

Operational Policy

Policy title:	HIPAA: Accessing Individual Records		
Policy number:	ODHS OHA 100-003		
Original date:	07/22/2014 (OHA only)	Last update:	(Joint ODHS OHA) 01/10/2022
Approved:	Kris Kautz, Deputy Director Oregon Health Authority Don Erickson, Chief Administrative Officer Oregon Department of Human Services		

Purpose

This Health Insurance Portability and Accountability Act (HIPAA) policy is one of a series that outlines Oregon Department of Human Services (ODHS) and Oregon Health Authority (OHA) expectations for the necessary collection, use, and disclosure of protected health information about individuals in order to provide services and benefits while maintaining reasonable safeguards to protect the privacy of protected information.

ODHS|OHA staff should review all ODHS|OHA privacy policies to be sure they understand how these policies work together to protect individual privacy.

Description

This policy describes how individuals may access the designated record set maintained by ODHS|OHA.

Applicability

This policy applies to all OHA staff (see OAR 943-014-0015) and ODHS staff working in Business Associate programs (see DHS 100-013) including employees, volunteers, interns, and contractors. This definition of staff aligns with the HIPAA definition of workforce

As keepers of the public trust, ODHS|OHA staff have a responsibility to comply with state and ODHS|OHA policies, administrative rule, and state and federal law. ODHS|OHA take this responsibility seriously and failure to fulfill this responsibility is not treated lightly. Workforce who fail to comply with state or agency policy, administrative rule, or state and federal law may face progressive discipline, up to and including dismissal from state service.

Policy

1. An ODHS|OHA designated record set consists of specific information about an individual maintained in agency files or records. The information in a designated record set is used in whole or in part by ODHS|OHA to make decisions about the individual, consistent with federal and state statute and rule, and ODHS|OHA policy.

2. With limited exceptions, individuals have the right to request that ODHS|OHA amend information in ODHS|OHA files by completing form MSC 2094.
3. Each covered entity or business associate program within the agencies shall define the program's designated record set. This process shall include the ODHS|OHA Privacy Compliance Officer, the public records officer, and Department of Justice (DOJ) review.
4. ODHS|OHA staff shall not use, disclose, or re-disclose information about an individual without a written authorization from the individual or their representative, unless otherwise required or permitted by law.
5. ODHS|OHA staff shall confirm an individual's identity and the authorization to disclose before releasing records.
6. Prior to any use or disclosure of records, ODHS|OHA staff shall review the individual file and confirm that the particular use or disclosure has not been restricted.
7. If under applicable law, a parent, guardian, custodian, executor, administrator, or other person has documented authority to act on behalf of an individual or of the individual's estate, ODHS|OHA staff shall treat such person as a personal representative with respect to their records.
8. ODHS|OHA may request an extension of time to respond to requested records, as authorized by law. In the event of a request for extension of time to produce records, ODHS|OHA shall notify the individual in writing:
 - a. Of the reason for the delay; and
 - b. The date by which ODHS|OHA will act on the request.
9. If ODHS|OHA grants or denies an individual's request for access to information, in whole or in part, ODHS|OHA shall inform the individual of the access decision.
10. ODHS|OHA shall provide the requested records in the form or format and in the manner requested in that form or format whether printed, digital or an alternate format or language.
11. Any individual who requests a copy of information, an explanation, or a written summary of information is responsible for paying a reasonable, cost-based fee, unless the fee is waived pursuant to ODHS|OHA policy.
 - a. ODHS|OHA may charge fees in accordance with federal and state statute and rule and DAS 107-001-030 Public Records Requests Fees and Charges Policy.
 - b. If a fee is to be charged, individuals must be given an estimate of fees and agree to pay the fees prior to information being produced.
12. If ODHS|OHA denies access to requested information, in whole or in part, ODHS|OHA shall:
 - a. Offer the individual access to any information to which access is not being denied; and
 - b. Provide the individual with a denial written in plain language.
 - c. The written denial shall include:
 - A. The basis for the denial.
 - B. An explanation of the individual's review rights, including information about how the individual may exercise these rights if the reason for the denial is due to danger to the individual or another person.
 - C. Information about how the individual may file a complaint with ODHS|OHA.
 - D. If the information is PHI, how the individual may file a complaint with the United States Department of Health and Human Services, Office for Civil Rights.
13. If ODHS|OHA policy conflicts with federal or state statute or rule, that statute or rule supersedes unless the ODHS|OHA policy provides more protection.

References

[45 CFR 160 General Administrative Requirements](#)

[45 CFR 164 Security and Privacy](#)

[OAR 943-014-0015 Covered Entity Status for Purposes of the HIPAA Privacy Rules](#)

Forms

[MSC 2094 Request for Amendment of Health Record](#)

Policies

[DHS 100-003 Uses and Disclosures of Individual Information](#)

[DAS 107-001-030 Public Records Requests Fees and Charges](#)

[OHA 010-010 Public Record Requests and Fees](#)

[ODHS 010-010 Public Records Requests, Fees and Waivers](#)

Contact

Information Security and Privacy Office (ISPO)

Phone: 503-945-5780 (Privacy)

dhs.privacyhelp@dhsoha.state.or.us

U. S. Department of Health and Human Services, Office for Civil Rights

Medical Privacy, Complaint Division

200 Independence Avenue, SW

Washington, D.C. 20201

Toll free Phone: 877-696-6775

Phone: 866-627-7748

TTY: 886-788-4989

Email: <mailto:OCRCComplaint@hhs.gov>

Policy History

Version 1.0 established 07/22/2014

Version 2.0 Reviewed 10/03/2016

Version 3.0 ODHS|OHA 100-003 established 01/10/2022

Keywords

Access, Authorization, disclosure, executor, Health Insurance Portability and Accountability Act, HIPAA, Notice of Privacy Practices, NPP, protected health information, PHI, designated records set, personal representative

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