



## RIGHTS AND RESPONSIBILITIES

### A. Client/Family Rights

1. The client/family has the right to participate in planning for medical care.
2. The client/family has the right to refuse medical or program services at any time. Refusal of specific medical treatment does not make a client ineligible for program services.
3. The client, parent, legal guardian, or legal representative has the right to review and/or receive a copy of his/her medical record at any time. They may not remove anything from the record, but can ask that information be changed if it can be demonstrated that the information is incorrect. When reviewing the record, the client has the right to have an attorney present or other representative of his/her choice. A CSHCN employee must remain in the room with the record during the time it is being reviewed. To protect the privacy of other CSHCN clients, this review must take place outside the examination area of CSHCN clinics. The right to have a representative present during record review does not give the representative access to CSHCN clinics.
4. The client/family has the right to appeal negative program eligibility and service decisions.

### B. Client/Family Responsibilities

1. The client/family acknowledges the importance of attending medical appointments and agrees to contact the CSHCN Program when attendance is not possible. Failure to attend two consecutive scheduled medical appointments will result in termination of services from the CSHCN Program.
2. The client/family agrees to inform the CSHCN Program of changes in name, address or phone number.
3. The client/family is required to provide financial and medical information to complete yearly eligibility re-determination.
4. The client/family will complete another *Specialty Care Intake Form* (SCIF) if there is a change in names, custody, legal guardianship or adoption.
5. The client/family must identify, in writing, all family members who are to have access to medical information (**includes being in the examination room/area**) and all those who have the legal right to make medical decisions for the client.

**C. Program Responsibilities**

1. Confidentiality

a. Legal Mandate

The CSHCN Program is legally and ethically bound to maintain the confidentiality of all oral and written information obtained while determining eligibility and in the delivery of services. Staff members and/or collaborative partners with access to the client's records are required to observe confidentiality and professional ethics.

The legal mandate for the protection of health information falls under the Health Insurance Portability and Accountability Act (HIPAA) of 1996. HIPAA includes The Standards for Privacy of Individually Identifiable Health Information (Privacy Rule). The Privacy Rule is intended to protect the privacy of all individual's health information and establish a set of basic national privacy standards and practices in the sharing and disclosing of health information.

b. Client Information

Client information is confined within the agency. Client record information includes all personal identifying material, such as applications, medical reports, and any information submitted for requesting services. Information is discussed only as necessary in the following instances:

- 1) In conferences with supervisors or other workers on case planning or care coordination;
- 2) With physicians or other medical professionals providing services to the client; and
- 3) In a planned group meeting with all identifying data removed.

c. Public Documents

Agency materials released as public documents including annual reports, program pamphlets, state program policy, or fiscal reports are not considered confidential. Personnel records and CSHCN internal memoranda not related to policy development, policy changes, or policy implementation are exempt from release to the public.

d. Information Which Is Never Available for Release

Client information can be released only with written consent of the client or if the client is a minor the parent or legal guardian.

Information which is **never** available for release to patient, guardian, or other agency includes:

- 1) Adoption information;
- 2) Identity of person making protective service referral; and
- 3) Name of law enforcement officer or official who obtained information in an emergency.

2. Employee Conflict of Interest

In compliance with the West Virginia Governmental Ethics Act, the Department of Health and Human Resources Administrative Memorandum 2108 states:

ΔEmployees are expected to avoid conflicts of interest between their personal life and their employment. Employees shall not provide services to or make decisions concerning eligibility for Agency programs for spouses, relatives, friends, neighbors, and present or former co-workers. Requests for services and questions regarding eligibility in these potentially conflicting situations should be referred to supervisors for reassignment. Further, an employee's receipt of any benefit from the Agency must be based solely upon eligibility to receive those benefits.

3. Information to Civic Organizations

The Children with Special Health Care Needs Program does not release client names or other identifying data to civic or other organizations for the purpose of consideration of an award or providing for the special needs of a client, such as camping programs, support services, or recreational or educational opportunities.

4. Freedom of Information Act (FOIA)

Requests received under the Freedom of Information Act (FOIA) must be submitted in writing and specifically state the type of information being sought. Any requests received by field staff are immediately sent to the CSHCN Program Director, who will forward the request to the OMCFH Human Resources Director.

5. Subpoenas

Subpoenas served to obtain case records are brought to the immediate attention of the Program Director who, upon advice of counsel, will give direction on the appropriate response.

**D. Appeals and Hearings**

The purpose of the appeal process is to determine if the CSHCN Program followed policy accurately and consistently, without discrimination, in making the determination of covered services. It is not to determine medical necessity or request policy changes to include coverage of denied services.

All appeals involving program eligibility or coverage of medical services/equipment by Title V must be appealed using the appropriate procedure.

CSHCN is not responsible when the client is covered by a payer other than Title V and that payer has made the decision to deny services or equipment. Families/clients are referred back to the payer source who denied the services or equipment to appeal the denial.

Only parents, legal guardians or clients 18 years of age or older may initiate an appeal with the CSHCN Program. All appeals must be made in writing within 30 calendar days from the date on the denial of service/closure letter and submitted to the Director of the CSHCN Program. Once a case has been closed or a service denied by the CSHCN Program, no reversal of that decision will be made unless mandated by the outcome of the appeal process.