



Paul R. LePage, Governor

Mary C. Mayhew, Commissioner

Office of the Commissioner

HIPAA Right to Request Amendment Policy

Policy #: DHHS-01-16

Issue Date: 1/26/16

I. SUBJECT

HIPAA Right to Request Amendment

II. POLICY STATEMENT

The Maine Department of Health and Human Services (the Department) recognizes the right of consumers of Department services to request an amendment of their record created by the HIPAA covered-entities of the Department.

III. RATIONALE

This policy describes the conditions under which consumers may request amendment and how the Department will respond. This policy applies to protected health information ("PHI") contained in a Designated Record Set (or "DRS," a HIPAA term generally meaning the information used to make decisions about the consumer) created or maintained in any format.

Important note: This policy does not apply to routine changes—updates and corrections—to demographic, insurance, and financial information. Such changes will be made consistent with normal recordkeeping practices. When errors in documentation occur, they must be corrected according to appropriate business practices to ensure data integrity.

IV. PROCEDURE

1. Upon inspection of his or her DRS, a consumer (which includes the legal or personal representative) may request an amendment consisting of a change or an addition. The request must be submitted to the Privacy/Security Liaison or appropriate office designee in writing and will become a part of the consumer record.
2. PHI may not be deleted unless a purely administrative change needs to be made. Qualified Department workforce members may correct factual items such as time of admission, birth date, spelling of name, etc.
 - a. Electronic—Electronic corrections will be added to the system by the designated medical records staff, when required. Where possible, a scanned document submitted by the consumer will be appended to or included with the consumer record.
 - b. To the extent that the electronic system does not allow for clarification or notes regarding changes, a paper file must be maintained indicating any change to the electronic records, the date, content of change and the name of the person who made such change. That file must follow the consumer chart where such data is shared.

- c. Paper Record/Hospital Chart—Corrections will be made consistent with hospital policy.
3. Mental health consumers or clients or their personal representatives may add written material to their health care record in order to clarify information that they feel is false, inaccurate or incomplete.
4. If the request for amendment is granted, the information will be added, the consumer/member will be informed of the change, and we will document that fact of the amendment in the record. The HIPAA-covered entity will make reasonable efforts to contact others who have an appropriate "need to know" of the change.
5. If the amendment is not permissible, the consumer will be notified of the decision in writing, within 60 days of receipt of his or her written request. In other than mental health contexts, where there is a treating physician involved, s/he will be notified of requests for correction or amendment of PHI, and upon review of the chart, will decide whether or not to accept or make the correction or amendment to the consumer record.
6. Requests for amendments may be denied for any of the following reasons:
 - The information is accurate and/or complete
 - The information is not in the consumer's Designated Record Set
 - The information was not generated at this facility
 - The originator of the PHI to be amended is no longer available to act on the requested amendment.
7. If the request for amendment is denied, a written statement will be sent from the Department to the consumer including the following:
 - The reason for denial
 - The consumer's right to submit a "statement of disagreement" regarding the denial
 - The consumer's right to ask that the original amendment request and denial be attached to any future disclosures of the information
 - How to complain to the facility and/or the Secretary of the United States Health & Human Services Office of Civil Rights (OCR) about the denial.
8. If the consumer does submit a statement of disagreement, then the provider may respond with a "rebuttal statement." Both "the statement of disagreement" and the "rebuttal statement" stay with the health record and follow the record upon disclosure, whether in its entirety or in summary form. Likewise, the consumer/personal representative may request that the original amendment and original denial be attached to the consumer's record to accompany future disclosures.

V. DISTRIBUTION

All Staff via e-mail and posting on the DHHS Intranet.

1/26/14
Date


Mary C. Mayhew
Commissioner