
Policy-related | Fiscal | Performance | Q&A | Other Number: WIN 0023 Change 2
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TO: Workforce Development System Partners
FROM: Gary Kamimura, Policy Manager
SUBJECT: Management of Medical and Disability Related Information

Purpose:

This information notice outlines the requirements related to the WorkSource system's management of medical records and disability-related information on applicants, registrants, eligible applicants or registrants, participants, and terminees. This includes an outline of permissible uses, filing requirements and confidentiality requirements.

Action Required:

Local Workforce Development Boards (LWDBs) and their contractors, as well as Employment Security Regional Directors, must distribute this guidance broadly throughout the system to ensure that WorkSource system staff are familiar with its content and requirements.

Content:

LWDBs must ensure that medical and disability-related information for customers is collected and used by WorkSource system staff as outlined by federal law and this information notice. Medical and disability related information for customers should only be collected and used for the purposes of documenting eligibility, where disability is an eligibility criterion for a program or activity; to document reasonable accommodations; and for data analysis. The following instructions serve as guidance for LWDBs to use in order to meet the requirements related to the management of medical and disability-related information:

1. Medical and disability-related documents must be secured and maintained in a separate and confidential customer file. Medical and disability files should be stored as a medical record, and must be separate from all other confidential information (e.g. court documents). Each customer's medical file should be separate (i/e/ medical information for multiple customers should not be kept in the same file).
2. Medical and disability-related information contained in case notes, assessment forms, or

other documentation in the Management Information System (MIS) must be secured in a separate and confidential medical file. This is accomplished by copying the specific sheet of the case note file, assessment form or language in the MIS that contains medical or disability related information, placing it in a separate medical and disability file, then redacting the medical and disability-related information in the case notes, assessment form or language in the MIS and inserting 'See separate confidential file'.

3. Partner staff co-located at a center should place their medical and disability-related information with that of the center or send it to their main office for similar storing. If medical files are maintained in paper, they should be kept in a locked cabinet with limited access and separate from other file types maintained for the customer. Please note that medical and disability-related information should not be stored in staff desks. If medical files are maintained electronically, they should be secured in a password protected file or access to the electronic file location should be limited, and they should be stored separately from other file types.
4. To ensure confidentiality, there should be limited access to the medical and disability file. Individuals monitoring for compliance with 29 CFR Part 32 and 38 may have access for monitoring purposes.
5. The information that is of value to staff is most often the limitations caused by a customer's disability or medical condition and the effect on the customer's ability to advance through the program, as opposed to a disability or medical diagnosis. It is possible to record relevant information without documenting actual medical or disability-related information.

Here are examples of information that is **not** considered medical or disability-related for the purpose of securing and maintaining:

"The customer cannot lift more than 20 pounds"; "cannot sit for more than an hour"; "must take frequent breaks or must take breaks at least every hour"; "must be located in a quiet room with few interruptions"; "cannot drive in mornings until 9 a.m."; "will be unavailable during the next six weeks"; etc.

Here are examples of information that is considered medical/disability information and must be secured:

"The customer has a herniated disk"; "stage 2 abdominal cancer"; "crohn's disease"; "seasonal affective disorder"; "hypertension"; "diabetes"; "a fractured tibia"; "mild depression"; etc.

6. Medical and disability-related information can be acquired during the delivery of case management services but should then be stored securely. This information should be kept confidential and not be shared with employers, other customers, immediate co-workers, or those providing labor exchange and/or job matching services. It may be appropriate to discuss a customer's disability or medical condition in limited

circumstances and at the customer's request such as with program supervisors or trainers to explain reasonable accommodations, or with first aid and safety personnel, if the customer asks us to because the condition may require emergency treatment.

7. Medical files, whether they exist in electronic form (including email) or hard copy, must be maintained in the separate confidential file for a period of not less than three years from the close of the applicable program year.

References:

- The Rehabilitation Act of 1973, as amended, promulgated at [29 CFR Part 32.15\(d\)](#).
- The [Washington State Nondiscrimination Plan](#) Element 5.
- The Americans with Disabilities Act, as amended, [28 CFR Part 36](#).
- Guidance on the Handling and Protection of Personally Identifiable Information (PII), [TEGL 39-11](#) Section 3.
- USDOL CRC MS PowerPoint presentation, [Disability-Related Information: Asking, Telling, Using and Storing \(2007\)](#).
- [WOIA Section 188](#)
- [20 CFR 38.41 & 38.43](#)
- [29 CFR 32.15](#)

Website:

<https://wpc.wa.gov/policy>

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