Policy #: DHHS-01-17

I. SUBJECT

HIPAA: Right to Request an Accounting of Disclosures

II. POLICY STATEMENT

The Maine Department of Health and Human Services (the Department), through its HIPAA-covered entities, honors a consumer's right to request an accounting of disclosures of his/her Protected Health Information (PHI) as required by the Health Insurance Portability and Accountability Act (HIPAA) and will respond to such request as set forth in this policy and procedure.

III. RATIONALE

Under HIPAA, a consumer or personal representative may request and receive an accounting of the disclosures made of the consumer's PHI or electronic PHI (ePHI). While certain disclosures of a consumer's PHI are subject to an accounting, there are numerous disclosures that are not required to be included on an accounting of disclosures. This policy, including the procedure statement, describes what the covered entities of the Department must do to provide the consumer or personal representative with an accurate accounting of disclosures, upon request.

IV. PROCEDURE STATEMENT

A. Responsibility Regarding Document Disclosures

1. The Privacy/Security Liaison or his/her designee(s) shall be responsible for managing and overseeing this process.

2. Disclosures of a consumer's PHI that do not need to be logged for accounting of disclosures purposes are those disclosures that are:
   - Made to carry out treatment, payment, or healthcare operations;
   - Made to the consumer;
   - Made pursuant to a valid and effective authorization (one that complies with the requirements of state law as well as with the HIPAA Privacy Regulations) signed by the consumer;
   - Incident to a permitted use or disclosure;
• Made to persons involved in the consumer's care or for notification purposes;
• To federal officials for national security or intelligence purposes;
• To a correctional institution or law enforcement official that has custody of a consumer;
• That are part of a limited data set shared pursuant to a Data Use Agreement; and
• Regarding disclosure to a health oversight agency or law enforcement where the Department is informed that such disclosure in the accounting is reasonably likely to impede the agency's activities.

3. Disclosures that must be documented for accounting of disclosures purposes include disclosures that are:
   • Required by law, including mandatory reporting to local, state, and federal agencies and authorities;
   • For purposes of public health activities (e.g., for preventing or controlling disease, injury, or disability, for reporting of disease, injury, birth, or death, and for conducting public surveillance, public health investigations, and public health interventions);
   • About victims of abuse or neglect;
   • For health oversight activities;
   • For judicial and administrative proceedings;
   • For law enforcement purposes, pursuant to legal process and for identification and location purposes;
   • To coroners, medical examiners, and funeral directors;
   • For cadaveric organ, eye, or tissue donation purposes;
   • For research purposes, when not authorized by the consumer;
   • To avert a serious threat to health or safety;
   • For specialized government functions including military and veteran's activities, national security and intelligence activities, protective services for the President of the United States and other public officials, correctional institutions and other law enforcement custodial situations; and
   • For workers' compensation purposes.

4. The information that must be documented for each disclosure is:
   • The date of the disclosure;
   • The name of the entity or person who received the PHI and, if known, the address and contact information;
   • A brief description of the PHI disclosed (e.g., "records for visit on June 7, 2018" or "all radiology reports related to broken wrist", etc.); and
   • A brief statement of the purpose of the disclosure that reasonably informs the consumer of the basis for the disclosure.
5. Disclosure documentation should be maintained so it can be retrieved quickly upon a request from the Privacy/Security Liaison who is responsible for compiling the disclosures made across the Department and providing the accounting of disclosures to the consumer.

6. Questions about accounting of disclosures should be directed to the Privacy/Security Liaison or the Director of Healthcare Privacy.

7. All documentation related to a request for an accounting of disclosures will be maintained for a minimum of six (6) years.

B. Procedure for Addressing a Consumer Request

1. When the Privacy/Security Liaison receives a written request for an accounting of disclosures from a consumer or his/her personal representative, the Privacy/Security Liaison or his/her designee will coordinate and compile the accounting.

2. The information included in the accounting is limited to information on disclosures occurring no more than six years back from the date of the request for a paper record, and no more than 3 years back from the date of request for an electronic record. A consumer/personal representative may request a shorter accounting.

3. The request must be respond to within 60 days.

4. A consumer/personal representative may receive one free accounting per twelve (12) month period.

C. Education: Workforce members will receive training on appropriate use and disclosure of the PHI and ePHI, to maintain the confidentiality, integrity and accessibility of our consumer data.

D. Questions: Any questions regarding uses or disclosures of PHI in any format should be directed to the Director of Healthcare Privacy or the General Counsel.

V. DEFINITION

**Protected Health Information (PHI)** means information, including demographic information that may identify the consumer, that relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual, which identifies or could reasonably be used to identify the individual.
VI. DISTRIBUTION

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

VII. ATTACHMENT

Accounting of Disclosures Request Form

December 14, 2018

Date

Bethany Hamm
Acting Commissioner
REQUEST FOR AN ACCOUNTING OF DISCLOSURES UNDER HIPAA

The Health Insurance Portability and Accountability Act ("HIPAA") gives you the right to receive an accounting of certain disclosures of your protected health information (PHI) that are made by the HIPAA-covered entities of the Maine Department of Health and Human Services (DHHS), and their business associates, for up to six (6) years prior to the date of your request.

The accounting will not include releases or disclosures of your PHI that are or were made:

- To you
- To your family or other persons involved in your care, with your permission
- For treatment, payment, or DHHS health care/business operations purposes
- For national security or for certain law enforcement purposes

You are entitled to one free accounting every 12 months. There will be a charge for any additional requests for an accounting during the same time period. You will receive the accounting within 60 days of when we receive your request, unless we seek an extension of 30 days in writing.

I, ________________________________  
(Printed name)

__________________________________  
(Address)

request an accounting of disclosures from: (CHECK ONE):

- [ ] Office of MaineCare Services  
- [ ] Riverview Psychiatric Center
- [ ] Office for Family Independence including Medical Review Team  
- [ ] Office of Aging and Disability Services
- [ ] Maine Centers for Disease Control and Prevention, Public Health Nursing  
- [ ] Office of Administrative Hearings
- [ ] Dorothea Dix Psychiatric Center  
- [ ] Maine Centers for Disease Control and Prevention, Health and Environmental Testing Laboratory
- [ ] Other:

1. [ ] I am the consumer  
   [ ] I am the consumer’s personal representative

2. [ ] I request an accounting of disclosures from (dates) _____/_____/_______ to _____/_____/_______.

3. [ ] I will pick up the accounting  
   [ ] Please mail to the address above:

4. **FEES – I understand that there is:**

   [ ] No fee for this request  
   [ ] A fee for this request in the amount of _______ and I wish to proceed.

Date: _______________  
Signature____________________________

Personal Representative’s authority to sign (Parent, Guardian, Court Appointment, etc.):
REQUEST FOR AN ACCOUNTING OF DISCLOSURES UNDER HIPAA

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<th>FOR DHHS USE ONLY</th>
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<tbody>
<tr>
<td>Date request for accounting received: ____________________</td>
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<tr>
<td>Date accounting sent: ____________________</td>
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<tr>
<td>Extension requested: _____ Yes _____ No</td>
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<tr>
<td>If yes, give reason: __________________________________</td>
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<tr>
<td>Patient notified in writing on this date: ____________________</td>
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<td>Staff member processing request: ____________________</td>
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