



Administrative Policy

Member Facing Race, Ethnicity, Language, Gender Identity, and Sexual Orientation Data Usage and Privacy Policy

Policy Number: 4667

Version Number: 1

Version Effective Date: 11/13/2024

Impacted Products

- All Products**
- NH Medicaid
- NH Medicare Advantage
- MA MassHealth ACO
- MA MassHealth MCO
- MA Qualified Health Plans/Employer Choice Direct
- MA Senior Care Options

Note: Disclaimer and audit information is located at the end of this document.

Policy Summary

The purpose of this policy is to inform members as to how sensitive information, such as Race/Ethnicity, Language, (REL) and Sexual Orientation and Gender Identification (SOGI) is protected, used, and not used.

Definitions

Direct Data Collection: Asking individuals for information through enrollment, registration forms, and health assessments.

Gender Identity: is defined as an individual's innermost concept of self and experience of gender (how individuals perceive themselves and what they call themselves). An individual's gender identity may be the same or different from the sex assigned at birth.

Protected Health Information (PHI): Individually identifiable health information held or transmitted in any form or medium by WellSense. All communication of protected health information, whether in electronic, paper, or verbal form, is protected.

Personal Information (PI): A member's first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such resident: Social Security number, driver's license

number or state-issued identification card number, financial account number, credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to a resident's financial account.

Personally Identifiable Information (PII): Personally identifiable information that could identify a specific individual, including but not limited to a child's name, name of a child's family member, street address of the child, social security number, or other information that is linked or linkable to the child.

"Personal Information" and "Personally Identifiable Information" shall not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public.

Primary Collection: members entering their own information

Protected Information: In Massachusetts, Protected Health Information, any "personal data" as defined in M.G.L. c 66A, any "patient identifying information" as used in 42 CFR Part 2, any "personally identifiable information" as used in 45 CFR §155.260, "personal information" as defined in M.G. L. c 93H, and any other individually identifiable information that is treated as confidential under Applicable Law or agreement (including, for example, any state or federal tax return information) that WellSense uses, maintains, discloses, receives, creates, transmits or otherwise obtains from the Massachusetts Executive Office of Health and Human Services. Information, including aggregate information is considered Protected Information if it is not fully de-identified in accord with 45 CFR §164.514(a)-(c).

Sensitive Data: Personal data that includes data revealing race, ethnicity, language, gender identity, sexual orientation, sexual preference, religious beliefs, citizenship or immigration status. In New Hampshire, Sensitive Data also includes the processing of genetic or biometric data for the purpose of uniquely identifying an individual; personal data collected from a known child; or precise geolocation data.

Sexual Orientation: which is separate from gender identity, is defined as an inherent or immutable and enduring emotional, romantic or sexual attraction or no attraction to individuals of the same and/or other genders.

For purposes of this policy, the term PHI shall mean PHI, PI, PII, and Protected Information.

Policy

WellSense collects Race, Ethnicity, Language (REL) and Sexual Orientation Gender Information (SOGI) from members 18 years of age or older, on a volunteer basis through the WellSense website, provider encounters, enrollment forms, member surveys and Health Risk Assessment's (HRA). If a member chooses not to respond through one of these avenues, all questions are recorded as unknown until the information is provided.

Permissible Use of Data:

A few examples of how WellSense uses this information include but are not limited to:

- Helping to close gaps in care
- Healthcare Effectiveness Data and Information Set (HEDIS)
- Care Management
- To carry out treatment

- Coordination of healthcare
- Ensuring that we have providers in our network that can meet the needs of our members
- Meeting state and federal requirements in identifying disparities

We may also share this information with healthcare providers so they can give members better care.

Impermissible Use of Data:

WellSense will not use this information for underwriting, coverage and benefits, rate setting or benefit determination/denial of services. Providing this information will not impact a member's coverage or benefits with WellSense.

Protection of Data:

In line with federal and state laws, WellSense has policies and procedures to protect all PHI and sensitive data, including REL and SOGI data, (whether electronic, oral, or written), including physical and electronic safeguards such as data encryption, data and device access management, password management, access control to physical locations and appropriate record retention timeframes.

To learn more about how WellSense protects member PHI, REL and SOGI data and other data, please visit <https://www.wellsense.org/about-us/protecting-phi>.

To learn more about how WellSense uses Cookies, Pixel and other Tracking Technologies, please visit <https://www.wellsense.org/about-us/privacy>.

Removal of Data:

WellSense prohibits the unauthorized disclosure, disposal, reuse, and removal of member information through electronic transmission or the copying of member information onto unauthorized media. Media includes but is not limited to: Diskettes, CDs, tapes, and mobile applications, portable drives, laptops, and secure portals.