



TMA Privacy and Civil Liberties Office

Information Paper



Accounting of Disclosures of PHI

HIPAA Privacy ♦ October 2012

I. Supporting Policies for Accounting of Disclosures of PHI

- A. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule (45 CFR 164.528) establishes requirements regarding an individual's right to an accounting of disclosures of their protected health information (PHI).
- B. The Department of Defense Health Information Privacy Regulation (DoD 6025.18-R, Chapter 13) implements the above provision of the HIPAA Privacy Rule within the Military Health System (MHS).

II. Definitions Associated with Accounting of Disclosures of PHI

- A. Covered Entity: A health plan or a healthcare provider within the MHS that transmits any health information in electronic form to carry out financial or administrative activities related to healthcare.
- B. Disclosure: The release, transfer, provision of access to, or revealing in any other manner of PHI outside the entity holding the information.
- C. Health Oversight Agency: An agency or authority of the United States, a State, territory, political subdivision of a State or territory, or an Indian tribe, or a person or entity with legal authority to oversee the healthcare system or Government programs in which health information is necessary and relevant.
- D. Protected Health Information (PHI): Individually identifiable health information that is transmitted or maintained by electronic or any other form or medium, except as otherwise contained in employment records held by a covered entity in its role as employer.
- E. Use: With respect to PHI, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

III. Guidance Regarding Accounting of Disclosures of PHI

- A. Individual Right. An individual has a right to receive an accounting of disclosures of PHI made by a covered entity in the six years, or less if specified by the individual, prior to the date of the request.
- B. Exceptions for Disclosures. Certain types of disclosures are not required to be included in the accounting. Such disclosures are those permissibly made:
1. To carry out treatment, payment and health care operations;
 2. To individuals of PHI about them;
 3. With a valid authorization;
 4. For the facility directory or to persons involved in the individual's care or other notification purposes such as in emergency circumstances and for disaster relief purposes;
 5. To authorized DoD or other Federal officials for the purposes of conducting lawful intelligence, counter-intelligence, and other national security activities;
 6. To correctional institutions or law enforcement officials;
 7. As part of a limited data set;
 8. As an incidental use or disclosure such as confidential communications among healthcare providers or patients, using sign-in sheets or calling out patients' names in waiting rooms, or posting a patient's name on the wall outside the patient's room; or
 9. Prior to the compliance date for the covered entity.
- C. Provision of Accounting. The covered entity shall act on the individual's request for an accounting no later than 60 days after receipt of the request.
1. If the accounting cannot be provided within 60 days, the covered entity may extend the time, by no more than 30 days, if:
 - a) The individual is provided with a written statement of the reasons for the delay and the date by which the accounting should be provided; and
 - b) Only one such time extension on a request is utilized.
 2. The covered entity shall provide the first accounting to an individual in any 12-month period without charge. Any subsequent requests made by the same individual within the 12-month period may be subject to reasonable, cost-based fees, if the covered entity:
 - a) Informs the individual in advance of such fees; and
 - b) Provides the individual with an opportunity to withdraw or modify the request.
- D. Content of Accounting. When the covered entity provides the individual with accounting, it must be in writing and meet the below requirements:
1. Except as otherwise noted, the accounting shall include disclosures of PHI that occurred during the six years, or less if specified, prior to the date of the request, including disclosures to or by business associates of the covered entity.
 2. Except as otherwise noted, the accounting shall include the following for each disclosure:

- a) The date of the disclosure;
 - b) The name of the entity or person who received the PHI and, if known, the address of such entity or person;
 - c) A brief description of the PHI disclosed; and
 - d) A brief statement of the purpose of the disclosure that informs the individual of the basis for the disclosure; or a copy of a written request for the disclosure as permitted to the Department of Health and Human Services (HHS) or under Chapter 8 of DoD 6025.18-R.
3. For multiple disclosures to the same person or entity for a single purpose, as permitted under Chapter 7, or according to a valid authorization, the accounting may provide the following:
- a) The information required by Section D.2 for the first disclosure;
 - b) The number of disclosures made during the requested accounting period; and
 - c) The date of the last disclosure.
4. If the covered entity has made the disclosure of an individual's PHI for research purposes, as permitted under Chapter 7, for 50 or more individuals, the accounting may provide the following:
- a) The name of the research activity;
 - b) A description, in plain language, of the research activity, including the purpose of the research and the criteria for selecting particular records;
 - c) The date or period of time during which the disclosures occurred, or may have occurred, including the date of the last disclosure;
 - d) The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
 - e) A statement that the PHI of the individual may or may not have been disclosed for a particular research activity.
5. If the covered entity provides an accounting for research disclosures and it is reasonably likely that the PHI of the individual was disclosed for a research activity, the covered entity shall, at the request of individual, assist in contacting the entity that sponsored the research and the researcher.

E. Suspension of Disclosures.

1. An individual's right to receive an accounting of disclosures may be suspended for a specified time if a written statement is provided by a health oversight agency or law enforcement official. The statement must show that an accounting to the individual would reasonably interfere with the agency's activities.
2. If the request is made orally by the agency or official, the covered entity shall:
 - a) Document the statement, including the identity of the agency or official;
 - b) Temporarily suspend the individual's right to an accounting subject to the statement; and

- c) Limit the suspension to no longer than 30 days from the date of the oral statement, unless a written statement is submitted during that time.

F. Documentation of Accounting. A covered entity must document and retain the following:

1. The information required to be included in an accounting under Section D.
2. The written accounting provided to the individual; and
3. The titles of persons or offices responsible for receiving and processing accounting of disclosures requests.