

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 Access to Protected Health Information (PHI)

Policy Number: RI - 0006

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

Date

Cross Reference(s)

Customer Comment Process; Verification; Member Representation.

Policy Statement

Partners in Recovery its subsidiaries and affiliates acknowledge the right of members to access, which includes inspecting and obtaining a copy of, protected health information (PHI) about them in the designated record set for as long as the information is maintained in the designated record set, with limited exceptions.

Purpose

The purpose of this policy is to describe members' right to access their PHI in the designated record sets, the process for accessing information and the appeal rights for denial of requests to access PHI.

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. Except as otherwise provided in this policy, DCC allow members to inspect and obtain copies of their PHI in the designated record set, for as long as DCC maintains the PHI in the designated record set.
 - A. Requests for member access to PHI must be made in writing, dated, and signed by the requester. A form is available for this purpose.
 - B. If DCC does not maintain the PHI that is requested, but knows where it is maintained, the member is informed of where to direct the request for access. The request and response is documented in the clinical system.
- II. DCC deny requests for access to PHI without providing the member an opportunity for review/appeal if:
 - A. The information requested meets the definition of Psychotherapy Notes (should rarely apply, except for staff model offices);
 - B. The information has been compiled by DCC in reasonable anticipation of, or for use in, a civil, criminal, or regulatory proceeding;
 - C. The PHI was obtained from someone other than a health care provider under a promise of confidentiality, and granting access would be reasonably likely to reveal the source of the information (e.g. husband calls with PHI about spouse's substance abuse).
- III. Requests for access to PHI are coordinated by the local Privacy Official (or designee), who assigns the case to an appropriate licensed health care professional to review.

- A. DCC may deny requests for access to PHI, and provide the member an opportunity to have such denials reviewed/appealed, if it is obvious to the licensed health care professional in reviewing the record, and in the exercise of professional judgment, that any of the following apply:
 - 1. The access requested is reasonably likely to endanger the life or physical safety of the member or another person;
 - 2. The PHI makes reference to another person (other than a health care provider) and the access requested is reasonably likely to cause substantial harm to that person; or
 - 3. The request for access is made by the member's personal representative and the provision of access to such personal representative is reasonably likely to cause substantial harm to the member or another person.
- B. The licensed health care professional assesses the scope of the request. For example, if the request is a response to receipt of a non-authorization letter, the information may be limited to the information compiled to make that determination
- C. The licensed health care professional makes a determination about the most appropriate means for access (e.g., in-person with a clinician to explain, copy in the mail, etc).
- D. If access is denied based on the professional judgment of a licensed health care professional (as specified in Standard III.A.), DCC does the following:
 - 1. To the extent possible, gives the member access to other PHI requested, after excluding the PHI for which there is a ground to deny access.
 - 2. Provides written notification to the member within 10 working days of receipt of the request for access, as set forth in AAC R9-21-209(B). The notification is written in plain language and contains:
 - a) The basis for the denial;
 - b) If applicable, a statement of the member's right to appeal this determination, and how to proceed with an appeal; and
 - c) A description of how the member may complain to Partners in Recovery according to Partners in Recovery Customer Comment process, including the name or title and phone number of the appropriate contact person, and to the Secretary of the Department of Health and Human Services (HHS).
- E. If the member requests an appeal of the denial, DCC does the following:
 - 1. DCC promptly assigns a reviewer who is a licensed health care professional and who was not involved in the original decision to deny access.
 - 2. The reviewer determines, within 30 calendar days unless a shorter time is reasonable, whether or not to deny the access requested based on the standards stated above in Section III.A.

3. DCC provides the member written notice of the review determination within the same 30-calendar day timeframe, and takes other action to carry out the determination of the reviewer, if applicable (e.g. provides limited access).
 4. State and contractual requirements may specify more stringent timeframes.
- IV. If access is granted, DCC provides the requested access within the timeframes given below, including inspection and/or obtaining a copy of the PHI about the member in the designated record set.
- A. After consulting with the professional who made the access determination about the most appropriate means for access, the local Privacy Official (or designee), calls the member to discuss the scope, format, and other aspects of the request for access with the member as necessary to facilitate the timely provision of access.
 1. At this time the following details are arranged: the format desired, whether a summary is acceptable, whether on-site access is acceptable, etc.
 2. The identity of the member is verified, by requiring confirmation of some identifying information as set forth in the *Verification* policy, and this verification is documented.
 - B. DCC notifies the member of acceptance of the request and provides access:
 1. For PHI maintained locally, no later than 10 working days after receipt of the request as set forth in AAC R9-21-209(B).
 2. For PHI that is maintained off-site, no later than 20 working days from receipt of the request.
 - C. If DCC is unable to take required action within these timeframes, they may extend the time by no more than 30 calendar days provided that:
 1. DCC, within the applicable 10 or 20 working day time limit, provides the member with written notification of the reasons for the delay and the date by which action will be completed on the request; and
 2. DCC takes only one extension of time for action on a request.
 - D. If the same PHI that is the subject of a request for access is maintained in more than one designated record set or at more than one location, DCC only produces the PHI once in response to a request for access.
 - E. DCC provide the member access to the PHI in the form or format requested by the member, if it is readily producible in such form or format; if not, in a readable hard copy form unless otherwise agreed to by DCC and the member.
 - F. DCC may provide the member with a summary of the PHI requested in lieu of providing access, or may provide an explanation of the PHI to which access has been provided, if:
 1. The member agrees in advance to a summary or explanation; and

2. The member agrees in advance to the fees imposed, if any, by DCC for such summary or explanation.
- G. DCC provide the access as requested by the member in a timely manner as stated above, including arranging with the member for a convenient time and place to inspect or obtain a copy of the PHI, or mailing the copy of the PHI at the member's request.
- H. If the member requests a copy of the PHI or agrees to a summary or explanation of the information, and state law permits, DCC may impose a reasonable, cost-based fee, provided that the fee includes only the cost of:
1. Copying, including the cost of supplies for and labor of copying, the PHI requested by the member;
 2. Postage, when the member has requested the copy, or the summary or explanation, be mailed; and
 3. Preparing an explanation or summary of PHI, if the member has agreed in advance to this explanation or summary.
- V. 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 Right to Request Access to PHI- Request Form

Member Right to Request Access to PHI Worksheet

Member Right to Request Access to PHI Denial Letter

Member Right to Request Access to PHI Appeal Denial Letter

Member has NO PHI in <Insert PNO Name> System Letter

Member NOT in <Insert PNO Name> Designated Record Set Letter

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