

**Privacy Clarification  
Information Sharing Between Child Welfare  
and Domestic Violence Programs**

**From CAF and the DHS Privacy Program**

**I. Use & Disclosure of Child Welfare Records with Domestic Violence Programs**

This clarification is intended to answer questions about the disclosure of Child Welfare records to Domestic Violence Programs. Can child welfare information be disclosed during a child abuse investigation/assessment without a signed authorization? What about the use of child welfare information in circumstances where there is a safety threat to a child?

**II. Clarification**

The laws around use and disclosure of Child Welfare records for purposes of child abuse investigation, screening, and prevention, are not new. These laws existed prior to HIPAA and were not substantially changed by HIPAA

**III. Oregon Law**

O.R.S. 419B.035 governs the disclosure of reports and records compiled under the child abuse reporting law. Reports and records compiled under the child abuse reporting law include the child abuse report, the CPS assessment and records compiled during the assessment.

Other statutes govern the use and disclosure of child welfare records other than those compiled during a child abuse investigation or assessment. For example, ORS 409.225 governs the use and disclosure of DHS Child Welfare records that are not otherwise governed by any other statutes. Because other state and federal statutes govern drug and alcohol records, ORS 409.225 would not apply to those records. Similarly, ORS 419A.255 governs records filed with the juvenile court, such as petitions, motions, orders and other legal pleadings. Because records filed with the juvenile court are governed by another statute, ORS 409.225 would not apply to those records.

This clarification is intended to address ONLY the disclosure of reports and records compiled under the child abuse reporting law.

Domestic violence service providers are required by O.R.S. 108.620 and federal funding regulations to keep information confidential.

#### **IV. Intent**

Domestic violence is a risk factor to children. In some circumstances, domestic violence may cause safety threats to the child. Domestic Violence Advocates can be a valuable resource to a Child Protective Services Worker.

#### **V. When Signed Authorization NOT Required by Child Welfare**

ORS 419B.035 authorizes DHS Child Welfare to disclose reports and records compiled under the child abuse reporting law without a signed authorization if:

- A) Disclosure is in the best interests of the child who is the subject of the report AND disclosure is necessary for DHS to administer its child welfare services; or
- B) Disclosure is necessary to investigate, prevent or treat child abuse and neglect or to protect children from abuse and neglect.

Pursuant to ORS 419B.035, DHS Child Welfare may disclose to domestic violence advocates or any other person a current child abuse referral and information gathered during the assessment of that report without a signed authorization if disclosure meets either of the two criteria described above.

Similarly, DHS Child Welfare may disclose prior child abuse referrals and information gathered during the assessment of those prior referrals without a signed authorization if disclosure meets either criteria described above.

DHS Child Welfare may make the disclosures described above at anytime, including during a screening staffing, as part of the CPS assessment process or in preparation for or during a Team Decision Meeting.

DHS Child Welfare may disclose only the minimum necessary information to accomplish the intended purpose of the disclosure. What may be the minimum necessary disclosure to accomplish the intended purpose will depend on the facts of each case, the intended purpose for the disclosure and the CPS worker's professional opinion.

Based on the facts of the case and CPS worker's professional opinion, the worker may invite the Advocate to accompany the worker for the initial assessment for the purposes of investigation, prevention, or treatment of child abuse.

DHS Child Welfare is not permitted to disclose records and reports compiled under the child abuse reporting law if the sole purpose of the disclosure is to provide services to or protect an adult domestic violence victim. Any disclosure of the described records must be linked to protecting the best interests of the

affected child AND necessary for DHS to administer its child welfare services OR for the purpose of investigating, preventing or treating child abuse or protecting children from child abuse.

The Advocate may release information when the woman has already signed a release of information from the domestic violence program, which allows the Advocate to talk to CPS Worker. The Advocate may also give public information such as the arrest of the perpetrator or the filing of a temporary restraining order.

## **VI. Signed Authorization Required**

As soon as possible and in any event no later than when the CPS assessment process is over and a disposition is determined, the DHS Child Welfare worker must obtain signed authorizations to release additional information. The authorization must specify the person who may make the disclosure, the person to whom the disclosure may be made, a description of the purpose for the disclosure, a description of the information that may be disclosed and an expiration date or event. The DHS Authorization Form #2099 should be used by DHS Child Welfare.

## **VII. Summary**

- Laws around use and disclosure of Child Welfare records for purposes of child abuse investigation, screening, and prevention existed prior to HIPAA, and were not substantially changed by HIPAA.
- Reports and records compiled under the child abuse reporting law include the child abuse report, the CPS assessment and records compiled during the assessment.
- DHS Child Welfare is authorized to disclose reports and records compiled under the child abuse reporting law without a signed authorization if:
  - B) Disclosure is in the best interests of the child who is the subject of the report AND disclosure is necessary for DHS to administer its child welfare services; or
  - C) Disclosure is necessary to investigate, prevent or treat child abuse and neglect or to protect children from abuse and neglect.
- DHS Child Welfare is not permitted to disclose records and reports if the sole purpose of the disclosure is to provide services to or protect an adult domestic violence victim. The decision to release must be based on the needs of the child and must meet the above criteria.
- When the CPS assessment process is over and a disposition is determined, DHS Child welfare must obtain signed authorizations to release additional information.
- Only the minimum necessary information to accomplish the intended purpose should be disclosed.