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DIVISION: Office of Medicaid Management

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TO: Local Commissioners, Local Medicaid Directors

FROM: Kathryn Kuhmerker, Deputy Commissioner
Office of Medicaid Management

SUBJECT: Protected Health Information (PHI) Disclosures

EFFECTIVE DATE: Immediately

CONTACT PERSON: Mario Tedesco, (518) 257-4496

The State Office of Medicaid Management (OMM) has learned that some local districts are requiring signed consents from Medicaid recipients before releasing routine enrollment information to Medicaid providers in the course of providing services. These districts may incorrectly believe that this is a requirement of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule. Please be advised that the final HIPAA regulations, 45 C.F.R. 164.506(c) (3) state:

(C) Implementation specifications: Treatment, payment, or health care operations.

(3) A covered entity may disclose protected health information to another covered entity or a health care provider for the payment activities of the entity that receives the information.

Consequently, the relevant HIPAA regulations contain a specific provision enabling Medicaid to disclose information to a HIPAA covered provider or to a provider that may not be HIPAA covered (i.e. a provider who does not engage in electronic transmissions) when required for the provider's reimbursement.

Further, HIPAA requires that the identity of the person requesting the protected health information and the authority of that person to access the recipient's information be verified. The long-standing practice of local districts to confirm a provider's license number and/or Medicaid provider number with the caller provides adequate verification of this requirement.

For further information, contact Mario Tedesco at (518) 257-4496 or e-mail him at mxt07@health.state.ny.us.