

Accounting of Disclosures of PHI

May 2022

I. Supporting Policies

- A. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule (45 CFR 164.528) establishes requirements regarding an individual's right to an accounting of disclosures of their protected health information (PHI).
- B. The Department of Defense Manual DoDM 6025.18, Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule in DoD Health Care Programs, ¶ 5.5 implements the above provision of the HIPAA Privacy Rule within the Military Health System (MHS).

II. Definitions Associated with Accounting of Disclosures of PHI

- A. Covered Entity: A health plan or a health care provider who transmits any health information in electronic form in connection with a standard transaction covered by DoDM 6025.18.
- B. Disclosure: The release, transfer, provision of access to, or other divulging in any other manner of PHI outside the entity holding the information.
- C. Military Health System (MHS): All DoD health plans and all DoD health care providers that are, in the case of institutional providers, organized under the management authority of, or in the case of covered individual providers, assigned to or employed by, the DHA, the Surgeon General of the Army, the Surgeon General of the Navy, or the Surgeon General of the Air Force.
- D. Protected Health Information (PHI): Individually identifiable health information that is transmitted or maintained by electronic or any other form or medium. PHI excludes individually identifiable health information in employment records held by a DoD covered entity in its role as employer. Information which has been de-identified in accordance with ¶ 4.5(a) of DoDM 6025.18 is not PHI. PHI is a subset of PII, with respect to living persons.
- E. Use: With respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

III. **Guidance Regarding Accounting of Disclosure of PHI**

- A. Individual Right. An individual has a right to receive an accounting of disclosures of PHI made by a DoD covered entity in the 6 years prior to the date that the accounting is requested.
- B. Exception for Disclosures. Certain types of disclosures are not required to be included in the accounting. Such disclosures are those permissibly made:
1. To carry out treatment, payment and health care operations;
 2. To individuals of PHI about them;
 3. With a valid authorization;
 4. For the facility directory or to persons involved in the individual's care or other notification purposes such as in emergency circumstances and for disaster relief purposes;
 5. For national security or intelligence purposes;
 6. To correctional institutions or law enforcement officials;
 7. As part of a limited data set;
 8. As an incidental use or disclosure such as confidential communications among healthcare providers or patients, using sign-in sheets or calling out patients' names in waiting rooms, or posting a patient's name on the wall outside the patient's room;
or
 9. Prior to the compliance date for the covered entity.
- C. Provision of Accounting. The covered entity shall act on the individual's request for an accounting no later than 60 days after receipt of the request.
1. If the accounting cannot be provided within 60 days, the covered entity may extend the time, by no more than 30 days, if:
 - a) The individual is provided with a written statement of the reasons for the delay and the date by which the accounting should be provided; and
 - b) Only one such time extension on a request is utilized.



2. The covered entity shall provide the first accounting to an individual in any 12-month period without charge. Any subsequent requests made by the same individual within the 12-month period may be subject to reasonable, cost-based fees, if the covered entity:

- a) Informs the individual in advance of such fees; and
- b) Provides the individual with an opportunity to withdraw or modify the request.

D. Content of Accounting. When the covered entity provides the individual with accounting, it must be in writing and meet the below requirements:

1. Except as otherwise noted, the accounting shall include disclosures of PHI that occurred during the six years, or less if specified, prior to the date of the request, including disclosures to or by business associates of the covered entity.

2. Except as otherwise noted, the accounting shall include the following for each disclosure:

- a) The date of the disclosure;
- b) The name of the entity or person who received the PHI and, if known, the address of such entity or person;
- c) A brief description of the PHI disclosed; and
- d) 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 disclosure under ¶ 3.2.c. or ¶ 4.4. of DoDM 6025.18, if any.

3. If, during the period covered by the accounting, the DoD covered entity has made multiple disclosures of PHI to the same person or entity for a single purpose under ¶ 3.2.c.(4)(c) or 4.4. of DoDM 6025.18, the accounting may, with respect to such multiple disclosures, provide the following:

- a) The information required by ¶ 5.5.b.(2)(b), for the first disclosure during the accounting period.
- b) The frequency, periodicity, or number of the disclosures made during the accounting period.
- c) The date of the last disclosure during the accounting period.



4. If during the period covered by the accounting, the DoD covered entity has made disclosures of PHI for a particular research purpose in accordance with ¶ 4.4.i. for 50 or more individuals, the accounting may, with respect to such disclosures for which the PHI about the individual may have been included, provide:

- a) The name of the research activity;
- b) A description, in plain language, of the research activity, including the purpose of the research and the criteria for selecting particular records;
- c) The date or period of time during which the disclosures occurred, or may have occurred, including the date of the last disclosure;
- d) The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
- e) A statement that the PHI of the individual may or may not have been disclosed for a particular research activity.

5. If the covered entity provides an accounting for research disclosures and it is reasonably likely that the PHI of the individual was disclosed for a research activity, the covered entity shall, at the request of individual, assist in contacting the entity that sponsored the research and the researcher.

E. Documentation of Accounting. A covered entity must document and retain the following:

1. The information required to be included in an accounting under DoDM ¶ 5.5.b. for disclosures of PHI that are subject to an accounting under ¶ 5.5.a.
2. The written accounting provided to the individual.
3. The titles of persons or offices responsible for receiving and processing accounting of disclosures requests.

F. Suspension of Individual Rights for Accounting of disclosures

The DoD covered entity must temporarily suspend an individual's right to receive an accounting of disclosures to a health oversight agency or law enforcement official, as provided in ¶ 4.4.d. of DoDM 6025.18, for the time specified by such agency or official, if such agency or official provides the DoD covered entity with a written statement that such an accounting to the individual would be reasonably likely to impede the agency's activities and specifying the time that such a suspension is required.



**DHA PRIVACY AND
CIVIL LIBERTIES OFFICE**
Defending Privacy

*If you have any questions about any of the information above, please contact the DHA PCLO at:
dha.ncr.admin-mgt.mbx.dha-privacyguidance@mail.mil*

