

Operational Policy

Policy title:	HIPAA: Amending Individual Records		
Policy number:	ODHS OHA 100-006		
Original date:	07/22/2014 (OHA only)	Last update:	(Joint ODHS OHA) 01/24/2022
Approved:	Kris Kautz, OHA Deputy Director Don Erickson, ODHS Chief Administrative Officer		

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 request amendment to 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 ODHS 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 has a responsibility to comply with state and ODHS|OHA policies, administrative rule, and state and federal law. ODHS|OHA takes this responsibility seriously and failure to fulfill this responsibility is not treated lightly. Staff 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. Individuals have the right to request that ODHS|OHA amend information in ODHS|OHA files by completing form MSC 2094 or submitting the request in another manner acceptable to ODHS|OHA.
3. ODHS|OHA shall respond to an individual's request for amendment no more than 60 calendar days after receiving the request.

4. If ODHS|OHA is unable to act on a request for amendment within 60 calendar days, ODHS|OHA may extend the time limit up to 30 additional calendar days.
5. When extending the response time 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.
6. When ODHS|OHA receives a request to amend a health or medical record, the request and any related documentation shall be reviewed by the program's medical director, a licensed health care professional designated by the program administrator, or ODHS|OHA staff involved in the individual's care who shall approve or deny the record amendment.
7. When ODHS|OHA receives a request to amend information that is not a health or medical record, ODHS|OHA staff designated by the program administrator shall review the request and any related documentation and approve or deny the record amendment.
8. When ODHS|OHA grants a request to amend, in whole or in part, ODHS|OHA shall:
 - a. Make the amendment to the file or record.
 - b. Document the file or record to show the amendment was made.
 - c. Provide notice to the individual that the amendment was made and the records updated.
 - d. Ask the individual to complete MSC 3010 so ODHS|OHA can notify partners and business associates about the corrected information.
 - e. Make reasonable efforts to provide the amended information to:
 - A. Persons named by the individual as having received PHI about the individual; and
 - B. Persons, including business associates of ODHS|OHA, who have received PHI and may rely on the information that is the subject of the amendment.
9. ODHS|OHA may deny the individual's request for amendment if:
 - a. ODHS|OHA finds that the amendment would change information that is accurate and complete.
 - b. The information to be amended was not created by ODHS|OHA.
 - c. The information is not part of ODHS|OHA records.
 - d. The individual does not have the right to inspect or access the information.
10. If ODHS|OHA denies a request for amendment, ODHS|OHA shall issue a written denial that includes, in plain language:
 - a. A statement of the reason for the denial.
 - b. An explanation of the individual's right to submit a written statement disagreeing with the denial and how to file such a statement.
 - c. An explanation that if the individual does not submit a written statement of disagreement, a copy of the individual's request for amendment and ODHS|OHA's denial will be included in any future disclosures of relevant health information.
 - d. Information about how the individual may file a complaint with ODHS|OHA, or with the U.S. Department of Health and Human Services Office for Civil Rights.
11. When an individual submits a written statement of disagreement after the denial of a request to amend health information, ODHS|OHA shall enter the written statement into the individual's designated record set.
 - a. ODHS|OHA may enter into the individual's ODHS|OHA designated record set a written reply to the individual's written statement.
 - b. ODHS|OHA shall send or provide a copy of any such written reply to the individual.

c. ODHS|OHA shall include a copy of that statement and any written reply with future disclosures of the information.

12. 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 2090 OHA Notice of Privacy Practices \(NPP\)](#)

[MSC 2092 DHS|OHA Notice of Privacy Practices, Acknowledgment of Receipt form](#)

[MSC 2099 Authorization for Use and Disclosure of Individual Information](#)

[MSC 3001 DHS|OHA Privacy/Security Incident Report](#)

[MSC 3010 Authorization for Disclosure, Sharing and Use of Individual Information](#)

Policies

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

Contact

Information Security and Privacy Office (ISPO)

Phone: 503-945-5780 (Privacy); dhs.privacyhelp@dhs.oha.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: 866-788-4989

Email: <mailto:OCRComplaint@hhs.gov>

Policy History

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