

**MCS HEALTHCARE HOLDINGS, LLC**

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Department: Compliance	Effective Date: January 1, 2003
Unit: Privacy	Most Recent Revision Date: 2/1/2018
Procedure Title: Document Retention and Access to Records by Federal and Commonwealth Regulatory Authorities	Applies to: <input checked="" type="checkbox"/> MCS Advantage, Inc. <input checked="" type="checkbox"/> MCS Life Insurance Company <input checked="" type="checkbox"/> MCS General Insurance Agency <input checked="" type="checkbox"/> MCS Healthcare Holdings, LLC
Approved by: Corporate Compliance Committee	

**PURPOSES**

To ensure that document retention and availability of records for Federal and Commonwealth regulatory agencies and other official entities are in compliance with 45 C.F.R. Section 164.530 (j)(2), 42 C.F.R. 422.504(d), and that MCS is able to produce documentation, as required, in a timely, accurate, and organized manner.

**PROCEDURES**

- A. MCS maintains all records, including books, documents, and other evidence of accounting procedures and practices from every MCS line of business, whether electronic or hard copy, for a minimum of ten (10) years, in compliance with 42 CFR 422.504(d) – Contract Between MA Organization and CMS, or as long as currently required by applicable laws and regulations, whichever time period is the longest.
- B. Each MCS Department, in coordination with the Legal Department, ensures that there is a signed agreement with all First Tier, Downstream, or Related Entity (FDRs), which includes the ten (10) year retention period requirement.
- C. For ongoing internal or external investigations, including cost report reviews, OIG investigations, lawsuits, or similar actions, MCS maintains related records for a minimum of ten years or until the proceedings are concluded, whichever time period is the longest.
- D. MCS retains documents in electronic and/or paper form for longer periods of time, based on the Compliance, Security, Privacy, Chief legal, Chief Executive and/or Chief Financial Officer’s decision, and according to the types of records and the length of time retention deemed necessary.
- E. Each MCS Department catalogues and index stored records for ease of reference and retrieval.
- F. Each MCS Department ensures that records are secured in a manner that protects them from unauthorized access.
- G. Each MCS Department destroys any records that they maintain, and that have exceeded the mandatory retention period in a manner that protects them from unauthorized access.
- H. MCS coordinates any request for access to records (electronic or hard copy) from Federal and/or the Commonwealth of Puerto Rico regulatory authorities, through the Compliance and/or Security and Privacy Officers.

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- I. All MCS operational areas work in coordination with the Compliance Department in order to provide the requested documents in a manner and timeframe that best serves the request.
- J. All MCS operational areas keep copies of any electronic or hard copy records requested by the Compliance Department, and that were requested for review by Federal or Commonwealth of Puerto Rico authorities.
- K. If applicable, MCS returns any original hard copy records to their previous storage locations upon completion of review by regulatory authorities.

**DEFINITIONS**

1. Access: The ability to enter a secured physical area, application, or information system.
2. Backup: A copy of all data stored into any removable media (e.g. disks and tapes) that may be used to restore original data in the event of a disaster, data loss, or data theft.
3. Breach: The unauthorized acquisition, access, use, or disclosure of protected health information (PHI) which compromises the security or privacy of such information.
4. Business Associate (BA): A person or entity, other than an MCS employee, that performs certain functions or activities that involve the use or disclosure of PHI on behalf of, or provides services to, MCS. BA functions and activities include: claims processing or administration; data analysis, processing or administration; utilization review; quality assurance; billing; benefit management; practice management; repricing; and data aggregation.
5. Business Associate Agreement: A contract or other written arrangement between MCS and another person or entity for services to which the HIPAA Privacy Rule applies.
6. Compliance 360°: A web access application that allows consistency in the drafting, review, approval and indexing of policies and procedures, among other benefits.
7. Covered Entity: A health plan, a health care clearinghouse, or a health care provider who transmits health information in electronic form in connection with transactions for which the Secretary of HHS has adopted standards under HIPAA.
8. Employee: Individual working on a full-time or part-time basis for an MCS entity.
9. FDRs: First Tier, Downstream and Related Entities:
  - a. First Tier Entity: Any party that enters into a written arrangement, acceptable to CMS, with an MAO or Part D sponsor or applicant in order to provide administrative services for health care services to a Medicare eligible individual under the MA program or Part D program.
  - b. Downstream Entity: Any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the MA or Part D benefits, under the arrangement between an MAO or applicant or a Part D plan sponsor or applicant and a first tier entity. These written arrangements continue down to the level of the last provider of both, health and administrative services.
  - c. Related Entity: Any entity that is related to an MAO or Part D sponsor by common ownership of control and (1) Performs some of the MAO or Part D plan sponsor's management functions under contract or delegation; (2) Furnishes services to Medicare

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enrollees under an oral or written agreement; or (3) Leases real property or sells materials to the MAO or Part D plan sponsor at a cost of more than \$2,500 during a contract period.

10. The United States Department of Health and Human Services (HHS): Is the U.S. government's principal agency for protecting the health of all Americans and providing essential human services, especially for those who are least able to help themselves.
11. Office for Civil Rights (OCR): Office for Civil Rights of the Department of Health and Human Services. It investigates civil rights, health information privacy, and patient safety confidentiality complaints to identify discrimination or violation of the law and take action to correct problems.
12. Owner: MCS employee who has the primary responsibility for a contract, process, program, or project.
13. Protected Health Information PHI or electronic PHI (EPHI): Is individually identifiable health information. PHI excludes education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv), and employment records held by a covered entity in its role as employer. PHI can be related to any past, present or future health condition. It includes the following information:
  - a. Name
  - b. Address
  - c. Date of Birth
  - d. Social Security Number
  - e. Telephone
  - f. Email address
  - g. License number
  - h. Occupation
  - i. Medical records number
  - j. Account numbers
  - k. ID numbers
  - l. Diagnosis
  - m. Treatment
  - n. Any other unique identifying characteristics or code

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- o. Diagnosis code/text
- p. Others

14. Policy: A concise statement regarding the company’s position in response to regulatory or contractual mandates or other guides from federal or commonwealth agencies.
15. Procedure: Critical steps for carrying out operations to achieve the policy’s intent. Each sentence starts with a verb. For example, “Review the file for accuracy and completeness.” Each step must describe only one action, must be succinct and to the point. Each step must be numbered.
16. User: Person with privilege to use a system or any resource of information system infrastructure no matter what his/her status is (employee or contractor).

**RELATED MCS POLICIES**

- MCS-POLICY-010 Document Retention and Access to Records by Federal and Commonwealth regulatory authorities

**PROCEDURE REVISIONS:**

DATE	CHANGE(S)	REASONS
11/12/2010	In compliance with MI Salud requirement	ASES contract effective October 1, 2010
2/11/2011	Minor corrections and language revision	Ad hoc review of all Compliance P&Ps
2/11/2012	Modify division name by department. Also, we modified the name and position of one of the employees approving the policy.	Annual Review
4/20/2012	We included the term First Tier, Downstream, or Related Entity (FDR) to the policy	Requested by the Gorman Group
12/5/2014	Changed Department and Segregation between policies and procedures	Annual Review
3/4/2015	Updated process	Ad hoc revision
7/27/2016	Minor corrections	Annual Review
2/1/2018	Departmental changes	Annual Review

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