps to verify the identity of the guardian. Subsequently, the identity and authority of the guardian would become “known” to PATH (although PATH would continue to take necessary steps to ensure the guardianship status had not been altered).
3. The goal in any situation where AHS must verify identity and authority is for AHS to obtain enough information from the person requesting the PHI such that AHS becomes confident that the person is, in fact, who he/she claims to be, and that such person is permitted by AHS Standards and Guidelines to have access to the requested PHI.
4. The Social Security Administration (“SSA”) requires that its designated agencies follow detailed verification procedures when disclosing information related to SSA programs. **Appendix A** to this Standard and Guidelines is an excerpt from relevant portions of the SSA written verification procedures. This excerpt is offered as an example of an exemplary list of instructions to follow to ensure that the person requesting information

is, in fact, who he or she claims to be. The SSA excerpt may not always apply in the AHS context, but AHS health care providers and health plans can refer to it as a verification guide.

5. The following are examples of how AHS will satisfy its verification obligations – **in situations where AHS does not otherwise know the identity of the person requesting PHI, and the authority of that person to have access to the PHI:**
 - A. AHS is required to give a patient/beneficiary access to PHI about himself/herself under most circumstances. AHS will verify the identity of the person requesting such PHI by checking a driver's license or other photo identification (in this context, the authority of the person to receive PHI is presumed valid, because the Privacy Rule unquestionably permits a patient/beneficiary to generally have access to his/her PHI).
 - B. AHS is required to treat a personal representative as the "individual" under certain circumstances. In those cases, before disclosing PHI to the personal representative, AHS will verify the identity of the person by checking a driver's license or other photo identification, and the authority by obtaining, where applicable, a copy of a power of attorney, a copy of guardianship papers, or by asking questions of a person claiming to be the parent of a minor patient/beneficiary, to confirm parental status.
 - C. AHS will not make disclosures of PHI to a parent, on behalf of a minor patient/beneficiary, if AHS knows that the rights of that parent to be involved in health care decisions pertaining to that minor have been terminated.
 - D. If AHS suspects that a parent's rights to be involved in health care decisions pertaining to a minor patient/beneficiary have been terminated, it will check with the other parent before making any disclosure of PHI.
6. One exception to the verification requirement pertains to family members, other relatives, and close personal friends (and other persons identified by the individual) who are involved in an individual's care or payment for that care. For example, AHS is permitted to exercise professional judgment as to whether a disclosure to such persons is in the patient's/beneficiary's best interest when the patient/beneficiary is not available to agree or object to the disclosure or is incapacitated, and by exercising that judgment, AHS satisfies its verification obligations. Consequently, in this context, AHS need not separately engage in any verification consideration.
7. Another exception to the verification requirement pertains to facility directories. For example, the Vermont State Hospital is permitted to use certain limited PHI to create a facility directory, and then to disclose certain of that limited PHI to clergy and to persons who ask for a patient by name. In this context, provided the Vermont State Hospital exercises its professional judgment, it need not separately engage in any verification consideration when making disclosures from the facility directory.

8. Another exception to the verification requirement arises when AHS makes a disclosure, in good faith, which it believes is necessary:
 - A. To prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and such disclosure is to a person reasonably able to prevent or lessen the threat, including the target of the threat; or
 - B. For law enforcement authorities to identify or apprehend an individual (because of a statement by an individual admitting participation in a violent crime that AHS reasonably believes may have caused serious physical harm to the victim, or, where it appears from all the circumstances that the individual has escaped from a correction institution or from lawful custody).

In this context, AHS satisfies its verification obligations by acting in good faith when making the disclosure.

9. Any requests for PHI made by a public official or through a subpoena or other legal process will be reviewed with the Assistant Attorney General or other counsel providing services to the Department, Division or Office at issue, to determine an appropriate response, and one that takes into consideration the verification requirements of this Standard and Guidelines.

Appendix A

SSA Verification Procedures

3. Data Used to Verify Identity

The specific types of information you may use to verify a caller's identity will vary somewhat, depending on what part of SSA's records you will have to access. In all cases, there are certain mandatory items which a caller must be able to provide. Ask for as much additional data as you need to verify identity.

Additional data may include (when applicable) the caller's or beneficiary's:

- Date of entitlement to benefits
- Amount of benefits
- Mother's maiden name
- Last employer
- Method of payment (i.e., check or direct deposit)

In cases where you ask the caller to provide a:

- date of birth — ensure that the month and date provided match SSA's records exactly; there is a 2 year tolerance for the **year** of birth.
- place of birth — ensure that the State or country matches SSA's records exactly (the city or town does not have to match).

In cases where the caller does not know his or her SSN, ask the caller to provide identifying information you can use to obtain an ALPHA-INDEX query and thus locate the number.

4. Situations Requiring Identification

Follow the instructions below for situations requiring identification of the caller.

a. The Caller is the Individual of Record Calling for Himself or Herself

If the caller is a beneficiary or claimant, ask for the name, SSN, address, date of birth, and place of birth. Also ask for at least one other item of information available in the system of records (such as the benefit amount or the names of other persons on the record).

If the caller is not a beneficiary or claimant, ask for the name, SSN, date of birth and place of birth. Also ask for at least one other piece of information available in the system of records (such as the name of the last employer, or mother's maiden name).

b. The Caller is a Parent Calling on Behalf of a Minor Child.

Access to the record may only be provided if the parent is calling on behalf of the minor child (see [GN 03340.025A](#)).

To identify the caller, ask for the name, SSN, address, date of birth and place of birth (the address does not have to be verified).

To identify the child:

- If the child is a beneficiary, ask for the name, SSN, address, date of birth and place of birth, along with one other piece of information.

If the child is not a beneficiary, ask for the name, SSN, date of birth and place of birth, along with one other piece of information.

c. The Caller is a Representative Payee

REMINDER:

Disclosure is limited to information needed to perform the payee's responsibilities (see [GN 03310.010C.](#)).

To identify the caller/payee, ask for the name, SSN, address, date of birth and place of birth, along with one other piece of information.

To identify the beneficiary, ask for the name, SSN, address, date of birth and place of birth, along with one other piece of information.

d. The Caller is a Third Party Calling for an Individual Who is Present and Gives Consent (see [GN 03340.005B.4.](#))

Identification of the caller is unnecessary. Verify from the subject individual that he or she consents to receiving assistance in obtaining access to his or her records.

To identify the subject individual, ask for the name, SSN, address, date of birth and place of birth, along with one other piece of information.

e. The Caller is an Authorized Representative (Attorney or Non-attorney)

To identify the caller/representative, verify that the subject individual has authorized this representative (by obtaining a query or accessing the Form SSA-1696 (Appointment of Representative) if it is available). No further identification is necessary.

To identify the beneficiary/claimant, ask for the name, SSN, address, date of birth and place of birth, along with one other piece of information.

f. The Caller is Working for Another Federal, State or Local Government Agency

Disclose information only to certain government agencies. If the agency in question meets the requirements outlined in [GN 03310.000](#), disclose information **if** you know the individual and are certain of his or her identity. If the caller's identity is unknown or uncertain, verify by calling back the agency using a listed phone number and/or the name of a second employee of the agency.

g. The Caller is an Employer

Provide an employer with a positive identification of an employee's SSN. This is the only information which may be disclosed by telephone. Ask the caller to provide the employer identification number (EIN), and verify the EIN by using the Alpha Access to Employer Identification System (AEQY). (If the EIN matches the number shown on the AEQY, it will identify the caller.)

h. The Caller is a Third Party Other Than One of the Parties Listed Above

Tell the caller that the written consent of the subject individual is necessary prior to disclosure.

REMINDER:

Disclosure of personal information by telephone to a third party is normally not permitted in any other situations.