

**EMPLOYEE GROUP INSURANCE
TREATMENT OF PROTECTED HEALTH INFORMATION**

Section 4.11: Obtaining and Relying Upon an Authorization	Page: 1 of 4
Effective Date: April 14, 2003	

POLICY

EGI shall obtain an individual's written Authorization before requesting, Using or Disclosing the individual's PHI when such request, Use or Disclosure is not permitted by the HIPAA Privacy Standards without an Authorization.

4.11(1) Obtaining an Individual's Written Authorization

Except as otherwise provided in this Manual, EGI shall obtain an individual's signed, written Authorization before requesting, Using, or Disclosing the individual's PHI in situations when the intended request, Use or Disclosure is not otherwise permitted by the HIPAA Privacy Standards. EGI's Authorization for the Use and Disclosure of Protected Health Information form, a copy of which is attached as a Form in the Appendix to this Manual and which contains the elements required by the HIPAA Privacy Standards, or another specific form for specific circumstances shall be used whenever possible. A Member may initiate an Authorization, in which case the individual shall not be required to reveal the purpose of the requested Use or Disclosure.

4.11(2) Personal Representative

In accordance with Section 4.12 of this Manual, an individual's personal representative has the authority to give and revoke Authorizations on behalf of the individual.

4.11(3) Provision of Copies to the Member

EGI shall provide each Member with a copy of any signed Authorization that is personally provided by the Member to EGI. EGI shall provide a Member with a copy of any signed Authorization that it does not receive in person from the Member at the written request of the Member provided that the specific Authorization is adequately identified in the request. EGI will not comply with global requests for all Authorizations received concerning a particular individual, except as part of a Member's request for access to the Member's PHI in accordance with Section 7.2 of this Manual.

4.11(4) Reliance on an Authorization

Prior to Using, or Disclosing PHI in reliance on an Authorization, an employee of EGI qualified to make such a determination shall review the Authorization to ensure that:

- a. the Authorization contains all applicable elements described in this Section;

- b. any expiration date has not passed, and any expiration event is not known by EGI to have occurred;
- c. the Authorization has been filled out completely;
- d. the Authorization has not been revoked in accordance with this Section;
- e. to the extent known by EGI, the Authorization was not obtained due to a condition that violates this Section;
- f. the Authorization is not combined with another document in violation of this Section;
and
- g. no material information in the Authorization is known by EGI to be false.

Upon receipt of a valid Authorization, the Authorization shall be filed with the individual's Designated Record Set, in accordance with Section 9.2 of this Manual.

4.11(5) Contents of an Authorization

An Authorization, to be valid, must contain all of the following elements written in plain and understandable language:

- a. a description of the information to be Used or Disclosed that identifies the information in a specific and meaningful fashion;
- b. a statement that EGI or System Administration or the System or an employee of one of these entities is authorized to make the requested Use or Disclosure;
- c. the name or other specific identification of the persons, or class of persons, to whom the requested Use or Disclosure may be made;
- d. a description of each purpose of the requested Use or Disclosure, except that, if an individual initiates the Authorization and does not provide a statement of the purpose, the statement "at the request of the individual" is sufficient;
- e. an expiration date or an expiration event that relates to the individual or the purpose of the Use or Disclosure;
- f. a statement that places the individual on notice of the individual's right to revoke the Authorization in writing, and either (i) the exceptions to the right to revoke and a description of how the individual may revoke the Authorization or (ii) to the extent such information is included in the Plan's notice of privacy practices, a reference to the notice;
- g. a statement that places the individual on notice of the ability or inability of the person requesting the Authorization to condition Treatment, Payment, enrollment, or eligibility for benefits on the Authorization, by stating either (i) if Treatment,

- enrollment, or eligibility for benefits is conditioned on whether the individual signs the Authorization, the consequences to the individual of a refusal to sign the Authorization, or (ii) that Treatment, Payment, enrollment, or eligibility for benefits is not conditioned on whether the individual signs the Authorization;
- h. if the Authorization is for Marketing that involves direct or indirect remuneration from a third party, a statement that such remuneration is involved;
 - i. a statement that places the individual on notice of the potential for information Disclosed pursuant to the Authorization to be subject to re-disclosure by the recipient and to no longer be protected by the HIPAA Privacy Standards; and
 - j. a description of and the signature of the individual with the date signed and, if the Authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual.

4.11(6) Revocation of an Authorization

An individual shall have the right to revoke his or her Authorization at any time, provided that the individual's revocation is in writing. The revocation is effective upon its receipt by the Contact Person. EGI's form Revocation of Authorization, a copy of which is contained in the Appendix to this Manual, may be used by the individual. When the Contact Person receives an individual's written revocation (or learns, if the Authorization was obtained by a person other than EGI, from that person or the individual that the Authorization has been revoked), the Contact Person shall notify applicable parties of the revocation of Authorization and document the revocation or information concerning the revocation received by the person obtaining the authorization. EGI shall stop Using and Disclosing the individual's PHI in reliance on the Authorization, except to the extent EGI has already taken action in reliance on the Authorization. If EGI has not yet Used or Disclosed the PHI, EGI shall refrain from doing so, pursuant to the revocation. If EGI has already Disclosed the information, EGI need not retrieve the information. Notwithstanding the above, if an Authorization is obtained as a condition of obtaining insurance coverage under a policy or certificate, a revocation of the Authorization shall not be effective to the extent any law provides an insurer with the right to contest either a claim under the policy or certificate or the policy or certificate itself and the revocation would cause Uses or Disclosures for such purpose to be prohibited.

4.11(7) Conditioning Activities on the Provision of an Authorization

The provision of Treatment, Payment, health plan enrollment, or eligibility for health plan benefits may not be conditioned on an individual's provision of an Authorization, except as follows:

- a. a Covered Entity, including EGI, may condition the provision of health care on an individual's provision of an Authorization if (i) such health care is solely for the purpose of creating PHI for Disclosure to a third party and (ii) such Authorization is for the Disclosure of such PHI to such third party; or

- b. enrollment in a health plan may be conditioned upon an individual's provision of Authorization if the Authorization (i) is requested prior to the individual's enrollment in the health plan; (ii) is sought for an eligibility or enrollment determinations relating to the individual or for its underwriting or risk rating determinations; and (iii) does not authorize a Use or Disclosure of Psychotherapy Notes.

4.11(8) Combining Authorizations.

An Authorization may not be combined with any other document, except as follows:

- a. an Authorization for the Use or Disclosure of PHI for a specific research study may be combined with any other type of written permission for the same research study; and
- b. an Authorization may be combined with another Authorization if they are visually and organizationally separate and are separately signed and dated, unless (i) one Authorization is for a Use or Disclosure of Psychotherapy Notes, and the other is not, or (ii) the provision of Treatment, Payment, plan enrollment, or eligibility for plan benefits was conditioned on the provision of one of the Authorizations.

4.11(9) Effect of an Authorization Made Prior to April 14, 2003

EGI may Use or Disclose PHI pursuant to an Authorization or other express legal permission obtained from an individual prior to April 14, 2003, if the Authorization or other express legal permission specifically permits such Use or Disclosure and there is no agreed-upon restriction on the Use or Disclosure of that PHI; provided, however, that such Authorization shall be valid for non-research purposes only in connection with PHI that it created or received prior to April 14, 2003.

4.11(10) Retention of Authorizations

EGI shall maintain any written Authorization, or the electronic record of any Authorization, that it receives in accordance with Section 9.2 of this Manual.

REFERENCES/CITATIONS

45 C.F.R. §§ 164.508, 164.532

65 Fed. Reg. at 82,513-21, 82,650-62 (Dec. 28, 2000); 67 Fed. Reg. at 53,219-26 (Aug. 14, 2002)