

March 4, 2015

To: Transportation operators in NYS municipalities
Fr: NYS DOH OHIP HIPAA Privacy Coordinator
Re: Requests for protected health information (PHI) from patients receiving transportation

Please be advised that Medicaid patients (and all patients) have privacy rights which cannot be violated. The rights are protected by Federal HIPAA and NYS protections found in the following statutes:

- Section 367b(4) of the NY Social Services Law;
- New York State Social Services Law Section 369(4);
- Article 27-F of the New York Public Health Law and 18 NYCRR Section 360-8.1;
- Social Security Act, 42 USC 1396a(a)(7);
- Federal Regulation at 42 CFR Section 431.302, 42 CFR Part 2; and
- The Health Insurance Portability and Accountability Act (HIPAA) at 45 CFR Parts 160 and 164.

Therefore, to pose questions to Medicaid patients about their private appointments is not only an invasion of their privacy, it is illegal, violating the minimum necessary standard. Transportation carriers may ONLY legally ask patients for an address of the destination. The other vetting of these services is completed by a NYS contractor, Medical Answering Services.

If you have any questions about this matter, please contact the NYS DOH OHIP Privacy Coordinator at (518) 473-2160.