DAUPHIN COUNTY MH/ID PROGRAM
POLICY AND PROCEDURE

Department: _____ MH  Policy No. 12-10
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_____ Admin
_____ Crisis  Approved [Signature]

Title: Confidentiality of Records

Policy: The county, CMU and all early intervention providers must ensure the protection of all personally identifying information that is collected, used or maintained in electronic or paper form and must comply with the requirements noted in this policy based on HIPPA and FERPA laws. The following requirements for confidentiality and access to records applies to all children receiving or having received early intervention services.

Definitions:

Personally Identifiable Information: Information that would make it possible to identify a particular child or family, including the name of the child, the child’s parent or other family member, the address of the child or family, a personal identifier such as the child’s or parent’s social security numbers, or a list of characteristics or other information that would make it possible to identify the child or family with reasonable certainty.

Parent: A biological or adoptive parent of a child; a foster parent; a guardian authorized to act as the child’s parent or make EI or health decisions for the child; an individual acting in place of a parent such as a grandparent, step-parent or other relative; a surrogate parent appointed in accordance with applicable federal and state regulations.

Procedure:

1. All agencies are responsible to assure that:
   A. A current listing of the names and positions of agency employees who have access to children’s records shall be maintained for inspection and posted at the agency.
   B. A person must be designated to ensure the confidentiality of records at the collections, storage, disclosure, and destruction stages.
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C. All early intervention staff shall receive instructions, at least annually, regarding the importance of maintaining confidentiality and the agency’s plan for records.

D. A list of the types of records and their location will be available to the parent upon request.

E. The agency shall keep a record of all parties obtaining access to educational or developmental records that are developed, maintained, and used by the agency, including the name of the party, the date access was given, and the purpose for which the party is authorized to use the record.

2. Upon initial contact following referral, parents will be provided a standardized notice developed by the Bureau of Early Intervention Services (BEIS) that contains information on the types of information kept, the methods the State uses to gather the information, the location of the information, how the information will be used and the procedures for the destruction of information.

3. Parents of children receiving early intervention services have the following rights:
   A. To inspect and review any educational/developmental records relating to their child, which the agency develops, maintains, or uses. Certain medical, therapeutic, and social service records shall be acquired by parents directly from the professionals who provided the service in order for the agency to maintain its own confidentiality.
   B. The right to inspect and review records includes:
      i. The right to a response from the agency to requests for explanations and interpretations of the records.
      ii. The right to request that the agency provide copies of the records containing the information.
      iii. The right to have a representative of the parents inspect and review the records.
   C. The authority to inspect and review records relating to the child unless the agency has been advised in writing that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.
   D. If there is a Custody Order in place, the Service Coordinator will request a copy of the order. Information will be shared with the legal guardians per the stipulations in the order.
   E. A list of the types of records and their location will be available to the parent upon request.
   F. If the parents request a copy of information on one child from a record containing data on other children, the agency will remove or obscure all personally identifiable information concerning any child other than the child of the requesting parents.
   G. To request amendment of the child’s record.
   H. To consent to disclosures of personally identifiable information contained in their child’s record.
4. Authorized Access: The following persons, agencies, or officials may have access to any child’s records without prior parental consent:
   A. Any agency employee or authorized representative who has been determined by the MH/ID Administrator to have legitimate early intervention interest in the child, and whose name, position, and professional field is on the access list.
   B. Any county MH/ID personnel so designated by the MH/ID administrator.
   C. Department of Public Welfare personnel or their designated representatives who have responsibility for administration, monitoring, licensing, auditing, or evaluating programs.
   D. Authorized representatives of the Federal Department of Education in order for the general supervision requirement of 45 C.F.R. 121 a.600-601 to be met.
   E. Any representative of the court when presenting a subpoena of records accompanied by a judge’s order. Parents of the child shall be informed either verbally or in writing of the subpoena request.

5. Child Records: Every provider needs to maintain a separate file for each child served. All entries in the record must be legible and signed by the person making the entry. Contents of the file must include:
   A. Personally identifiable information
   B. Intake information
   C. Evaluation and assessment information
   D. IFSPs
   E. Letters of medical necessity
   F. Progress Notes

6. Amendment of Records: A parent who believes that information in the records developed, maintained, or used by the agency is inaccurate or misleading or violates the privacy or other rights of the child, may request the agency to amend the information. A service coordinator should be contacted to assure that the family understands their rights in this event. If the MH/ID program or the early intervention provider is not in agreement with the request for the amendment to the record, the parents shall be notified in writing of the refusal for the amendment and their rights to a due process hearing.

7. Destruction of Records: At the termination of early intervention services, the service coordinator shall review the child’s records with the parent to provide for the exchange of information, determination of ongoing needs, and the information to be forwarded to subsequent service providers with written parental consent. A copy of the child’s early intervention records shall be retained for at least seven years after the termination of service, unless the entire record is returned to the CMU.

8. Informed Consent: All communications, both written and oral, shall be communicated in language that is understandable to the general public and provided in the native language of the parents, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, steps shall be taken to ensure that the notice is translated orally or by other means to the parent, and that the
parent understands the notice. If the parent is deaf or blind, or has no written language, the mode of communication shall be one that is normally used by the parent (such as sign language, Braille, or oral communication). It is the responsibility of the service coordinator to document in the case file that such requirements have been met.

9. Parental Consent: The service coordinator uses the Parent's Rights Agreement at the following times:
   A. At first contact
   B. Prior to use of screening tools as appropriate
   C. Before the evaluation
   D. At all IFSP meetings
   E. All notices of changes in services, including discharge
   F. At at-risk tracking activities
   G. At the parent's request

10. Written parental consent must be obtained on the Parent's Rights Agreement
    A. Before conducting an initial screening and/or evaluation
    B. Before initiating the provision of early intervention services for the first time or for any subsequent changes in frequency or duration of services listed on the IFSP

11. If parental consent is provided only for specified early intervention services, then only those services that the parent consents to will be implemented by the early intervention team.

12. Parental consent, once given, can be revoked at any time for any service without jeopardizing other EI services listed on the IFSP.

13. If the parent does not give consent, the service coordinator shall make reasonable efforts to ensure that the parent(s):
    A. Is fully aware of the nature of the screening, evaluation, and assessment or services that would be available; and,
    B. Understands that the child will not be able to receive the screening, evaluation, or early intervention services unless consent is given.

14. Written Notice: Written notice will be given to the parent(s) before any of the following can occur:
    A. Change in the identification, evaluation, or placement of the child;
    B. Changes in the provision of services to the child or the child's family;
    C. When the early intervention program refuses to initiate or change the identification, evaluation, or placement of the child; and/or
    D. When the early intervention program refuses to initiate or change the provision of services to the child or the child's family.

References:
Chapter 4226: Early Intervention Services, Also see EI Manual, Updated June 2006, October 2010, and November 2011, September 2013