

Right to Inspect and Copy - An individual has the right to inspect and obtain a copy of his/her own health information. This request may include medical, billing or health care payment information. It does not include information that is needed for civil, criminal or administrative actions or proceedings, or psychotherapy notes. The agency may charge a fee for the cost of copying, mailing and other supplies associated with the request.

Right to Amend - An individual may request that the information an agency has created about him/her be amended if the individual thinks the information is incorrect or incomplete. The agency may deny the request if the individual seeks to amend information that 1) was not created by the agency; 2) is not part of the health information maintained by the agency; 3) is not a part of the designated record set; 4) is not part of the information the individual is allowed to inspect or copy; or 5) the information is determined to be accurate and complete.

Right to Accounting of Health Information Releases - An individual has a right to request a list of information releases that the agency has made of the individual's health information. The list will not include: 1) releases made for providing treatment, obtaining payment for services, or administrative or operational purposes; 2) releases made for national security; 3) certain releases made to correctional institutions or other law enforcement institutions; 4) releases based on the individual's written authorization; 5) releases made to persons directly involved in the individual's care; or 6) releases made prior to April 14, 2003.

Right to Request Restrictions - An individual has the right to request a restriction or limitation of the release or use of health care information by the agency for treatment, payment or operations. The agency is not required to agree to the request.

Right to Request Confidential Communication - An individual has the right to request that the agency communicate with him/her about health care matters in a certain way or at a certain location.

HIPAA rights include the right to file a complaint.

Penalties

Violations of HIPAA Transaction and Code Set Regulation can result in a \$100 fine for each violation. Total penalties could exceed several hundred thousand dollars per agency annually.

Wrongful disclosure of individually identifiable health information (violation of the Privacy or Security Rule) may result in civil monetary penalties as well as to criminal penalties up to a maximum of \$250,000, imprisonment of not more than ten years, or both.

Individually Identifiable Health Information

Any information, whether oral or recorded, in any form or medium that:

- Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse;
- 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; and
- Identifies the individual or with respect to which there is reasonable basis to believe that the information can be used to identify the individual.

To Facilitate Service to Your Constituents:

Prior to requesting Individually Identifiable Health Information from a state agency:

1. Have your constituent complete an agency authorization to disclose form.
2. Fax or send the authorization to disclose form along with the request for information to the agency.
3. You must provide the authorization to the agency before any information can be provided to you.

For Questions Contact:

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HIPAA

Health Insurance Portability And Accountability Act

Administrative Simplification

Legislative Information Guide

This brochure is meant as a general guide to HIPAA privacy. It is not meant to be all inclusive. Additional state or federal law may further limit disclosure, provide additional rights and include additional penalties for an unlawful disclosure.

Developed by the Kansas Office of HIPAA Compliance
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HIPAA

Health Insurance Portability and Accountability Act

Summary

New federal privacy legislation, effective
April 14, 2003

Imposes requirements on state agencies that either
pay for or provide health care services.

Dictates how state agency employees can legally
communicate with Legislators and staff and
employees of other agencies.

What is the major effect on communication?

While legislators and other officials may
communicate with state agencies about constituent
health issues, state agencies may not respond in
any way that includes individually identifiable
healthcare information, unless the constituent has
signed an authorization to disclose the information
and the authorization is then provided to the agency.
You should have your constituent complete an
authorization form provided by the agency from
which he/she seeks the information.

What is HIPAA?

Overview:

The Health Insurance Portability and Accountability
Act of 1996, Public Law 104-191 (HIPAA) was
passed by Congress to reform the insurance industry
and simplify health care administrative processes.

The administrative simplification part of HIPAA is
aimed at reducing administrative costs and burdens
in the health care industry by adopting and requiring
the use of standardized, electronic transmission of
administrative and financial data.

HIPAA will have a significant impact on the health
care industry over the next several years.

HIPAA requires the Department of Health and
Human Services (DHHS) to adopt national uniform

standards for the electronic transmission of certain
health information.

Goal:

The administrative simplification provisions of
HIPAA are intended to reduce the number of
forms and methods of completing claims, and
other payment-related documents, and to use a
universal identifier for providers of health care.
Another goal is to increase the use and efficiency
of computer-to-computer methods of exchanging
standard health care information.
The five specific areas of administrative
simplification addressed by HIPAA are:

Electronic Data Interchange (EDI) - the electronic
transfer of information in a standard format
between trading partners.

Code Sets - data elements used to uniformly
document the reasons why patients are seen and
what is done to them during their health care
encounters (procedures).

Identifiers - numbers used in the administration of
health care to identify health care providers, health
plans, and employers.

Privacy - standards to define what are appropriate
and inappropriate disclosures of individually
identifiable health information and how patient
rights are to be protected.

Security - standards followed by all health plans,
clearinghouses, and providers that require
maintaining the integrity and confidentiality of
health information at all phases of the process,
before, during and after electronic transmission
and during storage.

Administrative Simplification:

EDI, Code Sets and Identifiers - Federal law requires
most health plans, clearinghouses, and those providers
that conduct certain transactions electronically to be
compliant with the HIPAA transactions standards by
Oct. 16, 2003. Overall, the new standards establish
standard data content, codes and formats for
submitting electronic claims and other administrative

health care transactions. National identifiers will be
used in conjunction with the standard transactions
and code sets to aid in the simplification process.

Privacy - Recognizing the fact that standardized
data would lead to even freer information flow,
Congress anticipated the need for stronger
safeguards for maintaining an individual's health
privacy. With this in mind, the HIPAA Privacy Rule
establishes specific procedural, administrative, and
record-keeping requirements that Medicaid, health
plans, and health providers must satisfy, and
prohibits the release of certain individually
identifiable health data without prior written
authorization. The Privacy Rule includes
"preemption" language that states that a provision
of HIPAA preempts state law if HIPAA provides
more individual privacy rights, and that a provision
of state law preempts HIPAA if the state law
provides more individual privacy rights (i.e. is more
stringent). In general, the HIPAA Privacy Rule
requires that states ensure that individually
identifiable health care information remains
confidential and secure. Failure to comply subjects
the state and individuals to civil and criminal
penalties as well as loss of federal matching funds.
The Privacy Rule is effective on April 14, 2003.

Security - The Security Rule was finalized on
February 20, 2003, and compliance will be required
by April 21, 2005. This rule imposes requirements
on agencies' design and operation of their computer
systems. The security requirements have been
developed to protect the confidentiality, integrity,
and availability of individual health information. No
existing standard provides uniform, comprehensive
protection of individual health information. The
standard mandates safeguards for physical storage
and maintenance, transmission, and access to
individual health information.

Individual Privacy Rights under the HIPAA Privacy Rule

An individual has the following rights regarding the
health information that an agency has about the
individual: