

Benefit Brief



SUBJECT: HIPAA Privacy - Disclosing PHI Pursuant to a Child Support Order

DATE: March 10, 2005

The Office of Civil Rights (OCR) under the Department of Health and Human Services recently added a Q&A to its database that relates to the disclosure of protected health information to a state agency in connection with a child support issue. The OCR determined that the Privacy Rule permits a health plan to respond to a request for information pursuant to a National Medical Support Notice (NMSN). An NMSN is a nationally uniform form that is sent to the employer and health plan for completion. The OCR concludes that since this is a written request from a law enforcement official, the Privacy Rule allows a health plan to disclose protected health information in response to the NMSN.

In order to make this disclosure, an employer should verify that (1) the information sought is material and relevant to a legitimate law enforcement inquiry; (2) the request is specific and limited in scope; and (3) de-identified information cannot reasonably be used. 45 CFR 164.512(f)(1)(ii)(C). This information should be included with the request.

The Privacy Rule requires the employer to verify the identity and authority of the public official making the request, unless already known to the employer. The employer must also limit the disclosures to the minimum necessary for the purpose. You can see the detailed response to this question at <http://www.hhs.gov/ocr/hipaa/>.