



## Kentucky Homeless Management Information System

### Privacy Notice

Effective February 1, 2005

It shall be the policy of the Kentucky Homeless Management Information System (KYHMIS) System Administrator(s), participating Providers and any entity or person(s) with access to the Protected Personal Information (PPI) contained in KYHMIS to establish and adhere to the following guidelines regarding the use and disclosure of PPI.

Participating KYHMIS agencies must comply with federal, state and local laws that require additional confidentiality protections.

These KYHMIS standards give precedence to the HIPAA privacy and security rules because: (1) The HIPAA rules are more finely attuned to the requirements of the health care system; (2) the HIPAA rules provide important privacy and security protections for protected health information; and (3) requiring a homeless provider to comply with or reconcile two sets of rules would be an unreasonable burden.

### **Policies**

#### *Allowable KYHMIS Uses and Disclosures of Protected Personal Information (PPI)*

1. Participating agencies may use or disclose PPI from KYHMIS under the following circumstances: (1) To provide or coordinate services to an individual; (2) for functions related to payment or reimbursement for services; (3) to carry out administrative functions, including but not limited to legal, audit, personnel, oversight and management functions; or (4) for creating de-identified PPI.

#### *Use and disclosures required by law.*

2. Participating agencies may use or disclose PPI when required by law to the extent that the use or disclosure complies with and is limited to the requirements of the law.

#### *Uses and disclosures to avert a serious threat to health or safety.*

3. Participating agencies may, consistent with applicable law and standards of ethical conduct, use or disclose PPI if: (1) The participating agency, in good faith, believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public; and (2) the use or disclosure is made to a person reasonably able to prevent or lessen the threat, including the target of the threat.

#### *Uses and disclosures about victims of abuse, neglect or domestic violence.*

4. Participating agencies may disclose PPI about an individual whom the agency reasonably believes to be a victim of abuse, neglect or domestic violence to a government authority (including a social service or protective services agency) authorized by law to receive reports of abuse, neglect or domestic violence under any of the following circumstances:
  - ❑ Where the disclosure is required by law and the disclosure complies with and is limited to the requirements of the law;
  - ❑ If the individual agrees to the disclosure; or
  - ❑ To the extent that the disclosure is expressly authorized by statute or regulation; and the agency believes the disclosure is necessary to prevent

serious harm to the individual or other potential victims; or if the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the PPI for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.

5. A participating agency that makes a permitted disclosure about victims of abuse, neglect or domestic violence must promptly inform the individual that a disclosure has been or will be made, except if:
  - The agency, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm; or
  - The agency would be informing a personal representative (such as a family member or friend), and the agency reasonably believes the personal representative is responsible for the abuse, neglect or other injury, and that informing the personal representative would not be in the best interests of the individual as determined by the agency in the exercise of professional judgment.

*Use and disclosures for academic research purposes:*

6. Participating agencies may use or disclose PPI for academic research conducted by an individual or institution that has a formal relationship with the agency if the research is conducted either:
  - By and individual employed by or affiliated with the organization for use in a research project conducted under a written research agreement approved in writing by a program administrator (other than the individual conducting the research) designated by the agency; or
  - By and institution for use in a research project conducted under a written research agreement approved in writing by a program administrator designated by the agency.
7. A written research agreement must: (1) Establish rules and limitations for the processing and security of PPI in the course of the research; (2) provide for the return or proper disposal of all PPI at the conclusion of the research; (3) restrict additional use or disclosure of PPI, except where required by law; and (4) require that the recipient of data formally agree to comply with all terms and conditions of the agreement. A written research agreement is not a substitute for approval of a research project by an Institutional Review Board, Privacy Board or other applicable human subjects protection institution.

*Disclosures for law enforcement purposes.*

8. A participating agency may, consistent with applicable law and standards of ethical conduct, disclose PPI for a law enforcement purpose to a law enforcement official under any of the following circumstances:
  - In response to a lawful court order, court-ordered warrant, subpoena or summons issued by a judicial officer, or a grand jury subpoena;
  - If the law enforcement official makes a written request for protected personal information that: (1) Is signed by a supervisory official of the law enforcement agency seeking the PPI; (2) states that the information is relevant and material to legitimate law enforcement investigation; (3) identifies the PPI sought; (4) is specific and limited in scope to the extent reasonably practicable in light of

the purpose for which the information is sought; and (5) states that de-identified information could not be used to accomplish the purpose of the disclosure.

9. If the agency believes in good faith that the PPI constitutes evidence of criminal conduct that occurred on the premises of the agency;
10. In response to an oral request for the purpose of identifying or locating a suspect, fugitive, material witness or missing person and the PPI disclosed consists only of name, address, date of birth, place of birth, Social Security Number, and distinguishing physical characteristics; or
11. If (1) the official is an authorized federal official seeking PPI for the provision of protective services to the President or other persons authorized by 19 U.S.C 3056, or to foreign heads of state or other persons authorized by 22 U.S.C. 2709 (a)(3), or for the conduct of investigations authorized by 18 U.S.C. 871 and 879 (threats against the President and others); and (2) the information requested is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.

*Collection limitation.*

12. A participating agency may collect PPI only when appropriate to the purposes for which the information is obtained or when required by law. An agency must collect PPI by lawful and fair means and, where appropriate, with the knowledge or consent of the individual.

*Purpose specification and use limitation.*

13. Participating agencies may use or disclose PPI only if the use or disclosure is allowed by the standards described in this privacy notice. Agencies may infer consent for all uses and disclosures specified in this notice and for uses and disclosures determined by the agency to be compatible with those specified in the notice.
14. Except for first party access to information and any required disclosures for oversight of compliance with HMIS Privacy and security standards, all uses and disclosures are permissive and not mandatory. Uses and disclosures not specified in the privacy notice can be made only with the consent of the individual or when required by law.
15. A participating agency must obtain written consent from the individual to use or disclose personal information with a third party. See the Informed Client Consent and Release of Information document.
16. Participating agencies agree to additional restrictions on use or disclosure of an individual's PPI at the request of the individual if the request is reasonable and noted on the Informed Client Consent and Release of Information. The agency is bound by the agreement, except if inconsistent with legal requirements.
17. Participating agencies may use or disclose any aggregate data obtained from KYHMIS as long as all identifiers are removed.

*Openness*

18. Participating agencies must provide a copy of this privacy notice to any individual upon request. A current version of the privacy notice is published on the web @ [www.kyhmis.org](http://www.kyhmis.org).
19. This privacy notice may be amended at any time and the amendments may affect information obtained before the date of change. An amendment to the privacy notice regarding use or disclosure will be effective with respect to information processed before

the amendment, unless otherwise stated. All amendments to the privacy notice must be consistent with the requirements of these privacy standards.

*Access and correction.*

20. In general, a participating agency must allow an individual to inspect and to have a copy of any PPI about the individual. The agency must offer to explain any information that the individual may not understand.
21. Participating agencies must consider any request by an individual for correction of inaccurate or incomplete PPI pertaining to the individual. Although an agency is not required to remove any information but may, in the alternative, mark information as inaccurate or incomplete and may supplement it with additional information.
22. Participating agencies reserve the ability to rely on the following reasons for denying an individual inspection or copying of the individual's PPI:
  - ❑ Information compiled in reasonable anticipation of litigation or comparable proceedings;
  - ❑ Information about another individual (other than a health care or homeless provider);
  - ❑ Information, the disclosure of which would be reasonably likely to endanger the life or physical safety of any individual.
23. Participating agencies can reject repeated or harassing requests for access or correction. An agency that denies an individual's request for access or correction must explain the reason for the denial to the individual and must include documentation of the request and the reason for the denial as part of the protected personal information about the individual.

*Accountability.*

24. Questions or complaints about this privacy notice should be sent in writing to KHYMIS staff at: NKADD, 22 Spiral Dr. Florence, KY 41042 attn: KYHMIS.