

---

# Program Memorandum

## Intermediaries/Carriers

---

Department of Health and  
Human Services (DHHS)  
HEALTH CARE FINANCING  
ADMINISTRATION (HCFA)

Transmittal AB-00-46

Date: JUNE 2000

---

CHANGE REQUEST 1156

### SUBJECT: HCFA Policy for Disclosure of Individually Identifiable Information

This Program Memorandum (PM) enunciates the policy of the Health Care Financing Administration (HCFA) regarding the disclosure of individually identifiable information acquired and maintained under authority of Title XVIII of the Social Security Act, by Medicare intermediaries and carriers. It does not communicate a change but rather a reminder of the existing policy.

Any data collected on behalf of HCFA in the administration of your Medicare contract belongs to HCFA. **Any disclosure of individually identifiable information subject to the Privacy Act, without prior consent from the individual to whom the information pertains, or without statutory or contract authorization, requires HCFA prior approval, with the exception noted below.** Individually identifiable information may generally be disclosed to the individual to whom the information pertains.

In this time of heightened awareness of privacy and confidentiality concerns, it is critical that HCFA and its contractors ensure the protection of individually identifiable information. It is essential that Medicare intermediaries and carriers are aware of the Agency's disclosure policy and ensure that it is effectively implemented in day-to-day operations.

Federal agencies protect individually identifiable information by complying with the Privacy Act of 1974, as well as other applicable Federal statutes, regulations, instructions, and memoranda. All individually identifiable information that is stored in a system of records and can be retrieved by the name of the individual or by some other type of identifier such as a number is protected by the Privacy Act. The Privacy Act permits disclosure of information without an individual's consent if the information is to be used for a purpose compatible with the purpose for which the information was collected, known as a "routine use." However, HCFA, and our contractors, are required to limit the collection, use, and disclosure of individually identifiable information to only the minimum necessary to accomplish the Agency's purpose.

This PM is not intended to be a general prohibition against the use of individually identifiable information by intermediaries and carriers under contract with HCFA. Clearly, individually identifiable information is essential to the operation of the Medicare program. Intermediaries and carriers are authorized to collect and use individually identifiable information to routinely perform the business functions necessary for program administration, such as claims payment and program integrity activities to prevent fraud and abuse.

In the performance of these administrative tasks, disclosure of individually identifiable information may be permitted or may be required by contract and/or statute. In the absence of contract or statutory authority, or the individual's consent for disclosure, HCFA's approval is required in advance. (Disclosures of information to the Department of Justice related to the investigation of health care fraud and abuse are authorized under the terms of Transmittal AB-99-58, August 1999.)

HCFA-Pub. 60AB

Your contract with HCFA requires compliance with the Privacy Act and related regulations and manual instructions concerning disclosures. Therefore, you must have in place a senior official or other responsible party to address the privacy concerns of your organization, and establish an internal control system to monitor compliance. Failure to comply with HCFA's disclosure policy is in direct violation of your contract and is subject to contractor performance evaluation review.

For intermediaries, disclosure instructions are found in the Medicare Intermediary Manual Part 3, §3760-3776. For carriers, disclosure instructions are found in the Medicare Carriers Manual Part 3, §10000-10099.

**These instructions should reflect your current practice, therefore the *effective date* and *implementation date* for this PM is upon receipt.**

**These instructions should be implemented within your current operating budget as no new requirements are being imposed.**

**This PM may be discarded June 2001.**

**If you have any questions, contact Robin Getzendanner at [rgetzendanner@hcfa.gov](mailto:rgetzendanner@hcfa.gov) or call 410-786-9621.**