

SUBJECT: HIPAA AMENDMENT OF PROTECTED HEALTH INFORMATION

EFFECTIVE

APPROVED BY:

DATE: 04-14-10 (replaces 04-28-09)

Reviewed (no changes): 03-31-11 \_\_\_\_\_  
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Executive Director

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POLICY

It is the policy of McIntosh Trail Community Service Board to provide the right to the consumer to have the organization amend protected health information (PHI) that is contained within their designated record set (the consumer's clinical record or billing records) for as long as the clinical record is maintained by the organization. The right to amend is as required by the Health Insurance Portability and Accountability Act, Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164. Right to amend is defined as the consumer's right to add to (append) information with which he/she disagrees. It does not include deleting, removing or otherwise changing the content of the record. Also, any amendment appended to the PHI does not necessarily indicate agreement or denial on the part of the agency.

PROCEDURE

1. Requests for PHI must be made in writing (FormDocs) and must include a reason to support the requested amendment; individuals must be informed in advance of these requirements.
2. Requests for a PHI amendment must be acted upon no later than five (5) days following receipt of the request.
3. The organization must respond to the request by providing the individual with a written acknowledgement, if the request includes sufficient information to permit a reply to be mailed to the individual.
- A. If a request for amendment of PHI is accepted, in whole or in part, the organization must:
  1. Make the appropriate amendment to the PHI or record that is the subject of the request for amendment by, at a minimum, identifying the records in the designated record set that are affected by the amendment and appending or otherwise providing a link to the location of the amendment, while preserving the original record.
  2. Timely inform the consumer that the PHI amendment is accepted and obtain the consumer's identification of, and agreement to have the organization notify the relevant persons with which the amendment needs to be shared as set forth below.
  3. Make reasonable efforts to inform and provide the amendment, within a reasonable amount of time, to persons identified by the consumer as having received PHI about the consumer and needing the amendment, and business associates that the organization knows may have the PHI that is the subject of the amendment and who may have relied on such information to the detriment of the consumer.

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PROCEDURE (CONTINUED):

B. Denial of Request to Amend Protected Health Information (PHI)

1. A consumer's request for amendment of PHI may be denied if the organization determines that the PHI or record that is the subject of the request:
  - a. Was not created by the organization, unless the consumer provides a reasonable basis to believe that the originator of the PHI is no longer available to act on the requested amendment.
  - b. Is for information that is not part of the designated record set (the consumer's clinical record and billing records).
  - c. Would not be accessible to the consumer under Sections A 4 and B of Policy 1139.
  - d. Is accurate and complete.
2. If a request for amendment of PHI is denied, in whole or in part, the organization must provide the consumer with a timely written denial, written in plain language and containing:
  - a. The basis for the denial.
  - b. The consumer's right to submit a written statement disagreeing with the denial and how the consumer might file such a statement which will be included in the consumer's clinical record.
  - c. A statement that, if the consumer does not submit a written statement of disagreement, the individual may request the organization to include his/her request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment.
  - d. A description of how the consumer may complain to the organization, DBHDD, or to the Secretary of DHS, including name, or title, and telephone number of the contact office or person designated to receive complaints.
3. The consumer may submit to the organization, DBHDD and/or DHS a written statement no more than two (2) pages in length, disagreeing with the denial of all or part of a requested amendment and the basis of such a disagreement.

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PROCEDURE (CONTINUED):

4. A written rebuttal to the consumer's statement of disagreement may be prepared, in which case the organization must provide a copy to the individual who submitted the statement of disagreement.
5. The organization must, as appropriate, identify the record or the PHI in the designated record set (the consumer's clinical record and billing records) that is the subject of the disputed amendment and append or otherwise link the consumer's request for amendment; the denial of the request, the consumer's statement of disagreement, if any, and the organization's rebuttal, if any to the designated record set. If the consumer has submitted a statement of disagreement, the organization must include the written disagreement with any subsequent disclosure of the PHI to which the disagreement relates.
  - a. When subsequent disclosure described above is made using an electronic transaction that does not permit the additional material to be included, the organization may separately transmit the material required by the Amending PHI section of this protocol to the recipient of the electronic transaction.
6. If the organization is notified by another covered entity of an amendment to an individual's PHI, it must amend the designated record set (clinical record and billing records) maintained by the organization.
7. All documentation related to amending PHI must be retained for a minimum of six (6) years.