
SUBJECT: Accounting of Disclosures

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EFFECTIVE DATE: Draft

REVIEWED/REVISED:

PURPOSE: To define instances where use or disclosure of information must be logged and provided to the patient on their request.

POLICY:

Pursuant to the Health Insurance Portability and Accountability Act (HIPAA), section 164.528, patients have a right to receive an accounting of certain disclosures of their health information, subject to certain time-limited exceptions for disclosures to law enforcement and oversight agencies. MHS and its affiliates have developed policies and procedures to address the accounting of instances when protected health information has been used or disclosed for purposes other than treatment, payment, or health care operations.

1. Upon request of a patient, MHS and its affiliates will provide the patient with an accounting of certain disclosures of their protected health information. The accounting will not include uses or disclosures made:
 - to carry out treatment, payment and health care operations
 - provided to another covered entity for their treatment, payment or health care operations
 - to the patient of their protected health information
 - pursuant to the patient's authorization
 - for the facility's directory
 - to persons involved in the patient's care or other notification purposes
 - for national security or intelligence purposes
 - to correctional institutions or law enforcement custodial situations
2. MHS and its affiliates will not provide an accounting of disclosures that occurred prior to April 14, 2003.
3. MHS and its affiliates will utilize appropriate mechanisms for documenting those uses and disclosures of protected health information that must be included in an accounting for disclosures.
4. Disclosures that must be accounted for include disclosures made to:
 - Public Health Authorities:
 - i.e. for surveillance, investigations, interventions
 - recording births/deaths
 - child abuse, elder abuse
 - prevention of serious harm

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- communicable disease reporting
- Food and Drug Administration
 - adverse events, product defects or biological product deviations
 - track products
 - enable product recalls, repairs or replacements
 - conduct post marketing surveillance
 - manufacturers of defective products
- Employers
 - requesting healthcare be provided to their employee
 - for workplace medical surveillance
 - related to a work-related injury or illness
 - as required by OSHA or similar state law
- Health Oversight Agencies
 - government benefit programs
 - compliance
 - civil rights laws
 - trauma registries
 - tumor registries
 - vital statistics
- Judicial and Administrative Proceedings
 - court orders
 - subpoenas, unless accompanied by patient authorization
- Law Enforcement Officials
 - as required by law
 - to comply with a court order, warrant, subpoena or summons
 - pursuant to an administrative request
 - to locate a suspect, fugitive, material witness or missing person
 - needed for emergency treatment for crime committed elsewhere
 - victims of crime
 - crime on premises
 - suspicious deaths

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- necessary to avert a serious threat to health or safety
- Coroner or Medical Examiner
 - regarding a deceased patient
- Organ/Tissue Procurement Agencies
 - regarding a deceased patient
- Specialized Government Functions
 - military and veterans activities
 - protective services
 - Department of State: medical suitability
 - government programs providing public benefits
 - foreign military personnel
- Workers' Compensation Insurers, Case Managers, etc.
 - if not for treatment or payment
- Business Associates
 - if not for treatment, payment and health care operations
- Or to person not authorized to receive the information, including any accidental or unauthorized disclosure

PROCEDURE:

1. Any department or individual making a disclosure that must be tracked must use appropriate forms or methods for documenting the disclosure. HIM/Medical Records of the appropriate MHS affiliate will be maintaining disclosure documentation for the period required by law.
2. Any patient who requests an accounting of PHI shall be directed to the appropriate MHS affiliate HIM/Medical Record Department.
3. HIM will direct the requesting party to complete the Patient Request for Accounting of Disclosure Form.
4. A patient may obtain an accounting of disclosures of protected health
5. information made by MHS and its affiliates during the six years prior to the date on which the accounting is requested, but not prior to April 14, 2003.

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6. The accounting will be in writing and will include disclosures made to or by business associates of MHS and its affiliates.
7. Each accounting of a disclosure will include the following:
 - the date of disclosure
 - the name of the entity or person who received the protected health information and, if known, the address of such entity or person
 - a brief description of the protected health information disclosed
 - a brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure; or in lieu of such statement:
 - a copy of a written request for a disclosure required by the HHS Secretary to investigate or determine the covered entity's compliance with applicable laws and regulations.
8. The MHS affiliate receiving the request will act on the for an accounting not later than 60 days after receipt of the request by:
 - providing the patient with the accounting requested, or
 - extending the time to provide the accounting by no more than 30 days.
9. In the event that the MHS affiliate extends the time to provide the accounting, within 60 days after receipt of the request, it will provide the patient with a written statement of the reasons for the delay and the date by which the covered entity will provide the accounting.
10. The extension will not be used more than once for a request to provide the accounting more than once.
11. The first accounting provided to a patient during any 12-month period will be without charge.
12. A reasonable cost-based fee may be charged for each subsequent request for an accounting by the same individual within the 12-month period will be cost-based.
13. If a fee is charged, the patient must be informed in advance and provided with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.
14. The appropriate MHS affiliate will document and retain the following for a period of at least 6 years, or from the date of its creation or the date when it last was in effect, whichever is later:

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- the information required to be included in an accounting
- the written accounting that is provided to the individual
- the title of the persons or officer responsible for receiving and processing requests for an accounting by individual.

SUSPENSIONS:

1. Upon request by a health oversight agency or a law enforcement official, a patient's right to an accounting of disclosures can be suspended with respect to disclosures made to that agency or official for the time period specified by such an agency or official if the agency or official provides a written statement asserting that the provision of an accounting would be reasonably likely to impede the activities of the agency or official.
2. Such a suspension may be requested and implemented based on an oral notification for a period of up to forty-eight (48) hours. Written notification will be required after the initial forty-eight (48) hours. HIM/Medical Records will document such a request in the Medical Record. The documentation will include the identity of the agency or official making the request.
3. Any requests by a health oversight agency or law enforcement official for a suspension must be directed to the appropriate MHS affiliate Privacy Officer.