5160-1-04

APPENDIX

Confidentiality:
Federal Statutes and Regulations and
State Statutes and Administrative Rules

A. GENERAL

1. TAX RETURN INFORMATION

26 USC 6103
26 USC 7213
26 USC 7431
42 USC 664
26 USC 6103
OAC rule 5101:9-9-25

2. SOCIAL SECURITY NUMBERS

5 USC 552
5 USC 522a(e) (Privacy Act of 1974)
7 USC 2011 to 2029, 2031, 2032, and 2034 to 2036
Social Security Act section 1137(a)
42 CFR 435.910
OAC rules 5101:1-1-03 and 5101:1-3-09
29 USC 2871(f)(3) (Workforce Investment Act (WIA))
20 USC 1232g (Family Education Rights and Privacy Act of 1974 (FERPA))
42 USC 405(c)
20 CFR 603.7
RC 149.45
RC 5101.181
RC 5101.182
RC 1347.12
OAC rule 5101:1-1-03

B. MEDICAL

1.   OHIO HEALTH PLANS, including Medicaid, Disability Medical Assistance, CHIP I and II, and Refugee Medical Assistance

Federal Statutes and Regulations:

42 USC 1396a(a)(5)
42 USCA 1396r-8(b)(3)(D)
Social Security Act (SSA) section 1902(a)(7)
42 CFR 2.1
42 CFR 431.10
42 CFR 431.300
42 CFR 431.302
42 CFR 431.305
42 CFR 431.306
42 CFR 435.904
42 CFR 435.945
42 CFR 483.315(i)
45 CFR 95.621
45 CFR 160 subparts A, B, and C
45 CFR part 164, subparts A, C, and E (HIPAA)

State Statutes and Administrative Rules:

RC 109.85
RC 173.20
RC 173.22
RC 339.81
RC 2305.24 and 2305.251
RC 3701.741
RC 3701.243
RC 3701.028
RC 3701.75
RC 4123.27
RC 5101.26

RC 5101.27
RC 5160.39
RC 5160.45
RC 5162.03
RC 5163.40
RC 5164.341
RC 5164.342
RC 5164.756
RC 5165.88
RC 5302.221
OAC 5160:1-2-01
OAC 5160-45-08
OAC 5160-45-11
OAC rule 5101:6-50-07
OAC rule 5101:9-22-15

2. HIPAA: Health Insurance Portability and Accountability Act of 1996 (45 CFR Parts 160 and 164)

HIPAA is a federal law addressing many issues in the area of medical services. One portion of the Act addresses the privacy of certain medical, eligibility and claims information (protected health information). The final privacy regulations for HIPAA were implemented by ODM prior to the April 14, 2003 federally required implementation date. ODM is considered a "covered entity" as a Health Plan for the Medicaid program, the Disability Medical Assistance (DMA) program, the Children Health Insurance Programs (CHIP) and the Refugee Medical Program (RMP). Essentially, HIPAA restricts the release of Protected Health Information (PHI) possessed by covered entities including ODM to third parties and requires covered entities under most circumstances to release PHI to the subject of the PHI or his/her guardian upon request.

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HIPAA assesses criminal and civil penalties for failure to protect PHI from improper release and civil penalties for failure to release PHI to the subject of the PHI or guardian of the subject of the PHI. HIPAA also precludes release of PHI to third parties without an authorization signed by the subject or the subject's guardian unless release is allowed pursuant to exceptions set out in the regulations. The regulations set out an extensive procedure for documentation of certain types of release requests and responses; requires that privacy notices be provided to all participants in each health plan; require a privacy official be designated; require that a complaint, accounting for release and a restriction request procedure be set up by the Health Plan; and requires training for all employees of the Health Plan in relation to privacy policies.

Each state must include in all contracts, a documented process to report breach of privacy or security of PHI. Notification of a breach should be immediately reported by the contractor to state staff, who in turn must report it immediately to the CMS Director of Division of State Systems.

By statute and rule, ODM is requiring each CDJFS to comply with certain portions of the HIPAA privacy requirements since these agencies have access to eligibility information (PHI) for the medical programs cited above. It should be noted that HIPAA is preempted by any federal or state law that has more restrictive privacy requirements. The Medicaid federal regulations and state law are more restrictive towards release of Medicaid PHI than HIPAA. ODM has brought CHIPS I and II, DMA and RMP under the same restrictions as Medicaid through a change in RC 5101.27 and the enactment of RC 5101.271.

The federal government also published the final HIPAA security regulations. These regulations apply only to the electronic transmission of PHI but also affect privacy. Implementation of these regulations by ODM affected several of ODM's statewide automated systems. Deadline for implementation of the HIPAA security regulations by ODM was April 21, 2005.

A summary of all the HIPAA privacy regulations and links to the actual regulations is at http://hipaa.ohio.gov/privacyrule/guideindex.htm. Also relevant are 42 USC 1320d; 45 CFR 164, subparts A and E; and Public Law 104-191. Specifically, 45 CFR 164.530(J)(1) requires a 6-year record retention period.

C. TEMPORARY ASSISTANCE to NEEDY FAMILIES (TANF)/CASH ASSISTANCE

(Ohio Works First, Refugee Cash Assistance, Disability Financial Assistance, and Prevention, Retention, and Contingency)

Federal Statutes and Regulations:

42 USC 602(a)(1)(A)(iv)
42 USC 608(a)(9)(B)
45 CFR 205.50

State Statutes and Administrative Rules:

RC 307.983
RC 307.987
RC 4123.27
RC 5101.181
RC 5101.182
RC 5101.26
RC 5101.27
RC 5101.28
RC 5101.30
RC 5101.80
OAC rule 5101:1-1-03
OAC rule 5101:1-3-10
OAC rule 5101:9-22-15

D. FOOD ASSISTANCE

Federal Statutes and Regulations:

7 USC 2020(e)(8)
7 CFR 272.1(c)
7 CFR 273.2

State Statutes and Administrative Rules:

RC 2913.46
RC 5101.26
RC 5101.27
OAC rule 5101:4-1-13(A)(8)
OAC rule 5101:4-2-09(K)
OAC rule 5101:4-3-22(F)
OAC rule 5101:4-7-09(H)
OAC rule 5101:4-8-30(R)
OAC rule 5101:9-22-15

E. CHILD WELFARE AND CHILD DAY CARE

Federal Statutes and Regulations:

42 USC 671(a)(8)
42 USC 5106a(b)(2)(A)(viii)
42 USC 5106a(b)(2)(A)(x)
42 USC 5106a(c)(4)(B)(i)
42 USC 5106a(c)(5)(A)
42 USC 5106a(c)(6)
45 CFR 1340.14(i)
45 CFR 1355.21
45 CFR 1355.30(p)(3)
45 CFR 205.50

State Statutes and Administrative Rules:

RC 109.57
RC 109.5721
RC 121.37(A)(2)(c)

RC 149.43(A)(1)(d)
RC 149.43 (A)(1)(e)
RC 149.43(A)(1)(f)
RC 307.627
RC 307.628
RC 1347.08(E)(2) and (F)(2)
RC 2151.141
RC 2151.142
RC 2151.421
RC 2151.423
RC 2151.86
RC 3107.063 and 3107.17
RC 3109.051(H)
RC 3705.09(G)
RC 3705.12
RC 3705.23
RC 5101.13 to 5101.134
RC 5101.27
RC 5101.29
RC 5101.80(E)
RC 5104.013(A) and (F)
RC 5153.111(A) and (D)
RC 5153.17
RC 5153.171
RC 5153.172
RC 5153.173
OAC rule 5101:2-5-09.1(M)
OAC rule 5101:2-7-04
OAC rule 5101:2-12-08(C) and (G)
OAC rule 5101:2-12-32
OAC rule 5101:2-13-08(C) and (G)
OAC rule 5101:2-13-26(J)
OAC rule 5101:2-13-37(C)

OAC rule 5101:2-14-03(C) and (D)
OAC rule 5101:2-14-11(D), (E), (P), and (T)
OAC rule 5101:2-14-26(D)
OAC rule 5101:2-14-62
OAC rule 5101:2-20-04
OAC rule 5101:2-33-21
OAC rule 5101:2-33-28
OAC rule 5101:2-36-03
OAC rule 5101:2-36-04
OAC rule 5101:2-42-90
OAC rule 5101:2-48-19
OAC rule 5101:2-48-20
OAC rule 5101:2-48-21
OAC rule 5101:2-48-22
OAC rule 5101:2-48-23
OAC rule 5101:6-50-07
OAC rule 5101:9-22-15

F. CHILD SUPPORT

Federal Statutes and Regulations:

42 USC 653
42 USC 654(26)
42 USC 654 part D, paragraph (26)
45 CFR 235.70
45 CFR 303.15
45 CFR 303.30
45 CFR 303.70
45 CFR 307.13

State Statutes and Administrative Rules:

RC 149.43 (A)(1)(e)
RC 149.43(A)(1)(o)

RC 3107.063
RC 3121.76
RC 3121.84
RC 3121.89 to 3121.8911
RC 3121.898
RC 3121.899
RC 3123.89
RC 3123.92
RC 3123.93
RC 3123.95
RC 3123.954
RC 3125.08
RC 3125.16
RC 3125.49
RC 3125.50
OAC rule 5101:1-1-03
OAC rule 5101:9-22-15
OAC rule 5101:12-1-20
OAC rule 5101:12-1-20.1
OAC rule 5101:12-1-20.2
OAC rule 5101:12-10-90(C)
OAC rules 5101:12-50-65
OAC rule 5101:12-55-10(E)

G. ADULT SERVICES

State Statutes and Administrative Rules:

RC 5119.84
RC 5101.61(F)
OAC rule 5101:2-20-04

H. REFUGEE ASSISTANCE

State Administrative Rules:

OAC rule 5101:1-1-03

I. TITLE XX

State Statutes:

RC 5101.46(D)

J. UNEMPLOYMENT COMPENSATION BENEFITS, TAX, AND WAGE RECORDS

Federal Statutes and Regulations:

29 USC 49b (b)
42 USC 503(a)(1) and (8)
42 USC 1320b - 7(a)(5) and (a)(6)
20 CFR 603.2
20 CFR 603.3
20 CFR 603.5
20 CFR 603.7
20 CFR 609.13
20 CFR 614.14

State Statutes and Administrative Rules:

RC 4141.162
RC 4141.21
RC 4141.22
RC 4141.43
RC 5733.42(E)

OAC rule 4141-43-01
OAC rule 4141-43-02
OAC rule 4141-43-03

K. WORKFORCE DEVELOPMENT

1. THE WORKFORCE INVESTMENT ACT (WIA)

20 USCA 9274
29 USC 2871(f)(3)
29 USC 2935(a)(4)
20 CFR 603.7
29 CFR 37.37
34 CFR 99.30(a)
RC 307.983
OAC rule 4141-43-01
OAC rule 4141-43-02
Workforce Investment Act (WIA) sections 136(f)(2) and (f)(3)

2. LABOR MARKET INFORMATION

Information maintained or furnished to the director of ODM under RC Chapter
4141. as Labor Market Information (LMI) is governed by the same laws and
regulations that govern the underlying confidential information. The Confidential
Information Protection and Statistical Efficiency Act (CIPSEA) of 2002, Privacy
Act, and Trade Secrets Act all apply to LMI.

3. EMPLOYMENT SERVICES
(INCLUDING WAGNER - PEYSER)

Federal Regulations:

20 CFR 658.413

State Statutes and Administrative Rules:

RC 4141.21
RC 4141.43
OAC rule 4141-43-01

L. STATE HEARINGS

Federal Regulations:

7 CFR 273.15
45 CFR 205.10(a)(19)

State Administrative Rules:

OAC rule 5101:9-22-15
OAC rule 5101:6-5-01(E) and (F)
OAC rule 5101:6-7-01(G)
OAC rule 5101:6-8-01(K)
OAC rule 5101:6-20-16(H)
OAC rule 5101:6-50-07

M. MISCELLANEOUS

Federal Regulations:

29 CFR 825.500(g)
29 CFR 1630.14(c) and (d)

State Statutes and Administrative Rules:

RC 9.01
RC 9.312
RC 102.03(B)
RC 131.02 and 131.022

RC 145.27
RC 149.431
RC 149.433
RC 1306.23
RC 1333.61
RC 1347.12
RC 124.88
RC 3701.74
RC 4701.19
OAC rule 5101:9-9-38

PENALTIES FOR
WRONGFUL WITHHOLDING OR DISCLOSURE

Federal Statutes:

5 USC 552a(g)(1)
5 USC 552a(B)(3)(A) to 552a(g)(3)(A)
5 USC 552(4)(B)
42 USC 1320d-5
42 USC 1320d-6
42 USC 5106a(c)(4)(B)(ii)

State Statutes and Administrative Rules:

RC 149.43(C)
RC 173.99
RC 307.629(C)
RC 1347.10
RC 1347.99
RC 1349.192
RC 2151.99
RC 2921.14
RC 3121.99
RC 3125.99

RC 3701.244
RC 4141.22
RC 4141.99
RC 5101.181 and 5101.182
RC 5101.28(D)
RC 5101.99
OAC rule 4141-43-01