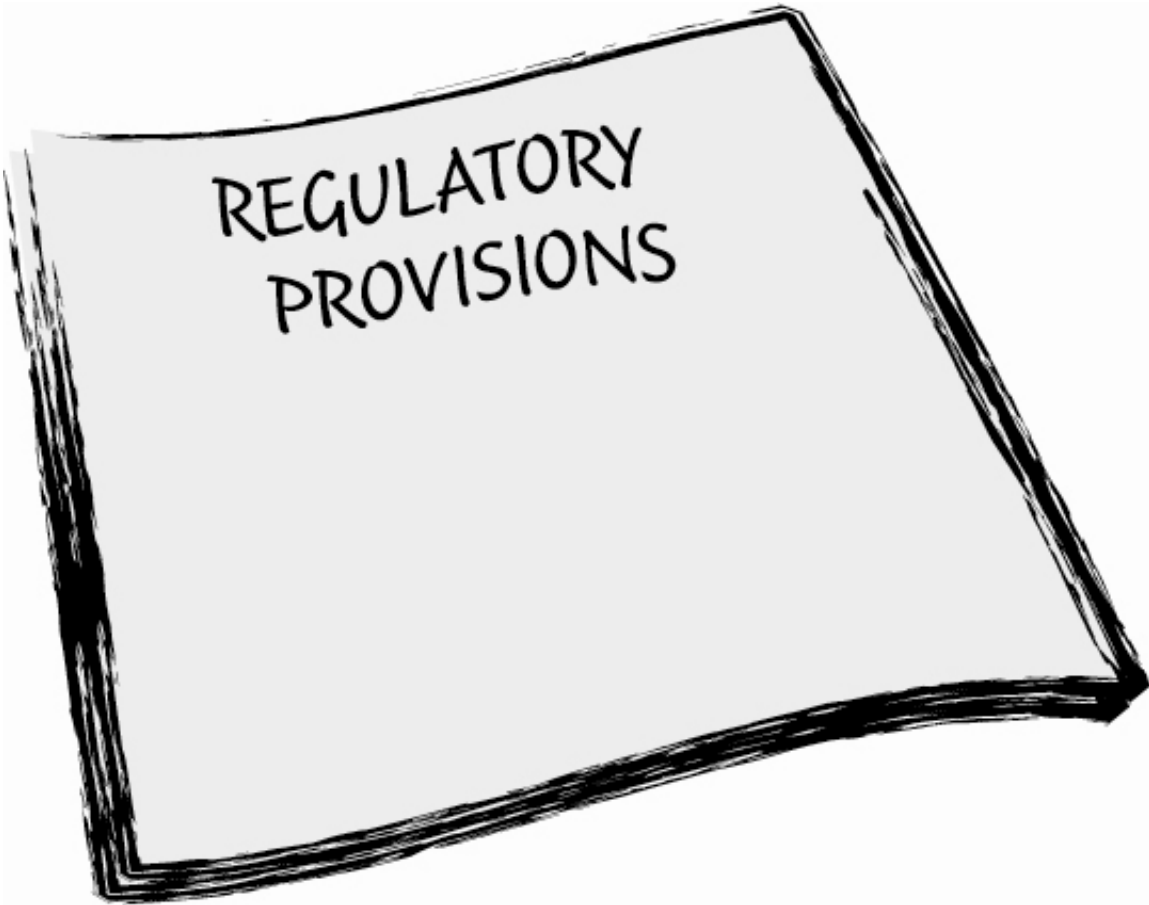


# Section XI *REGULATORY PROVISIONS*



## **Access to & Financial Responsibility for Services**

### **Member's Financial Responsibilities**

If Keystone Mercy notifies the Health Care Provider and/or the Member that a service will not be covered, and the Member chooses to receive that service or treatment, the Member can be billed for such services. Keystone Mercy Members may be directly billed for non-covered services provided they have been informed of their financial responsibility prior to the time services are rendered. The Member's informed consent to be billed for services must be documented. It is suggested that the Health Care Provider obtain a signed statement of understanding of financial responsibility from the Member **prior to rendering services**.

### **Services Provided by a Non-Participating Provider**

Keystone Mercy's Provider Services Department will make every effort to arrange for the Member to receive all necessary medical services within Keystone Mercy's Network of Providers in collaboration with the recommendations of the PCP. Occasionally, a Member's health care needs cannot be met through the Keystone Mercy Network of Providers. All services by Non-Participating Providers (except Emergency Services, Family Planning Services through Keystone First, and Medicare covered services by a Medicare Health Care Provider) require Prior Authorization from the Keystone Mercy Utilization Management Department. Unauthorized services rendered by Non-Participating Providers are not compensable and may become the financial responsibility of the Keystone Mercy Member if the Member chooses to receive services or treatment by the Non-Participating Provider.

### **Services Provided Without Required Referral/Authorization**

Except for certain services, and Network Providers for which specific prepayment arrangements have been made, e.g., lab services and certain PCP services, Keystone Mercy generally requires referrals and/or Prior Authorization of health care treatment and services rendered to its Members. Health Care Providers should refer to Section II of the Manual titled "Referral and Authorization Requirements " for this information. Members should also be referred to the Member Handbook for a complete listing of those services that require a referral or Prior Authorization. Keystone Mercy is not obligated to provide reimbursement for services that have not been appropriately authorized.

### **Services Not Covered by Keystone Mercy**

Keystone Mercy is a Pennsylvania Medical Assistance Managed Care Organization, and as such, has a benefit structure that closely resembles the Pennsylvania Medical Assistance fee-for-service program. Keystone Mercy is not responsible for reimbursing for services, treatments, or other items that are outside of the covered benefit structure of the Plan. If Keystone Mercy notifies the Health Care Provider and/or the Member that a service will not be covered, and the Member chooses to receive that service or treatment, the Member can be billed by the Health Care Provider for such services provided that the Member has been informed of his/her financial responsibility prior to the time services are rendered. Health Care Providers should refer to Section I of the Manual titled "Benefit Limit and Co-Payment Schedule" or call the Keystone Mercy Provider Services Department at **1-800-521-6007** with questions about covered/non-covered services. Members should also be referred to the Keystone Mercy Member Handbook or

speak with a Keystone Mercy Member Services Representative by calling **1-800-521-6860** when questions arise about services that are or are not covered by Keystone Mercy.

## **Member Accessibility to Providers for Emergency Care**

### **No Prior Authorization for Emergency Services**

Keystone Mercy does not require Prior Authorization or pre-approval of any Emergency Services.

Keystone Mercy PCP and Specialist Office Standards (see Section VI of this Manual) require Network Providers to provide Medically Necessary covered services to Keystone Mercy Members, including emergency and/or consultative specialty care services, 24 hours a day, 7 days a week. Members may contact their PCP for initial assessment of medical emergencies.

In cases where Emergency Services are needed, Members are advised to go to the nearest Hospital Emergency Room (ER), where ER staff should immediately screen all Keystone Mercy Members and provide appropriate stabilization and/or treatment services.

### **Care Out of Service Area**

Keystone Mercy Members have access to Emergency Services when traveling anywhere in the United States and its territories, and, with limited exceptions in Canada, Mexico and U.S. territorial Waters. Although not required, Members are encouraged to contact their PCP to report any out-of-area Emergency Services received.

## **Compliance with the HIPAA Privacy Regulations**

In addition to maintaining the Corporate Confidentiality Policy, Keystone Mercy is required to comply with the Privacy Regulations as specified under the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

April 14, 2003 was the date of required compliance with the provisions stipulated in the HIPAA Privacy Regulations. In order to ensure compliance with these regulations, Keystone Mercy took several measures to ensure such compliance, including, but not limited to, the following:

- Designated a Privacy Officer who is responsible for the directing of on-going activities related to the Keystone Mercy's programs and practices addressing the privacy of Member's protected health information (PHI)
- Developed a centralized Privacy Office, which is responsible for the day-to-day oversight and support of Privacy-related initiatives conducted at Keystone Mercy
- Issued copies of Keystone Mercy's Notice of Privacy Practices to the recently enrolled and existing membership of the health plan, which describes how medical information is used and disclosed, as well as how it can be accessed
- Established and/or enhanced processes for our Members to exercise their rights under these regulations, such as requesting access to their PHI, or complaining about Keystone Mercy's privacy practices

## **Allowed Activities Under the HIPAA Privacy Regulations**

The HIPAA Privacy Regulations allow covered entities, including Health Care Providers and health plans (such as Keystone Mercy), the ability to use or disclose PHI about its Members for the purposes of Treatment, Payment and/or Health plan Operations (TPO) without a Member's consent or authorization. This includes access to a Member's medical records when necessary and appropriate.

“**TPO**” allows a Health Care Provider and/or Keystone Mercy to share Members' PHI without consent or authorization by establishing these purposes as follows:

“**Treatment**” includes the provision, coordination, management, consultation, and referral of a Member between and among Health Care Providers.

Activities that fall within the "**Payment**" category include, but are not limited to:

- Determination of Member eligibility
- Reviewing health care services for medical necessity and utilization review
- Review of various activities of Health Care Providers for payment or reimbursement to fulfill Keystone Mercy’s coverage responsibilities and provide appropriate benefits
- To obtain or provide reimbursement for health care services delivered to Members

“**Operations**” includes:

- Certain quality improvement activities such as Case Management and care coordination
- Quality of care reviews in response to Member or state/federal queries
- Response to Member Complaints/Grievances
- Site visits as part of credentialing and recredentialing
- Administrative and financial operations such as conducting Health Plan Employer Data And Information Set (HEDIS) reviews
- Member services activities
- Legal activities such as audit programs, including Fraud and abuse detection to assess conformance with compliance programs

While there are other purposes under the Privacy Regulations for which Keystone Mercy and/or a Health Care Provider might need to use or disclose a Member's PHI, TPO covers a broad range of information sharing.

For more information on HIPAA and/or the Privacy Regulation, please visit the Provider Center at [www.keystonemercy.com](http://www.keystonemercy.com) and click on the HIPAA Page or contact the Provider Services Department at **1-800-521-6007**.

### **Contact Information**

Listed below are general contact addresses for accessing Keystone Mercy, DPW, and other related organizations. For information about additional organizations, contact Provider Services at **1-800-521-6007**, or Member Services at **1-800-521-6860**.

Keystone Mercy Health Plan  
200 Stevens Drive  
Philadelphia, PA 19113

Commonwealth of Pennsylvania  
Department of Public Welfare  
P.O. Box 2675  
Harrisburg, PA 17105

Pennsylvania Health Law Project  
Lafayette Building, Suite 900  
437 Chestnut St.  
Philadelphia, PA 19106  
Phone: (215) 625-3663  
Fax: (215) 625-3879  
Toll free line 1-800-274-3258  
TTY line, 1-866-236-6310  
Email at [staff@phlp.org](mailto:staff@phlp.org).

Disabilities Law Project  
The Philadelphia Building  
1315 Walnut St., Suite 400  
Philadelphia, PA 19107-4798  
(215) 238-8070 (Voice)  
(215) 789-2498 (TDD)  
(215) 772-3126 (Fax)

Office of Maternal & Child Health  
1101 Market Street  
9th Floor  
Philadelphia, PA 19107  
215.685.5225  
215.685.5257 (fax)

### **Cultural Competency**

Cultural Competency, as defined by the Pennsylvania Department of Public Welfare (DPW), is the ability of individuals to understand the social, linguistic, moral, intellectual, and behavioral characteristics of a community or population, and translate this understanding systematically to enhance the effectiveness of healthcare delivery to diverse populations.

Further, Section 601 of Title VI of the Civil Rights Act of 1964 states that:

***No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied of, or be subjected to discrimination under any program or activity receiving federal financial assistance.***

Discriminatory actions against those of Limited English Proficiency (LEP), Low Literacy Proficiency (LLP) or sensory impairment can be seen as discrimination on the basis of national origin. Therefore, these Medical Assistance recipients must be allotted equal access to all services and benefits of Keystone Mercy.

Recipients of federal financial assistance would include the Pennsylvania Medical Assistance Program, and by extension, Medical Assistance Managed Care Organizations, i.e., Keystone Mercy and its Network Providers.

Title III of the Americans with Disabilities Act (ADA) states that public accommodations must comply with basic non-discrimination requirements that prohibit exclusion, segregation, and unequal treatment of any person with a disability. Public accommodations (such as Health Care Providers) must specifically comply with, among other things, requirements related to effective communication with people with hearing, vision, or speech disabilities, and other physical access requirements.

Communication, whether in written, verbal, or "other sensory" modalities is the first step in the establishment of the patient/ Health Care Provider relationship. The key to ensuring equal access to benefits and services for Limited English Proficiency (LEP), Low Literacy Proficiency (LLP) and sensory impaired Members is to ensure that our Network Providers can effectively communicate with these Members. Keystone Mercy Network Providers are obligated to offer translation services to LEP and LLP Members, and to make reasonable efforts to accommodate Members with other sensory impairments.

**If a Keystone Mercy Member requires or requests translation services because he/she is either non-English speaking, or of limited or low English proficiency, or if the Member has some other sensory impairment, the Health Care Provider has a responsibility to make arrangements to procure translation services for those Members, and to facilitate the provision of health care services to such Members.**

In order to be in compliance with federal law and state contractual requirements, Keystone Mercy and its Network Providers have an obligation to provide interpreter services to LEP and LLP Members and to make reasonable efforts to accommodate Members with other sensory impairments.

Health Care Providers who are unable to arrange for translation services for an LEP, LLP or sensory impaired Member should contact Keystone Mercy's Member Services **1-800-521-6860**, and a representative will assist in locating a professional interpreter that communicates in the Member's primary language.

### **Keystone Mercy's Corporate Confidentiality Policy**

The policy states that during the course of business operations, Confidential Information and/or Proprietary Information, including Member Protected Health Information (PHI), may become available to Keystone Mercy Associates, Consultants and Contractors. Keystone Mercy's use and disclosure of Member PHI is regulated pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") and its implementing regulations. Keystone Mercy's use and disclosure of PHI is also impacted by applicable state laws and regulations governing the confidentiality and disclosure of health information.

Keystone Mercy is committed to safeguarding Confidential Information and Proprietary Information, including ensuring the privacy and security of Member PHI, in compliance with all applicable laws and regulations. It is the obligation of all Keystone Mercy Associates, Consultants and Contractors to safeguard and maintain the confidentiality of Confidential and Proprietary Information, including PHI, in accordance with the requirements of all applicable federal and state statutes and regulations as well as the provisions of Keystone Mercy's Confidentiality Policy and other Keystone Mercy policies and procedures addressing Confidential and Proprietary Information, including PHI.

All Confidential Information and Proprietary Information, including PHI, will be handled on a need-to-know basis. The Keystone Mercy Confidentiality Policy and other Keystone Mercy policies and procedures are adopted to protect the confidentiality of such information consistent with the need to effectively conduct business operations without using or disclosing more information than is necessary, for example, conducting research or measuring quality through the use of aggregated data wherever possible. No Associate, Consultant or Contractor is permitted to disclose Confidential Information or Proprietary Information pertaining to Keystone Mercy or a Member to any other Associate, Consultant or Contractor unless such a disclosure is consistent with the Keystone Mercy Confidentiality Policy.

Both during and after an Associate's association with the Keystone Mercy, it shall be a violation of the Keystone Mercy Confidentiality Policy to discuss, release, or otherwise disclose any Confidential Information or Proprietary Information, except as required by the Associate's employment relationship with Keystone Mercy or as otherwise required by law. It is also a violation of Keystone Mercy's Confidentiality Policy for any Associate to use Confidential Information or Proprietary Information for his/her own personal benefit or in any way inconsistent with applicable law or the interests of Keystone Mercy. To the extent that a violation of the Keystone Mercy Confidentiality Policy occurs, Keystone Mercy reserves the right to pursue any recourse or remedy to which it is entitled under law. Furthermore, any violation of the Keystone Mercy Confidentiality Policy will subject the Associate(s) in question to disciplinary action, up to and including termination of employment.

The following information is provided to outline the rules regarding the handling of confidential information and proprietary information within Keystone Mercy.

Confidential information and proprietary information includes, but is not limited to the following:

- Protected Health Information

- Medical or personal information pertaining to Associates of Keystone Mercy (“the Company”) and/or its Customers
- Accounting, billing or payroll information, and data reports and statistics regarding the Company, its Associates, Members, and/or Customers
- Information that Keystone Mercy is required by law, regulation, agreement or policy to maintain as confidential
- Financial information regarding the Company, its Members, Network Providers and Customers, including but not limited to contract rates and fees
- Associate personnel and payroll records
- Information, ideas, or data developed or obtained by Keystone Mercy, such as marketing and sales information, marketplace assessments, data on customers or prospects, proposed rates, rating formulas, reimbursement formulas, Health Care Provider payment rates, business of Keystone Mercy and/or its Customers
- Information not generally known to the public upon which the goodwill, welfare and competitive ability of Keystone Mercy and/or its Customers depend, information regarding product plans and design, marketing sales and plans, computer hardware, software, computer systems and programs, processing techniques, and general outputs
- Information concerning Keystone Mercy 's business plans
- Information that could help others commit Fraud or sabotage or misuse Keystone Mercy 's products or services

### **Procedure**

1. Associates, Consultants and Contractors may use Confidential or Proprietary Information and may disclose Confidential or Proprietary Information internally within Keystone Mercy only as necessary to fulfill the responsibilities of their respective position.
2. Confidential Information which is specific to an Associate or Health Care Provider may not be released by Keystone Mercy to another party, except as permitted or required by law or regulation, without first obtaining the written consent of that individual. PHI may not be disclosed, other than as permitted or required by law or regulation, or for purposes of treatment, payment or health care operations, without first obtaining a written Authorization as required by HIPAA, or other form of consent as may be required by state law. If an individual is unable to make his/her own decision regarding consent, a legal guardian or other legally authorized representative must provide written consent or an Authorization on the individual's behalf.
3. Associates, Consultants or Contractors, may not disclose Confidential or Proprietary Information to persons or organizations outside Keystone Mercy, unless otherwise required by law or regulation or approved by the Legal Affairs Department. Associates, Consultants or Contractors may not make any direct or indirect communication of any kind with the press or any other media about the business of Keystone Mercy without express written approval from the Communications Department.
4. Information that pertains to Keystone Mercy 's operations may be disclosed to Keystone Mercy’s general partners, Mercy Health Systems and/or VISTA Health Plan, Inc. d/b/a Keystone First, on a need to know basis; provided, however, that Confidential Information and Proprietary Information belonging or pertaining to a Customer may be disclosed ONLY to representatives of that Customer.

5. Any Associate, Consultant or Contractor who is approached with an offer of Confidential Information including PHI or Proprietary Information to which he/she should not have access and/or which was improperly obtained must immediately discuss the matter with his/her supervisor, an attorney in the Legal Affairs Department, the Chief Compliance Officer or the Internal Auditor.
6. All Associates, Consultants and Contractors must review and familiarize themselves with all departmental or any other Keystone Mercy policies and procedures applicable to confidentiality issues arising within the course of performing their job duties.
7. Each Associate's, Consultant's, and Contractor's level of access to the information maintained in Keystone Mercy 's computer system is determined by the Information Services Department, based upon the individual's department and job duties. Associates are to access and distribute data electronically only in accordance with instructions given by the Information Services or the Corporate Compliance departments. All Associates, Consultants and Contractors are required to comply with the Information Services polices and procedures regarding security and access to data, electronic mail and other information systems.
8. Associates, Consultants and Contractors must also follow reasonable confidentiality restrictions imposed by previous employers and not use or share that employer's confidential information with Keystone Mercy.
9. All Consultants/Contractors, including those who are members of Keystone Mercy committees, will sign a confidentiality and non-disclosure agreement for the protection of Confidential Information and Proprietary Information.
10. All agreements with Network Providers, Consultants and Contractors will include confidentiality provisions that are consistent with this Policy and Procedure and that require, at a minimum, that the Provider/Subcontractor comply with all federal and state statutes and regulations regarding the disclosure of Confidential Information and otherwise maintain Keystone Mercy's Confidential Information and Proprietary Information as confidential. The material elements of this policy and procedure will be communicated to participating Network Providers via Keystone Mercy 's Network Provider agreements and Network Provider manuals. To the extent that a Health Care Provider, Consultant or Contractor is a Business Associate pursuant to HIPAA, such Health Care Provider, Consultant or Contractor must execute a Business Associate agreement governing the Business Associate's use and disclosure of Protected Health Information as required by HIPAA.
11. The Legal Affairs and/or Corporate Compliance Department should be contacted whenever issues of confidentiality and/or disclosure of Confidential Information or Proprietary Information arise which are not clearly addressed in the Keystone Mercy Confidentiality Policy or other Keystone Mercy polices and procedures.
12. The Chief Compliance Officer will report to the Compliance and Privacy Committee, all Member, Health Care Provider and Associate complaints regarding confidentiality as well as the resolution of such complaints. The Compliance and Privacy Committee will determine if operational practices should be altered to prevent or reduce the risk of future concerns.

### ***Provider Protections***

Keystone Mercy shall not exclude, discriminate against or penalize any Health Care Provider for its refusal to allow, perform, participate in or refer for health care services, when the refusal of the Health Care Provider is based on moral or religious grounds. The Health Care Provider must make information available to Members, prospective Members and Keystone Mercy about any

## ***REGULATORY PROVISIONS***

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such restrictions or limitations to the types of services they will/will not make referrals for or directly provide to Keystone Mercy Members, due to religious or moral grounds.

Health Care Providers are further protected in that no public institution, public official or public agency may take disciplinary action against, deny licensure or certification or penalize any person, association or corporation attempting to establish a plan, or operating, expanding or improving an existing plan, because the person, association or corporation refuses to provide any particular form of health care services or other services or supplies covered by other health plans, when the refusal is based on moral or religious grounds. Keystone Mercy will not engage in or condone any such discriminatory practices.

Keystone Mercy shall not discriminate against or exclude from Keystone Mercy's Provider Network any Health Care Provider because the Health Care Provider advocated on behalf of a Member in a Utilization Management appeal or another dispute with Keystone Mercy over appropriate medical care, or because the Health Care Provider filed an appeal on behalf of a Keystone Mercy Member.

Keystone Mercy does not have policies that restrict or prohibit open discussion between Health Care Providers and Keystone Mercy Members regarding treatment options and alternatives. Keystone Mercy encourages open communication between Health Care Providers and our Members with regard to all treatment options available to them, including alternative medications, regardless of benefit coverage limitations.