



Data Privacy Policy and Procedure for Persons Served

Reviewed: October 2023

PURPOSE

The purpose of this policy is to establish guidelines that promote the privacy rights of service recipients and to ensure that data privacy and record confidentiality is maintained for persons served at MSS.

POLICY

The persons served in our program have protection related rights that include the following:

- Ensure personal, financial, service, health, and medical information kept private, and be advised of disclosure of this information by MSS.
- Access records and recorded information about the person in accordance with the applicable state and federal laws, regulations and related rules.

MSS encourages data privacy in all areas of practice and will implement measures to ensure that data privacy is upheld according to MN Statute 245D.04, subdivision 3, MN Government Data Practices Act, section 13.46. MSS will also follow guidelines for data privacy as set forth in the Health Insurance Portability and Accountability Act (HIPAA) to the extent MSS performs a function or activity involving the use of protected health information. The Director of Quality Assurance will exercise the responsibility and duties of the "responsible authority" for all program data, as defined in the Minnesota Data Practices, MN Statutes, and chapter 13. Data privacy will hold to the standard of "minimum necessary" which entails limiting protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

Why do we need this information?

The information we request will be used to establish eligibility for services; determine habilitation or rehabilitation plans and goals; and to provide requested services. The information will be used to establish ability to pay for services or for MSS to collect reimbursement for services from third party payers such as county, state or federal government programs, insurance companies and/or social services agencies.

Orientation to the person served and/or legal representative will be completed at service initiation and as needed thereafter. This orientation will include an explanation of this policy and their rights regarding data privacy. Upon explanation, the Service Coordinator, Program Supervisor, or Program Director will document that this notification occurred and that a copy of this policy was provided.

PROCEDURE

Access to records and recorded information and authorizations

- A. The person served and/or legal representative have full access to their records and recorded information that is maintained, collected, stored, or disseminated by the company. Private data

are records or recorded information that includes personal, financial, service, health, and medical information.

- B. Access to private data in written or oral format is limited to authorized persons. The following company personnel may have immediate access to persons' private data only for the relevant and necessary purposes to carry out their duties as directed by the *Support Plan* and/or *Support Plan Addendum*:
 - 1. Executive staff
 - 2. Administrative staff
 - 3. Financial staff
 - 4. Nursing staff including assigned or consulting nurses
 - 5. Management staff including the Service Coordinators, Program Supervisor, or Program Director
 - 6. Direct support staff

- C. The following entities also have access to persons' private data as authorized by applicable state or federal laws, regulations, or rules:
 - 1. Case manager
 - 2. Child or adult foster care licensor, when services are also licensed as child or adult foster care
 - 3. Minnesota Department of Human Services and/or Minnesota Department of Health
 - 4. County of Financial Responsibility or the County of Residence's Social Services
 - 5. The Ombudsman for Mental Health or Developmental Disabilities
 - 6. US Department of Health and Human Services
 - 7. Social Security Administration
 - 8. State departments including Department of Employment and Economic Development (DEED), Department of Education, and Department of Revenue
 - 9. County, state, or federal auditors
 - 10. Adult or Child Protection units and investigators
 - 11. Law enforcement personnel or attorneys related to an investigation
 - 12. Various county or state agencies related to funding, support, or protection of the person
 - 13. Other entities or individuals authorized by law

- D. MSS will obtain authorization to release information of persons served when consultants, sub-contractors, or volunteers are working with MSS to the extent necessary to carry out necessary duties.

- E. Other entities or individuals not previously listed who have obtained written authorization from the person served and/or legal representative, including licensed caregivers or health care providers as directed by the release of information.

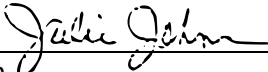
- F. Information will be disclosed to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the person served or other individuals or persons. The Service Coordinator, Program Supervisor, or Program Director will ensure the documentation of the following:
 - 1. The nature of the emergency
 - 2. The type of information disclosed
 - 3. To whom the information was disclosed
 - 4. How the information was used to respond to the emergency
 - 5. When and how the person served and/or legal representative was informed of the disclosed information
- G. All authorizations or written releases of information will be maintained in the person's service recipient record. In addition, all requests made, outside of the purposes of supporting the person's Coordinated Service and Support Plan and Addendum, to review data, have copies, or make alterations, as stated below, will be recorded on the *List of Requests for Disclosure of Information* form in the person's record including:
 - 1. Date and time of the activity.
 - 2. Who accessed or reviewed the records.
 - 3. If any copies were requested and provided.

Request for records or recorded information to be altered or copies

- A. The person served and/or legal representative has the right to request that their records or recorded information and documentation be altered and/or to request copies.
- B. If the person served and/or legal representative objects to the accuracy of any information, staff will ask that they put their objections in writing with an explanation as to why the information is incorrect or incomplete.
 - 1. The Service Coordinator, Program Supervisor, or Program Director will submit the written objections to the Director of Quality Assurance, who will make a decision in regards to any possible changes.
 - 2. A copy of the written objection will be retained in the person's service recipient record.
 - 3. If the objection is determined to be valid and approval for correction is obtained, the Service Coordinator, Program Supervisor, or Program Director will correct the information and notify the person served and/or legal representative and provide a copy of the correction.
 - 4. If no changes are made and distribution of the disputed information is required, the Service Coordinator, Program Supervisor, or Program Director will ensure that the objection accompanies the information as distributed, either orally or in writing.
- C. If the person served and/or legal representative disagrees with the resolution of the issue, they will be encouraged to follow the procedures outlined in the *Grievance/Complaint Policy and Procedure for Persons Served*.

Security of information

- A. A record of current services provided to each person served will be maintained on the premises of where the services are provided or coordinated. This record may be electronic or printed. When the services are provided in a licensed facility, the records will be maintained at the facility; otherwise, records will be maintained at the company's program office. Files will not be removed from the program site without valid reasons and security of those files will be maintained at all times.
- B. The Service Coordinator, Program Supervisor, and Program Director will ensure that all information for persons served are secure and protected from loss, tampering, or unauthorized disclosures. This includes information stored by computer for which a unique password and user identification is required.
- C. No person served and/or legal representative, staff, or anyone else may permanently remove or destroy any portion of the person's record.
- D. The company and its staff will not disclose personally identifiable information about any other person when making a report to each person and case manager unless the company has the consent of the person. This also includes the use of another person's information in another person's record.
- E. Written, verbal, and electronic exchanges of information regarding persons served are considered to be private and will be done in a manner that preserves confidentiality, protects their data privacy, and respects their dignity. This includes sending emails with protected health information to recipients outside of MSS in an encrypted format.
- F. All staff will receive training at orientation and annually thereafter on this policy and their responsibilities related to complying with data privacy practices.



Julie Johnson
President/CEO

10/3/2024

Date



Public Notice of Appointment of Responsible Authority

Any questions, complaints, etc. concerning the interpretation or application of the Minnesota Data Privacy Act at MSS should be directed to the Responsible Authority of MSS or the Designee:

Responsible Authority/Data Privacy Officer:

Chris Salter – Director of Quality Assurance

**MSS
900 Ocean St.
St Paul, MN 55106
Phone: (651) 778-1000
Email: csalter@mssmn.org
Fax: (651) 772-4352
TTY: (651) 772-4352**

PRIVACY NOTICE FOR PERSONS SERVED

This notice describes how personal health information (PHI) about you may be used or disclosed and how you can get access to this information.

Please review it carefully.

HOW WE MAY USE AND DISCLOSE PERSONAL HEALTH INFORMATION ABOUT YOU

We may disclose your PHI with affiliates and third party "Business Associates" that perform payment of health care operations or other activities for us on your behalf. The law permits us to use or disclose your PHI without your authorization in the following situations:

Emergency Personnel

We may share your protected health information to emergency medical in order to arrange emergency medical treatment for you. The Service Coordinator, Program Supervisor, or Program Director will ensure the documentation of the following:

- The nature of the emergency.
- The type of information disclosed.
- To whom the information was disclosed.
- How the information was used to respond to the emergency.
- When and how the person served and/or legal representative was informed of the disclosed information.

Payment Service

We may use and disclose your protected health information to receive payment for services provided by MSS that may involve the determination of eligibility, claims payment, utilization review and management, coordination of care, benefits and other services, and responding to complaints, appeals and external review requests.

State/Federal Law

We may use or disclose your protected health information to the extent that we are required to do so by State or Federal law.

Public Health

We may disclose your protected health information to an authorized public health authority for purposes of public health activities. The information may be disclosed for such reasons as controlling disease, injury or disability.

Maltreatment, or Neglect

We may make disclosures to government authorities concerning suspected maltreatment, neglect or domestic violence.

Health Oversight

We may disclose your protected health information to a government agency authorized to oversee the healthcare system or government funded programs including audits, examinations, investigations, inspections and licensure activity.

Legal Proceedings

We may disclose your protected health information in the course of a demand from a court or administrative judge and, in certain cases, in response to a subpoena, discovery request or other lawful process.

Coroners and Medical Examiners

We may disclose your protected health information in certain instances to coroners and Medical Examiners.

Threat to Health or Safety

We may disclose your protected health information to the extent necessary to avert a serious and imminent threat to your health or safety or the health or safety of others. For example, in the event that you ever have a medical emergency, we may disclose information about you to emergency medical personnel.

Law Enforcement

We may disclose your protected health information under limited circumstances to law enforcement officials. For example, disclosures may be made in response to a warrant or subpoena or for the purpose of identifying or locating a suspect, witness or missing person or to provide information concerning victims of crimes.

Military Activity and National Security

We may disclose your protected health information to Armed Forces personnel under certain circumstances and to authorized federal officials for the conduct of national security and intelligence activities.

Workers Compensation

We may disclose your protected health information to the extent required by worker's compensation laws. If you make a Work Comp claim, you will receive information on your rights and responsibilities under the law at the time that you make that claim.

Your Written Authorization if Required for Other Uses and Disclosures

Any uses and disclosures not described by this notice will require your written authorization. If you give us an authorization, you may revoke it at any time by submitting your request in writing.

YOUR RIGHTS CONCERNING YOUR PROTECTED HEALTH INFORMATION

When it comes to your PHI, you have certain rights.

Your Right to Request Restrictions

You have the right to ask us to place restrictions on the way we use or disclose your protected health information for treatment, payment or healthcare operations or as described in this notice.

Keep your Communications Confidential

We will accommodate reasonable requests to communicate with you about your protected health information to an alternative location. You must make your request in writing and you must state that the information could endanger you if it is not communicated in confidence to the alternative location you want.

Access Your Protected Health Information

You have the right to receive a copy of protected health information about you that is contained in your MSS File, with some specified exceptions. Your Master File is a group of records that are used by or for us to make decisions about you, including:

- Enrollment
- Payment
- Claims payment and
- Case or medical management records

You must make your request in writing to access copies of your records and provide us with the specific information we need to fulfill your request. If necessary, your Program Supervisor or Service Coordinator will help you to do this.

Amend Your Protected Health Information

You and/or your legal representative have the right to request MSS to amend/alter protected health information contained in your MSS file. All requests for alteration/amendment must be in writing. If the person served and/or legal representative objects to the accuracy of any information, staff will ask that they put their objections in writing with an explanation as to why the information is incorrect or incomplete.

- The Service Coordinator, Program Supervisor, or Program Director will submit the written objections to the Director of Quality Assurance who will make a decision in regards to any possible changes.
- A copy of the written objection will be retained in the person's service recipient record.
- If the objection is determined to be valid and approval for correction is obtained, the Service Coordinator, Program Supervisor, or Program Director will correct the information and notify the person served and/or legal representative and provide a copy of the correction.

If no changes are made and distribution of the disputed information is required, the Service Coordinator, Program Supervisor, or Program Director will ensure that the objection accompanies the information as distributed, either orally or in writing. We will NOT amend records in the following situations.

- We do not have the records you are requesting to be amended
- We did not create the records you are requesting to be amended
- The records have been compiled in anticipation of a civil, criminal or administrative action or proceeding.

If the person served and/or legal representative disagrees with the resolution of the issue, they will be encouraged to follow the procedures outlined in the Grievance/Complaint Policy and Procedure for Persons Served. All denials will be made in writing. You may respond by filing a written statement of disagreement with us and we would have the right to rebut the statement. We will respond to your request to amend within 30 days of receipt of your written request.

Request a list of those with whom we've shared information

You can ask for a list (accounting) of the times we have shared your health information for six years prior to the date you ask, who we shared it with, and why. We will include all the disclosures except for those about

- Treatment, payment, and health care operations as described in this notice
- Certain other disclosures (such as any you (or Legal Guardian) asked us to make); or
- Certain other disclosures such as disclosures for national security purposes

All requests for an accounting must be in writing. We will require you to provide us with the specific information we will need to fulfill your request.

We will track who has reviewed your data

All external requests for information, authorizations or written releases of information will be maintained in the person's service recipient record. In addition, all requests made, outside of the purposes of supporting the person's Coordinated Service and Support Plan and Addendum, to review data, have copies, or make alterations, as stated below, will be recorded on the *List of Requests for Disclosure of Information* form in the person's record including:

- Date and time of the activity
- Who accessed or reviewed the records
- If any copies were requested and provided

Complaints

If you believe we have violated your privacy rights you may file a complaint. We will not retaliate against you for filing a complaint about our privacy practices.

YOUR PRIVATE AND PROTECTED HEALTH INFORMATION IS SECURE

On MSS Property

Your records are maintained on the premises of where the services are provided or coordinated. Otherwise, records will be maintained at the company's program office. Files will not be removed from the program site without valid reasons and security of those files will be maintained at all times.

By the Designated Coordinator/Designated Manager

Both will ensure information is secure, protected from loss, tampering, or unauthorized disclosures. This includes information stored by computer for which a unique password and user identification is required.

From Being Destroyed

No person served and/or legal representative, staff, or anyone else may permanently remove or destroy any portion of the person's record.

On other Persons Reports

MSS and its staff will not disclose personally identifiable information about any other person when making a report to each person and case manager unless MSS has the consent of the person. This includes the use of other person's information in another person's record.

On a Daily Basis

Written and verbal exchanges of information regarding persons served are considered to be private and will be done in a manner that preserves confidentiality, protects their data privacy, and respects their dignity.

By Employees Trained Annually

All staff will receive training at orientation and annually thereafter on this policy and their responsibilities related to complying with data privacy practices.

Changes to the Terms of this Notice

We reserve the right to change the terms of this notice, and the changes will apply to all information we have about you. The new notice will be available upon request, in our office, and on our web site.

This Data Privacy Policy and Procedure applies to the following organization:

MSS

FREQUENTLY ASKED QUESTIONS

Will you give my private or protected health information to my family or others?

- A. We may share protected health information about you with a family member or another person in three ways:
1. That person is your legal guardian. Before sharing information, MSS may first request that your family or the other person produce the court documentation granting guardianship of you to that individual.
 2. You (or your legal guardian) are present, either in person or on the telephone, and you give us permission to talk to the other person OR
 3. You (or your legal guardian) sign an authorization form.

Who should I contact to get more information or to get an additional copy of this notice?

- A. For additional information, questions about this Data Privacy Notice, or to copy, please call or write to our Human Resources Department at MSS, 900 Ocean Street, St. Paul, MN 55106, 651-778-1000.

What should I do if I believe my privacy rights have been violated?

- A. If you believe we have violated your privacy rights, you have the right to file a complaint in writing with our Responsible Authority/Security Officer or Designee & Privacy Officer using the contact information provided on page 5 of this notice. You may also contact the Commissioner of Administration in writing, Attention: Data Privacy, 50 Sherburne Avenue St. Paul, MN 55155 or by calling 651-296-8261 or with the Secretary of the U.S. Department of Health and Human Services (HHS). Send your complaint to: Medical Privacy/Complaint Division Office for Civil Rights, U.S. Department of Health and Human Services, 200 Independence Ave. SW, HHH Building – Room 509F, Washington, DC 20201. For more information please visit: www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/noticepp.html

There is quite a bit of information in this notice. I am not sure I really understand my privacy rights and responsibilities.

- A. We don't expect you to remember everything in this notice. We are sure that you will have questions about our privacy policies and procedures. We want to provide you with the information you need to make informed choices and to make sure that you know how to get help when you have a question.
- Your Program Supervisor or Designated Coordinator is always available to answer questions you may have about your program.
 - You are always welcome to contact the Responsible Authority, Privacy Office or Security Officer at the numbers listed in this notice. They will be happy to discuss with you any questions or concerns you may have about our privacy policies and procedures.

ADDITIONAL QUESTIONS

If you would like additional information regarding our privacy practices, or if you have questions or concerns, please contact us as indicated below.

MSS Data Privacy Officer
Chris Salter
900 Ocean St., St. Paul, MN 55106
(651) 778-1000



Midwest Special Services, Inc.

NOTICE OF PRIVACY PRACTICES FOR PERSON'S SERVED

ACKNOWLEDGMENT OF RECEIPT

I acknowledge that I have been provided a copy of MSS' Notice of Privacy Practices for Person's Served, which describes how my health information may be used and disclosed. I understand that you have the right to change the Notice of Privacy Practices for Person's Served at any time, that I will be provided a copy of any updated version, and that I may contact you at any time to request a current Notice of Privacy Practices for Person's Served.

By signing below, I acknowledge that I have received a copy of MSS' Notice of Privacy Practices for Person's Served.

Signature of Person Served or Person's Representative

Date

Print Name

Relationship to Individual *(If not signed by the person served)*