

Accounting of Disclosures of Protected Health Information

Effective Date: 01/01/2018

Policy

- A. It is the policy of the ACO to provide individuals with an accounting of all disclosures of their Protected Health Information (PHI) made by the ACO or by a Business Associate of the ACO during the six years prior to the date of the individual's request (hereinafter referred to as "Accountable Disclosures").

Applicability

This policy and procedure applies to all Next Generation Participants, Preferred Providers, Next Generation Professionals, and other individuals or entities performing functions or services related to the ACO's activities.

Procedure

- A. Individuals Who May Request Accounting
 1. The individual who is the subject of the PHI or his or her personal representative may request an accounting in accordance with this Policy.
 2. Any individual who would like to obtain an accounting of their PHI must submit a request in writing.
 3. Any requests for an accounting must include, at a minimum, the following information for the individual who is the subject of the PHI:
 - a. Full legal name;
 - b. Unique personal identification number (e.g., HICN, SSN);
 - c. Address and phone number;
 - d. Date of birth;
 - e. Signature (of the individual or authorized representative); and,
 - f. Date range of records requested.
 4. The request may be submitted, by an authorized individual, to the Compliance Officer or to the ACO for processing.
- B. Types of Disclosures that are Accountable
 1. General Rule. Upon the ACO's receipt of a written request for an accounting from an individual, the ACO shall provide the individual an accounting of all disclosures of PHI made by the ACO or by a Business Associate of the ACO during the six years prior to the

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date of the individual's request, or during any lesser period that the individual expressly requests (hereinafter referred to as the "Accounting Period").

5. Permissible Exceptions. The ACO is not required to provide individuals an accounting of disclosures of PHI that were made:
 - a. To carry out the ACO's Payment and Health Care Operations;
 - b. To the individual;
 - c. Incident to a use or disclosure otherwise permitted or required by the Privacy Rule;
 - d. Pursuant to an authorization;
 - e. For national security or intelligence purposes in accordance with the ACO's Notice of Privacy Practices;
 - f. To correctional institutions or law enforcement officials in accordance with the ACO's Notice of Privacy Practices;
 - g. As part of a limited data set; or,
 - h. Prior to April 14, 2003.
 6. The ACO must temporarily suspend an individual's right to receive an accounting of disclosures that were made to a health oversight agency or law enforcement official (in accordance with our Notice of Privacy Practices) if the health oversight agency or law enforcement official informs the ACO that providing such an accounting to the individual would be reasonably likely to impede such agency's or official's activities. The terms and length of such suspension will be as follows:
 - a. Written Request. The length of time specified in a written request for a suspension that the ACO receives from the health oversight agency or law enforcement official.
 - b. Oral Request. 30 days from the date of the health oversight agency's or law enforcement official's oral request for a suspension, unless the ACO receives a written request during such 30 day period, in which case the ACO will continue the suspension for the length of time specified in such written request. In the event that the ACO receives an oral request, it must document the occurrence of the request, including the identity of the agency or official making the request.
- C. Content of the Accounting
1. General Rule. The ACO *must* provide the individual a written accounting that includes all of the following, with respect to each Accountable Disclosure, that was made by the ACO or any of its Business Associates during the Accounting Period:
 - a. The date of the disclosure;

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- b. The name of the entity or person who received the Protected Health Information and, if known, the address of such entity or person;
- c. A brief description of the Protected Health Information disclosed; and,
- d. One of the following, as applicable:
 - i. A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure; or,
 - ii. A copy of the individual's written request to the ACO or Compliance Officer; or,
 - iii. A copy of a written request, if any, for the disclosure from the Secretary of Health and Human Services ("Secretary's Request") to investigate or determine the ACO's compliance with the federal regulations pertaining to privacy of individually identifiable health information (42 C.F.R. §164.500 et seq); or,
 - iv. A copy of a written request, if any, for the disclosure, if the disclosure was required by law, for public health or health oversight activities, about a decedent, for a specialized government function, or to comply with laws relating to workers' compensation, and did not require the individual's consent or authorization pursuant to our Notice of Privacy Practices.

2. Multiple Disclosures Exception. If, during the Accounting Period, the ACO has made multiple disclosures of Protected Health Information to the same person or entity for a single purpose pursuant to the individual's written authorization, a Secretary's Request, the written accounting may, with respect to such multiple disclosures, contain the following:

- a. The frequency, periodicity, or number of the disclosures made during the Accounting Period; and,
- b. The date of the last such disclosure during the Accounting Period.

D. Timing of Response to Individual's Request for Accounting

1. Within 60 days after the ACO's receipt of a written request for an accounting, the ACO must provide the individual one of the following:
 - a. A written accounting; or,
 - b. In the event that the ACO is unable to provide the written accounting within 60 days of the ACO's receipt of the individual's written request, then a written statement of the reasons for the delay and the date by which the ACO will provide the accounting (which may not be later than 90 days from the date of the ACO's receipt of the individual's initial written request).

E. Fee for Accounting

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1. The ACO will provide the first accounting to an individual in any 12 month period without charge.
 2. For each subsequent request for an accounting during such 12 month period, the ACO will charge the individual \$.50 per page for copying costs and \$5 per hour of clerical work necessary to complete the requested accounting.
 3. This fee represents a reasonable, cost-based fee. The ACO's policy regarding fees charged for an accounting is stated in the Accounting Request Form.
 4. In the event that the individual did not submit a completed Accounting Request Form to the Compliance Officer, the ACO will, prior to charging the individual any applicable fee, inform the individual of the fee and will provide the individual with an opportunity to withdraw or modify the request for such subsequent accounting in order to avoid or reduce the fee.
- F. Retention of Accounting
1. The ACO shall retain each written accounting that it creates in accordance with this Policy and each written response it provides to an individual in connection therewith for a period of 6 years from the date that the written accounting or other written response, as applicable, is created. In addition, the ACO shall retain each written request for an accounting it receives and any documentation it creates of this Policy from the date such written request is received or such documentation is created, as applicable. All requests shall be maintained by the Compliance Officer.
- G. Responsible Individuals
1. Receiving Requests. The following individuals are responsible for receiving requests for an accounting: Privacy Officer
 2. Processing Requests. The following individuals are responsible for processing requests for an accounting in accordance with this Policy: Deputy Privacy Officer

Reporting

- A. N/A

Related Documentation

- A. Next Generation ACO Model Participation Agreement Section V.I
- B. 45 CFR §164.528
- C. ACO Terms & Definitions Policy
- D. Individual Right of Access to Protected Health Information Policy