

Partners in Recovery

POLICY AND
STANDARDS

Applicable Arizona Department of Health Services Behavioral Health Rule(s):

R9-20-211 *Client Records* and R9-21-209 *Records*

Policy Name: Member Right to Request an Accounting of Disclosures of PHI

Policy Number: REC - 0008

H.M. Gilbert Jr., Executive Director, PIR

Date

Cross Reference(s)

Uses and Disclosures of PHI Requiring Prior Internal Approval; Uses and Disclosures of Protected Health Information; Limited Data Set and De-identification of PHI

Policy Statement

Partners in Recovery acknowledges each consumer's right to request an accounting of disclosures of protected health information (PHI) made by the DCCs during the previous six years, with some exceptions.

Purpose

The purpose of this policy is to describe the process for consumers to request an accounting of disclosures of PHI, and the process for providing such an accounting of disclosure in accordance with applicable state and federal regulations.

Scope

Partners in Recovery Direct Care Clinics.

Key Terms

Should the reader need to inquire as to the definition of a term used in this policy, the Partners in Recovery Key Term Glossary can be found in the back of the Policy and Procedure Manual.

Standards

- I. A consumer has a right to request an accounting of disclosures of PHI made by the DCCs and their Business Associates (BA) during the six years prior to the date on which the accounting is requested. The DCCs are not required to provide an accounting of disclosures that are made:
 - A. To carry out treatment, payment and health care operations, including disclosures made for care and notification purposes;
 - B. To consumers about themselves;
 - C. For a use or disclosure which is incidental to a use or disclosure otherwise permitted or required by federal regulation;
 - D. With a valid *Authorization Form*;
 - E. For national security or intelligence purposes, or to correctional institutions or law enforcement officials in custodial situations;
 - F. As part of a Limited Data Set; and
 - G. Prior to April 14, 2003.
- II. Requests by consumers for an accounting of disclosures must be made in writing, using the *Request for an Accounting of Disclosures Form*.
- III. The DCC may temporarily suspend a consumer's right to an accounting of disclosures made to a health oversight agency or law enforcement official for the time specified by the agency

- or official. This suspension occurs if the DCC is provided with a written statement that the accounting would be reasonably likely to impede the agency's activities and a time is specified for which suspension is required.
- A. If the agency or official statement is made orally, the DCC does the following:
 - 1. Documents the statement, including the identity of the agency or official making the statement;
 - 2. Temporarily suspends the consumer's right to an accounting of disclosures subject to the statement; and
 - 3. Limits the temporary suspension to no longer than 30 days from the date of the oral statement, unless a written statement is submitted during that time.
 - B. Any such suspension of the consumer's right to an accounting of these specific disclosures is documented in the Clinical System.
- IV. Each time a disclosure is made, for which an accounting of disclosures is required, the person making the disclosure provides the relevant information to the designated Clinic Privacy Contact (CPC) or departmental staff who is authorized to add information to the consumer's medical record.
- V. The staff making the disclosure may use the *Disclosure of Protected Health Information Report Form* to inform the designated contact of the disclosure.
- A. This process for reporting disclosures and filing them in the consumer's medical record occurs at the clinic level.
- VI. Requests for an accounting of disclosures are handled at the clinic level. Upon receiving a request for an accounting of disclosures, the appropriate local staff looks in the Clinical System for any documented suspension. If none are present, the local staff provides the consumer with a written accounting of disclosures that meets the following requirements:
- A. Except as otherwise provided in Standard I, the accounting includes disclosures of PHI that occurred during the time period requested, including any disclosures to or by the DCC's downstream BAs. Downstream BAs are required to complete a *Business Associate Disclosure of PHI Form* for each disclosure that meets the accounting requirement, and return it to the DCC. That information is then entered into the database.
 - B. The accounting includes the following information for each disclosure:
 - 1. The date of the disclosure;
 - 2. The name of the entity or person who received the PHI and, if known, their address;
 - 3. A brief description of the PHI disclosed; and
 - 4. A brief statement of the purpose of the disclosure that reasonably informs the consumer of the basis for the disclosure or in lieu of such a statement, a copy of a written request for a disclosure by either the Secretary of the Department of Health and Human Services (HHS) for purposes of investigating HIPAA compliance, or an

appropriate state or federal regulatory body related to public health or health oversight, if any.

- C. If, during the period covered by the accounting, the DCC has made multiple disclosures of PHI to the same person or entity for a single purpose related to either an investigation of HIPAA compliance by the Secretary of HHS or to the activities of an appropriate state or federal regulatory body associated with public health or health oversight, the DCC may limit the accounting to:
 - 1. The required information (section V.B above) for the first disclosure during the accounting period;
 - 2. The frequency, or number of the disclosures made during the accounting period; and
 - 3. The date of the last disclosure during the accounting period.
 - D. If, during the period covered by the accounting, the DCC has made disclosures of PHI for a research purpose (for which an authorization has been waived) for 50 or more consumers, the accounting may provide:
 - 1. The name of the protocol or other research activity;
 - 2. A brief description, in plain language, of the research protocol or activity, including the purpose of the research and the criteria for selecting records;
 - 3. A brief description of the type of PHI that was disclosed;
 - 4. The date or period of time during which disclosures occurred, including the date of the last such disclosure during the accounting period;
 - 5. The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
 - 6. A statement that the PHI of the consumer may or may not have been disclosed for a particular protocol or other research activity.
 - E. If the DCC provides an accounting for research disclosures, and if it is reasonably likely that the PHI of the consumer was disclosed for the research protocol or activity, the DCC shall, at the request of the consumer, assist in contacting the entity that sponsored the research.
- VII. The DCC act on the consumer's request for an accounting of disclosures no later than 60 calendar days after receipt of the request, as follows (Note: Timeframes may be less depending on state law):
- A. Provides the consumer with the accounting requested; or
 - B. If unable to provide the accounting within 60 calendar days, the DCC may extend the time by no more than 30 calendar days, provided that (Note: Timeframes may be less depending on state law or customer requirements):

1. Within the 60 calendar day time period, the DCC provides the consumer with a written statement of the reasons for the delay and the date by which the accounting will be provided; and
 2. The DCC may take only one extension of time for action on a request for an accounting.
- VIII. The DCC provide the first accounting of disclosures to a consumer in any 12-month period without charge.
- A. The DCC may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same consumer within the 12-month period;
 - B. If the DCC does impose a fee, they inform the consumer in advance of the fee and provides the consumer with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.
- IX. Documentation/Record Retention
- A. Copies of all written or electronic communications or forms are maintained in the designated record set.
 - B. All statements verifying identity or authority for any action or activity identified in this policy that requires verification are documented in the designated record set.
 - C. All statements supporting professional judgment determinations for any action or activity identified in this policy that addresses professional judgment are documented in the designated record set.

Associated Partners in Recovery Direct Care Clinic Forms & Attachments

Member Request for an Accounting of Disclosures Request letter

Member Request for an Accounting of Disclosures Response letter

Disclosure of Protected Health Information Report form

Disclosure Descriptions

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