

Identity Theft & NC Local Health Departments

Jill Moore

November 9, 2009



UNC

SCHOOL OF GOVERNMENT

www.sog.unc.edu

What constitutes ID theft?

	Information provided	
Name	Dorothy Gale	
DOB	March 14, 1992	
SSN	I don't know	
ID	I don't have any	



Legal definitions of ID theft

Primary sources

- Federal and state criminal laws
- Federal laws addressing ID theft, including the “Red Flags” rule

Common elements

- Using the identifying information of another person
- To attempt or commit a fraud, such as obtaining a benefit to which you are not entitled or avoiding paying for something

What constitutes ID theft?

	Information provided	True?
Name	Dorothy Gale	False
DOB	March 14, 1992	True
SSN	I don't know	True
ID	I don't have any	False

- Is it personally identifying information of another person?
- Did the client who gave this information lie about her identity for the purpose of attempting or committing a fraud?

Red flags rule

- Federal rule
- Enforced by Federal Trade Commission
- Is it in effect yet?
- **Enforcement delayed (again) – new target date: June 1, 2010**



Red flags rule

- Identify things that are “red flags” of identity theft
- Detect those red flags when they’re presented to you
- Respond appropriately to the red flags you detect



What is a red flag?



Definition in rule

- “A pattern, practice, or specific activity that indicates the possible existence of identity theft.”

Examples from rule

- Suspicious documents – altered/forged, info that doesn’t match person
- Suspicious identifying information – same SSN as another client, info inconsistent with file
- Notice that there may be ID theft associated with particular client

How will you detect red flags?

- Likely will vary by red flag identified
- Consider different red flags in template:
 - Photo on ID doesn't look like the person
 - Inconsistent personal info, such as DOB
 - SSN, Medicaid or other insurance number duplicative of one already on file
 - Mail keeps being returned
 - Notification from client or law enforcement

How will you respond to red flags?

- Appropriately! But what is appropriate?
 - Commensurate with the degree of risk the particular red flag creates
 - Appropriate to the nature and scope of the department's activities
- Special considerations for LHDs
 - Confidentiality laws
 - Nondiscrimination laws
 - Role as provider of essential PH services

Response options in FTC guidance

- Monitor account
- Contact customer
- Change security devices
- Close account or reopen with new number
- Don't attempt to collect on account
- Notify law enforcement
- Determine that no response is warranted under the particular circumstances

Red flag FAQs



- How should we handle a red flag presented by a client that we believe to be an illegal alien?
- **The same way you handle a red flag presented by a client that you believe to be a citizen or legal alien.**

Red flag FAQs



- Does the red flag rule require us to report clients to law enforcement?
- **No. The red flags rule does not require you to notify law enforcement. The rule lists notification of law enforcement as one of several responses to a red flag that may be appropriate, depending on the circumstances.**

Red flag FAQs



- Is notification of law enforcement an appropriate response to a red flag?
- **It depends on the circumstances.**
- **In most cases, confidentiality laws will prevent you from notifying law enforcement.**
- **There is one exception: you may notify law enforcement if you believe in good faith that the red flag constitutes evidence of a crime committed on your premises.**

Red flag FAQs



- When would a red flag constitute evidence of a crime committed on the health department's premises?
- **It depends on the circumstances. Talk to a lawyer about your particular situation.**

Red flag FAQs



- Must a LHD have its own red flags program, or can it just sign on to the county's program?
- **Either approach is okay, but if it's a countywide program, it needs to have policies and procedures that are tailored to the different agencies or programs that it covers.**

- **Is it possible to prevent red flags in the first place?**



SSNs & Federal + NC Law

- May not ask clients for SSNs unless:
 - Specific law says you may, or
 - SSNs are imperative for performance of legal duties
- Must document why you need SSNs
- Must tell clients:
 - Whether provision of SSN is voluntary or mandatory
 - The legal authority that allows you to ask for SSNs
 - What uses you will make of SSN
- Must segregate SSN from the rest of the record

What should the LHD have?

- Document explaining why the LHD is authorized to collect SSNs
- Statement of authority for collecting SSNs and the purposes for which SSNs are collected and used (to be provided to clients on request)
- Method for notifying clients at the time SSN is requested that provision of SSN is voluntary, and how it will be used if provided
- Method for keeping SSN separate from the rest of the record