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Document information

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Michelle Weinman	Manager – Privacy and Information Release	08/04/2011

1.0 Formulation of the appendix

This appendix has been developed to be used in conjunction with the Information Sharing Protocol between the Commonwealth and child protection agencies.

Child protection agencies should approach the Privacy and Information Release Section of the Legal, Privacy and Information Services Branch in Medicare Australia if they have any questions relating to information contained in this appendix.

2.0 Medicare Australia's privacy framework and other legislative obligations

Medicare Australia is part of the Department of Human Services and delivers government health and payment programs to the Australian community. Medicare Australia's functions include delivering the Medicare program and the Pharmaceutical Benefits Scheme (PBS), making Aged Care payments, and maintaining the Australian Childhood Immunisation Register (Immunisation Register), the Australian Organ Donor Register and the National Bowel Cancer Screening Register. Medicare Australia delivers these services on behalf of a range of other Commonwealth government agencies, such as the Department of Health and Ageing and the Department of Veterans' Affairs.

In order to carry out our functions, Medicare Australia collects personal and sensitive information about all Australians, as well as health service providers. This information is provided based on the understanding that Medicare Australia will protect that information from unauthorised access, use and disclosure. All personal information Medicare Australia holds is subject to the Information Privacy Principles (IPPs) in the *Privacy Act 1988*. Medicare, Immunisation Register and PBS information is also subject to secrecy provisions set out in legislation which makes it an offence to disclose information except where the disclosure occurs in the performance of relevant statutory functions or duties. Medicare and Immunisation Register information is protected by section 130 of the *Health Insurance Act 1973* (HIA) and PBS information is protected by section 135A of the *National Health Act 1953* (NHA). Specific information release provisions for the Immunisation Register are also set out in section 46E of the HIA.

These secrecy provisions do however contain exceptions to the general prohibitions on disclosure, which enable Medicare Australia to disclose personal and other information where that is considered necessary or desirable. In most cases, such disclosures can only occur if a Medicare Australia delegate certifies that circumstances exist which justify the use of an exemption.

3.0 Disclosure of information in the public interest

One of the exceptions which enables Medicare Australia to disclose personal information is where the Minister for Health and Ageing, or a delegate of the Minister, certifies the disclosure of information in the public interest. The Department of Health and Ageing have issued 'Guidelines for the release of information where necessary in the public interest' to assist delegates when considering whether to release information in the 'public interest'.

In cases where it is necessary to prevent or lessen a serious or imminent threat to the life or health of an individual, a Medicare Australia delegate can authorise the disclosure of personal information. For example, a Medicare Australia delegate may release relevant information to a child protection agency in the public interest, where the child protection agency has identified that a child or young person is in a situation that places their life, health or welfare at risk.

4.0 Information that Medicare Australia may disclose

Medicare Australia may disclose:

- Medicare claims information treating or referring doctor name and address, service item number and description, date of service, Medicare benefit paid and fee charged.
- Medicare enrolment information address, date of birth, phone number and email address (if provided by the person).
- Pharmaceutical Benefits Scheme (PBS) information prescriber name, dispensing pharmacy name, PBS item code and description, date prescribed and date supplied, quantity and number of repeats.
- Australian Childhood Immunisation Register information immunisation date of service, type of immunisation and dose number.
- Medicare card numbers for children who have been removed from their parents and taken into the care of child protection agencies. Important: a Medicare card is not necessary for a person to access medical treatment.

5.0 How to request information from Medicare Australia

5.1 Medicare and Pharmaceutical Benefits Scheme (PBS) claims and enrolment information:

Requests must be specific and should provide as much information as possible to assist in identifying the individual. It is important that an absolute match can be made to ensure any information released by Medicare Australia relates to the appropriate person.

An approved pro-forma for these requests has been developed. All requests from Child Protection Contact Officers must be made using this pro-forma (refer to Attachment A).

Medicare Australia can respond to requests for Medicare and PBS claims and enrolment information via email, post or fax (in urgent situations). If a response is required via email it will be sent from Medicare Australia using Public Key Infrastructure (PKI) secure encrypted email to the Child Protection Contact Officer.

Wherever possible, requests should include:

- the full name of the person and/or child/ren being sought, including any aliases
- · their date of birth
- their last known address
- the reason why the agency has reasonable grounds for believing that the disclosure is necessary to prevent or lessen a serious or imminent threat to life or health of a child or child/ren
- the requesting Contact Officer's name and telephone number (allows details to be checked or clarified)
- · the type of information being requested
- the time period for which the information is sought.

Requests for Medicare and PBS information can be emailed, posted or faxed to:

Email: co.information.release@medicareaustralia.gov.au

Mail:
Manager
Information Release Section
Ombudsman, Privacy and FOI Branch
Medicare Australia
PO Box 1001
TUGGERANONG DC ACT 2901

Fax: 02 6124 6935

5.2 Immunisation history statements:

Medicare Australia may provide a child's immunisation history statement to a person with parental responsibility for that child. There is no need to complete the pro-forma request form. To obtain a statement simply fax a request to the Australian Childhood Immunisation Register on agency letterhead (include return postal address) with either of the following:

- a copy of the current court order showing that the child/ren is under the care of the child protection agency; or
- a statement in the request letter advising that the child protection agency has custody/responsibility for the child/ren.
- Include a copy of the child/ren's birth certificate if available, a Medicare card number if known, any other names the child/ren may be known as, together with anything else that may assist Medicare Australia to identify the child on the Immunisation Register database.

Immunisation history statement requests are considered non-urgent (standard) and may take up to 10 working days for Medicare Australia to respond.

Requests for immunisation history statements should be faxed to: (02) 6124 6672

5.3 Medicare card numbers:

It is not necessary to provide a person's Medicare card number to access medical treatment or claim reimbursement for a Medicare service. The claimant (the person who incurred the expense for the service) can be paid a Medicare benefit for a service they paid for, even if the patient is not enrolled on their Medicare card.

If a child is taken to a doctor who bulk bills (bills Medicare directly and does not charge the patient) the doctor can obtain the child's card number directly from Medicare Australia for billing purposes. Alternatively, if a carer has paid for a Medicare service for a child in their care, the carer can be paid the Medicare benefit in a Medicare office by advising the officer that they paid for the service. The carer will need to know the child's full name and date of birth so they can be identified on the database.

If a child requires a PBS medicine, it is a legislative requirement that the child's Medicare card number is provided to the pharmacist to determine the child's eligibility to the PBS. However, where it is not possible for the child, parent or carer to provide Medicare card details, a pharmacist can use a pharmacy only 'Special Medicare Number' which can be used by a pharmacist where an eligible person is unable to produce their own Medicare card or Medicare card details. With consent of the child, parent or carer, the pharmacist can also phone the Medicare Australia PBS enquiry line to obtain the child's Medicare card number.

If necessary, Medicare Australia may disclose the Medicare card number of a child under the age of 14 years to a Child Protection Contact Officer where the child has been placed in the care of the agency.

The Medicare Australia Contact Officer will work with the child protection agency in each state to develop a record of officers who are authorised to request Medicare card numbers over the phone. The record will include a child protection agency ID number and password which will be used by Medicare Australia to perform a security check of Child Protection Contact Officers when they call to request a Medicare card number.

To obtain a Medicare card number over the phone, Child Protection Contact Officers should call Medicare Eligibility:

1300 660 035

If the child has not been placed in the care of the child protection agency, the Child Protection Contact Officer should contact Medicare Australia's Contact Officer to discuss alternative options to obtain the card number.

6.0 Responsibilities for Child Protection Contact Officers using PKI secure email

If a Child Protection Contact Officer is issued with an individual PKI certificate (token) and password for their individual mailbox, it is their responsibility to ensure it is kept securely so that it can not be used by other people. Individual PKI certificates are not transferable between child protection agency staff.

For individual certificates, it is important that a Child Protection Contact Officer advises the Medicare Australia Contact Officer as soon as possible if they will no longer be in the Contact Officer role. This will enable Medicare Australia to revoke the PKI certificate for the officer who no longer needs it and issue a PKI certificate and password to the new Contact Officer. The process for issuing a new PKI certificate usually only takes 5-10 working days and the Medicare Australia Contact Officer will work with the child protection agency to facilitate this process.

If a child protection agency is issued with a site (location) certificate for a group mailbox, it is the responsibility of the child protection agency to control and manage access to the group mailbox so that only authorised officers have access to the information.

Child Protection Contact Officers should be aware of their legal and privacy obligations in relation to how they use, store and disclose personal information they receive from Medicare Australia. Officers should be mindful that the information provided by Medicare Australia is very sensitive health information about individuals and should only be provided to those who must have it for the purpose it was requested.

7.0 Limitations on Medicare Australia information

Medicare information:

Medicare records include services that qualify for Medicare benefits and for which claims have been processed. They do not include clinical notes, information about services that occurred prior to 1 February 1984 or that qualify for a benefit under the Department of Veterans' Affairs National Treatment Account.

Medicare Australia does not hold information about services that have been provided to public patients at public hospitals.

In addition, Medicare Australia generally does not keep information regarding next of kin, relationship or dependant details.

The accuracy of Medicare records depends on patients being identified to Medicare Australia by their correct Medicare number and health professionals being identified by their correct Medicare provider number, on claims for payment.

Pharmaceutical Benefits Scheme (PBS) information:

Where PBS records are available they include only those items that are subsidised under the PBS and for which a claim has been processed.

A PBS claims history report does not include the following information:

- prescriptions that do not attract a government subsidy eg. PBS items that cost less than the general patient contribution
- items supplied under the Repatriation Pharmaceutical Benefits Scheme (RPBS)
- over the counter medicines that are obtained without a prescription
- prescriptions that do not qualify for a PBS subsidy such as private scripts and medication supplied by public hospitals
- PBS items supplied to patients where claims have not yet been submitted by the pharmacy or not yet processed by Medicare Australia.

The accuracy of PBS records depends on the information provided to Medicare Australia by pharmacies. For example, patients need to be identified by their correct entitlement and/or Medicare numbers, and prescribers by their correct prescriber numbers.

PBS information is available from 1 January 1991, however, information is generally only released from 1 May 2002 when the Improved Monitoring of Entitlements (IME) scheme was introduced. Prior to IME, the information available is unreliable and is only disclosed in exceptional circumstances.

How readily is information available?

Medicare and PBS claims information is readily available for the last five years. Information prior to this is not held by Medicare Australia and can take up to eight weeks to retrieve.

Australian Childhood Immunisation Register information:

The Australian Childhood Immunisation Register only holds the details of immunisations given after 1 January 1996 for children up to seven years of age. Any vaccinations given before 1 January 1996 or after the child turns seven are not recorded.

Data on the Immunisation Register is reported to Medicare Australia by immunisation providers and its accuracy is dependent on the quality and timeliness of the information provided.

8.0 Response timeframes from Medicare Australia

Response timeframes for Medicare, PBS claims and enrolment information are broken into the following three categories:

- Critical Where there is an immediate threat, contact can be made by phone to the Medicare
 Australia contact officer by the Child Protection Contact Officer to request an immediate
 response.
- High Response will be provided by Medicare Australia within five working hours
- Priority Response will be provided by Medicare Australia within five working days
- Standard Response will be provided by Medicare Australia within 10 working days

Important: Medicare Australia will make every effort to adhere to the response timeframes however if unexpected circumstances arise where systems or staff are not available, delays may occur.

9.0 Normal operating hours and out of business hours support by Medicare Australia

The Privacy and Information Release section at Medicare Australia is generally available between the normal business hours of 8:30am and 5:00pm EDT, Monday to Friday.

Out of business hours support is available from Medicare Australia through 24 hour PBS staff who can contact a Medicare Australia delegate in emergency situations. This support is available only in extreme circumstances where information is sought urgently by the Child Protection Contact Officer and the request cannot wait until the next working day, eg. if information is required urgently where there is an immediate threat to a child's life, health or welfare.

The contact number for the Medicare Australia out of hours staff is:

Phone: 07 3004 5151

10.0 Senior Medicare Australia Officer details for reconsideration of decision and dispute resolution

If a Child Protection Contact Officer is unsatisfied with the reasons for declining a disclosure or there is a dispute which cannot be resolved, the Child Protection Contact Officer can write to or call the following Senior Medicare Australia officer:

Manager
Information Release Section
Ombudsman, Privacy and FOI Branch
Medicare Australia
PO Box 1001
TUGGERANONG DC ACT 2901

Direct Phone: 02 6124 7172 Direct Fax: 02 6124 6935

11.0 Medicare Australia Contact Officer details

Child Protection Contact Officers should use the following Medicare Australia contact details for all enquiries:

Assistant Manager, Information Release Information Release Section Ombudsman, Privacy and FOI Branch Medicare Australia PO Box 1001 TUGGERANONG DC ACT 2901

Direct Phone: 02 6124 7277

02 6124 6013

Direct Fax: 02 6124 6935

Email: <u>co.information.release@medicareaustralia.gov.au</u>

12.0 Informal review

An informal review of the operating procedures will be undertaken collaboratively with all parties to the protocol after six months of operation, via teleconference. At the same time, the Medicare Australia contact officer will conduct a review of their internal operational procedures.

The informal review will provide the opportunity for all parties to provide feedback and implement any improvements required and agreed to.

The outcome of the informal review will be provided to the child protection contact officers within 28 days of completion of the review.

13.0 Additional information

Medicare Australia also receives Subpoenas and Commonwealth Information Orders (Location Orders) and details about these are provided in the attached information sheets.

Sample

State/ Territory Child Protection Agency letterhead including postal address

Manager Information Release Section Ombudsman, Privacy and FOI Branch Medicare Australia PO Box 1001 TUGGERANONG DC ACT 2901

Fax: (02) 6124 6935

Email: co.information.release@medicareaustralia.gov.au

1. Response	priority				
Response priority	☐ CRITICAL	☐ HIGH	☐ PRIORITY	☐ STANDARD	
	Must notify Medicare Australia Contact Officer of this request by phone after sending	(5 working hours) Must notify Medicare Australia Contact Officer of this request by phone after sending	(5 working days)	(10 working days)	
2. Subject details The CHILD PROTECTION AGENCY NAME requests that Medicare Australia discloses personal/protected information under public interest provisions in relation to:					
Surname:		First Name:	Date of birth:	Date of birth:	
Alias/es:			1		
Last known a	ddress:	.4		0,	

Unborn Child			
Surname:	First Name:	Date of birth	
Alias/es:			2
Last known address:			
Unborn Child			

Surn	ame:	First Name:		Date of birth:	
Alias	/es:				, ,
Last	known address:	<u> </u>			
U	nborn Child				
3. Re	ason for request				
neces	CHILD PROTECTION AGENCY sary to prevent or lessen a threat to n child).				
	fy why information is being requeste	ed from Medicare Australia	a records:		
4. Info	ormation requested				
	Medicare claims history		·		
	Period information required: From	om / / to /	′ /		
	Pharmaceutical Benefits Scheme	e (PBS) claims history			
	Period information required: From	om / / to /	1		
	Current address and contact det	ails			
	Other (please specify)				
	: Only information relevant to the reested.	ason the information is red	uired should	be	
	· · · · · · · · · · · · · · · · · · ·				
5. Chi	ild Protection Contact Officer	details			
Name	e of Child Protection Contact Officer	**			
Signa	ature:				
Date:	1 1				•
Direc	t contact number:				
Direc	t fax number:				
Email	l address:				



Subpoenas and Notices of non-party disclosure

Subpoenas

A subpoena is a court document requiring a person to attend court to produce documents, to provide the court with documents or to give evidence in those proceedings. Information is provided to the court, not to the person who asked for the subpoena to be issued.

Medicare Australia will comply with a valid subpoena by providing Medicare or PBS information to a court where:

- the person whose information is sought is a party to the proceedings, or
- a Medicare Australia delegate considers that releasing the information to the court is in the public interest. For example: where the interests of justice outweigh the interference with personal privacy.

If the person whose information is sought is not a party to proceedings, the person or their legal representative, can authorise Medicare Australia to release the information to the court.

The person who asked the court to issue the subpoena is responsible for serving it and if it is served properly the subpoena is considered to be valid. A subpoena is generally required to be served no less than seven days before the person is required to produce documents to the court. Medicare Australia will accept service of a subpoena by post or fax and conduct money is not required.

Note: Medicare and PBS information is readily available for the past five years.

Subpoenas can be posted to:

Manager Information Release Section Ombudsman, Privacy and FOI Branch Medicare Australia PO Box 1001 TUGGERANONG DC ACT 2901

or hand delivered to:

Information Release Section Medicare Australia 134 Reed Street North GREENWAY ACT 2900

or faxed to: 02 6124 6935

For more information, call **132 011** and ask for the Information Release section.

Notices of non-party disclosure

A notice to produce documents is different from a subpoena as it requires the non-party to provide the documents specified to the requesting party rather than a court.

Notices to produce are usually issued in preliminary stages of court proceedings. The requesting party is required to serve a copy of the notice to produce on the other parties in the matter. Both the person served and the other parties are given an opportunity to object to the court.

If the documents requested in a notice to produce contain information about another person, Medicare Australia cannot produce them to the requesting party.

For more information, call **132 011** and ask for the Information Release section.

Legislative reference

Health Insurance Act 1973 (section 130(2) for Medicare information)

National Health Act 1953 (section 135A(2) for PBS information)



Commonwealth Information Orders (Location Orders) and Recovery Orders

Commonwealth Information Orders (Location Orders)

A Commonwealth Information Order is an order made by a court requiring government departments or agencies to provide to the Registrar of the court information about a child's location. Commonwealth Information Orders are also referred to as Location Orders. Medicare Australia must comply with the order in spite of secrecy provisions that would normally prevent the release of the information.

A copy of the application for a Commonwealth Information Order should be served in accordance with the applicable Rules of Court unless the court considers there are special circumstances and the application should be waived.

Commonwealth Information Orders (and applications for the orders) can be posted to:

Manager
Information Release Section
Ombudsman, Privacy and FOI Branch
Medicare Australia
PO Box 1001
TUGGERANONG DC ACT 2901

or faxed to: 02 6124 6935

For more information call **132 011** and ask for the Information Release section.

Legislative reference

Family Law Act 1975 (sub-sections 67H to 67P)

Recovery Orders

A Recovery Order is an order made by a court that requires the return of a child to a parent or other responsible person. The order authorises a person to stop and search vehicles, vessels or aircrafts and to enter and search premises for the purpose of finding a child. It also authorises a person to recover a child, give directions about the care of a child until the child can be returned to another person, prohibits a person from removing or taking possession of a child and authorises a person to arrest a person who removes or takes possession of a child.

Recovery Orders are usually issued to the police, giving them powers to recover the child specified in the order once they have been informed of the location of the child. However, Medicare Australia may provide information to the police to assist with the carrying out of a recovery order if required.

For more information, call **132 011** and ask for the Information Release section.

Legislative reference

Family Law Act 1975 (sub-sections 67Q to 67Y)

