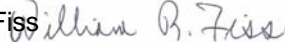


STATE OF WISCONSIN
Department of Health and Family Services
Division of Children and Family Services

DCFS Memo Series 2007 - 03
February 26, 2007
Re: eWiSACWIS: CONFIDENTIALITY
AND ACCESS TO THE SYSTEM

(Replaces DCFS 2003-13B)

To: Area Administrators / Human Services Area Coordinators
Bureau Directors
County Departments of Community Programs Directors
County Departments of Developmental Disabilities
Services Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
Licensing Chiefs/Section Chiefs
Tribal Chairpersons/Human Services Facilitators

From: William R. Fiss 
Interim Administrator

This numbered memo is being reissued to incorporate information regarding the availability of and access to information on eWiSACWIS related to mental health, alcohol and other drug abuse, developmental disabilities, and other information covered under the confidentiality requirements of s. 51.30, Stats. Changes from the previous memo are identified in the third paragraph of the section immediately below and new sections on Shared Legal Responsibility, Record Retention, Home or Other Remote Use of eWiSACWIS, and Audit Tracking are also described. In the attached policy, a minor modification has been made to the Notification Section. Finally, there is a new section in the policy on the audit tracking capacity recently installed in eWiSACWIS. A summary of that audit capacity is found later in this memo.

Confidentiality

This memo addresses various issues related to confidentiality of information maintained in eWiSACWIS and policies and procedures related to direct access to the system. These are complex issues that involve a variety of state and federal laws and regulations related to eWiSACWIS itself and to confidentiality generally.

The Department is charged with implementing the statewide automated child welfare information system as described in federal regulations, as incorporated in state statute. [Ref. ss. 46.03(7)(g), 46.22(1)(c)8., and 46.46(1m), Stats.] It is clear under the federal regulations that all information which relates to the assessment of a family and the health and safety of a child should be included in eWiSACWIS. The federal Administration on Children, Youth, and Families has instructed us that there is nothing in federal law or regulation related to mental health and alcohol and other drug abuse confidentiality that would preclude its inclusion in eWiSACWIS. With respect to state law, the intent of the Wisconsin Legislature was to implement eWiSACWIS consistent with federal requirements and guidelines.

The Governor signed into law 2005 Wisconsin Act 406 which clarifies that agencies are authorized to include information related to a child or family, regardless of the type of information, into eWiSACWIS at the time that is obtained without first notifying the subject of the information. (Ref. s. 48.78(2)(h) and 48.981(7)(dm), 2005 Stats.)

Confidentiality Policy

Attached is the document entitled "Access to eWiSACWIS and Information Contained in eWiSACWIS Confidentiality Policy," as amended to reflect the policy described above. This policy reflects the requirements noted above and our need to both share and protect child welfare-related information. As the policy notes, the nature of any automated system or policies related to it will always be dependent

Document Summary

This memo and the attached policy identify policies and procedures related to maintaining the confidentiality of and access to information stored in the Wisconsin State Automated Child Welfare Information System (eWiSACWIS).

upon those with access to the system recognizing and being compliant with all applicable policies, regulations, laws, certification standards, and professional ethics requirements. That recognition and compliance is an intrinsic part of the attached policy. All county agencies and contract agencies will be expected to implement this policy.

In terms of the policy, your specific attention is directed to the following important considerations:

Section III. Statutory/Regulatory Requirements

It is important to keep in mind that there are specific requirements in statute relating to the release of information contained in records created by or which are otherwise in the custody of the child welfare agency. There are also specific requirements in statute relating to the release or re-release of information contained in child welfare records that are the property of other systems or professionals (e.g., psychological assessments).

It is also important to note that under federal regulations (Ref. 45 CFR 1355.52 through 1355.57), eWiSACWIS must be a statewide system. This means that the child welfare programs in all counties must have access to and use the system. Staff from the child welfare program of one county must have access to information from child welfare programs of other counties, subject to access limits we are allowed to impose based on job functions. This is an inherent aspect of the system's "statewideness" required by the federal regulations.

Section IV. Notification

The confidentiality of records remains a very high priority even though access to records is expanded. The policy emphasizes that access to information does not negate the requirement to notify the record custodian that a record has been accessed, what information was accessed, and the purpose of that access. It cannot be overemphasized that any person must have a valid, work-related, and legitimate reason to access or review any record or part of a record. Any access outside of these reasons is a violation of confidentiality policies and laws and is violative of the privacy rights of children and families. A model notification policy is attached.

Section V. Scope of Agreements

Three types of agreements are discussed and the first two are attached to the policy (the third relates only to research access contracted by the Department):

- Agency Agreement: To be entered into by any individual or agency, other than this Department or a county department, that will have direct access to eWiSACWIS for the purpose of either obtaining information from or entering information into eWiSACWIS.
- User Agreement: To be entered into by all affected employees of this Department, a county department, a tribal social services department, or an agency entering into an Agency Agreement.
- Data Sharing Agreement: To be entered into by any individual or agency which receives information from eWiSACWIS but which does not have direct access to eWiSACWIS.

Shared Legal Responsibility

This Department and County Departments have legal responsibility for information maintained in eWiSACWIS. DHFS is responsible for the planning, design, development, installation, and operation of the system. In addition, the Department establishes policies for county implementation of the system.

County Departments, the Bureau of Milwaukee Child Welfare, and the State Special Needs Adoption Program are responsible for the accuracy and completeness of information entered into eWiSACWIS on cases being managed within their agencies. DHFS, counties, tribes, and other agencies with access to eWiSACWIS each have responsibility for proper disclosure of information maintained in the system depending upon which agency releases such information.

Access to eWiSACWIS

Requests for access must be submitted to the DCFS IT Liaison at DHFS/DCFS, P.O. Box 8916, Madison, WI 53708-8916. Normal requests (e.g., for access by county department child welfare staff) will be approved based on the information received. Any requests that are in some way out of the ordinary will be forwarded by the DCFS IT Liaison to the appropriate DCFS managers. Any such request will be evaluated against the criteria established in the attached policy. Please note that the process will be facilitated by submitting all of the required information. The Division reserves the right to deny requested access to eWiSACWIS by any individual or agency even if the criteria are met. In such a case, justification will be provided with the denial of the request.

Audit Tracking Implementation

We have built into eWiSACWIS the capacity for this Department and County Departments to conduct an audit of any case in the system to determine if unauthorized individuals have accessed a case for purposes other than legitimate case responsibility. We will conduct random audits of cases and will conduct targeted audits on specific cases that are controversial, high-profile, or are otherwise likely to draw general interest. Any suspected unauthorized access to cases will be reported by this Division to the director of the agency employing the person who accessed a case without an apparent legitimate reason. We encourage county agencies to also conduct audits to assure the confidentiality of case records and protection of the privacy rights of the children and families we serve.

Home or Other Remote Use of eWiSACWIS

In general, it is our position that home or other remote use of eWiSACWIS is a matter for each county to determine based on its own policies and practices. The Division, including eWiSACWIS support staff, however, will not provide technical support for either eWiSACWIS or other aspects of computer use for an employee using eWiSACWIS outside of his or her official place of employment. In addition, it is critical that each county's policies related to confidentiality of information maintained in eWiSACWIS be followed at whatever location the system is used. This includes assuring that individuals not authorized to access the system do not have access to the system at the employee's home or other place outside of the employee's official place of employment.

Implementation of the requirements in this memo and the attached eWiSACWIS Confidentiality Policy will assure that staff are able to fulfill their documentation requirements while still maintaining the integrity of the system and assuring the confidentiality of information maintained in eWiSACWIS.

REGIONAL OFFICE CONTACT:

Area Administrator

CENTRAL OFFICE CONTACTS:

eWiSACWIS Access

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Confidentiality Issues

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MEMO WEB SITE: http://dhfs.wisconsin.gov/dcfs_info

Attachments:

[Confidentiality Policy](#) (PDF, 93 kb)

[CFS-2275](#), eWiSACWIS Use Agreement

[CFS-2276](#), Agency Agreement on Access to eWiSACWIS

[Model Notification Policy](#) (PDF, 20 kb)

c: County CPS Supervisors
County Foster Care Coordinators
Tribal Child Welfare Contact Persons