

4010.0.0 ACCOUNTING FOR DISCLOSURES OF PROTECTED HEALTH INFORMATION

4010.1.0 Purpose

To establish Health Information Portability and Accountability Act (HIPAA) compliant policies and procedures for tracking and accounting for disclosures of Protected Health Information (PHI)

4010.1.0 Policy

4010.1.1 Pursuant to 45 CFR 164.528, Department of Human Services (DHS) clients (and their legal representatives) have a right to request an accounting of PHI disclosures that DHS has made for a period of up to six years previous to the date of request. It is DHS policy that all disclosures of client PHI (subject to accounting and tracking) will be recorded on the Protected Health Information (PHI) Tracking Sheet, Form XXXX, and entered into the PHI Disclosure Tracking system for retrieval.

4010.1.2 Upon receipt of a request for an accounting of PHI disclosures, DHS will have a maximum of 60 calendar days to compile the accounting of disclosures and respond to the client request. If DHS is unable to comply with the client's request for an accounting of PHI disclosures within 60 calendar days, DHS may make a one-time extension of the time frame for response by 30 calendar days

4010.1.3 The accounting of PHI disclosures must include:

4010.1.3.1 The date of the disclosure.

4010.1.3.2 The name, and address if known, of the person or entity that received the disclosed PHI.

4010.1.3.3 A brief description of the information disclosed.

4010.1.3.4 A brief statement of the purpose of the disclosure that reasonably informs the client of the basis for the disclosure, or, in lieu of such statement, a copy of the client's written request for the accounting of disclosures.

4010.2.0 Disclosures subject to tracking and accounting include:

4010.2.1 Abuse Reports. PHI provided (other than protective services staff who respond to such reports) pursuant to mandatory abuse reporting laws to an entity authorized by law to receive abuse reports.

4010.2.2 Audit Review. PHI provided from a client record in relation to an audit or review of a provider or contractor.

4010.2.3 Health and Safety. PHI provided to avert a serious threat to the health and/or safety of a person or persons.

- 4010.2.4 Licensee/Provider. PHI provided from a client record in relation to licensing, regulation or certification of a provider or licensee involved with the provision of care or services to the client.
- 4010.2.5 Legal Proceedings. PHI ordered to be disclosed pursuant to a court order.
- 4010.2.6 Law Enforcement Official/Court Order. PHI provided to a law-enforcement official pursuant to a court order.
- 4010.2.7 Law Enforcement or Other Official/Deceased. PHI concerning a deceased client provided to law-enforcement official, medical examiner or other official for the purpose of identifying a deceased person, determining the cause of death, or for other reasons authorized by law.
- 4010.2.8 Law Enforcement Official/Warrant. To the extent permitted by law, PHI provided to a law-enforcement official concerning a fleeing felon or client subject to an arrest warrant.
- 4010.2.9 Public Health Official. PHI provided to a public health official for the reporting of disease or injury or for the conduct of a public health study or investigation.
- 4010.2.10 Public Record. PHI disclosed pursuant to a Public Record request without the client's authorization.
- 4010.2.11 Research. PHI provided for research purposes using a waiver of authorization provided by an Institutional Review Board (IRB).

4010.3.0 Disclosures not subject to tracking and accounting include:

- 4010.3.1 Disclosures for Treatment, Payment and Operations (TPO).
 - 4010.3.1.1 Treatment – the provision, coordination, or management of health care and related services, consultation between providers relating to an individual, or referral of an individual to another provider for health care.
 - 4010.3.1.2 Payment – activities undertaken to obtain or provide reimbursement for health care, including determinations of eligibility or coverage, billing, collection activities, medical necessity determinations and utilization review.
 - 4010.3.1.3 Operations – functions such as quality assessment and improvement activities, reviewing competence or qualifications of health care professionals, conducting or arranging for medical review, legal services and auditing functions, business planning and development, and general business and administrative activities.
- 4010.3.2 Disclosures to the Client.
- 4010.3.3 Disclosures made pursuant to a valid authorization of the client.
- 4010.3.4 Disclosures or uses made subject to the client's opportunity to object, including:
 - 4010.3.4.1 Use to maintain a facility directory and disclosures from the directory to clergy and persons who ask for the individual by name.

- 4010.3.4.2 Use and disclosure to persons involved with the client's care, payment for services, or for notification of general condition or death to persons responsible for the care of the client.
- 4010.3.4.3 Disclosures for disaster relief purposes.
- 4010.3.5 Use and disclosures for national security and intelligence activities.
- 4010.3.6 Use and disclosures to correctional institutions and other law enforcement custodial situations.
- 4010.3.7 Disclosure as part of a limited data set, which excludes direct identifiers for research, public health, or health care operations. Refer to DHS Policy **XXXX** for specific guidance.
- 4010.3.8 Disclosures, which occurred prior to the effective date of HIPAA Privacy requirements.

4010.4.0 Procedures

4010.4.1 Requests for Accounting of PHI Disclosures

Clients (or their legal representatives) may make their requests in-person, by letter, by facsimile or orally by phone. A request for an accounting of PHI disclosures must identify the record holder and the period of time covered by the request. When a request for an accounting is received:

- 4010.4.1.1 The DHS staff member receiving the request for an accounting must document the identity of the requestor by identification badge, driver's license, written statement of identity on agency letterhead, or similar proof. When an oral request is received in person or by phone, DHS will confirm the request with a written statement describing the request and obtain a client signature for authentication.
- 4010.4.1.2 When the request for accounting is documented and accepted, the client will be provided an acknowledgement statement indicating when he can expect to receive an accounting. Form **XXXX-1** will be used for this purpose.
- 4010.4.1.3 The client's health record will be reviewed to determine if PHI disclosures have occurred during the time period covered by the client's request. This will be accomplished through manual review of the Protected Health Information (PHI) Tracking Sheet, DHS- 4002, or inquiry to the PHI Disclosure Tracking system. If accounting of disclosures cannot be completed within 60 days of the request, the client will be notified using form **XXXX-2**
- 4010.4.1.4 When a list of disclosures has been compiled, form **XXXX-3** will be completed and the form and list of disclosures will be forwarded to the client.

4010.4.1.5 If the client has any questions concerning the content of the accounting, he/she will be referred to the DHS Privacy Official at:

Arkansas Department of Human Services
Privacy Officer
P.O. Box 1437, Slot # XXXX
Little Rock, AR 72203
Phone X-XXX-XXX-XXXX Fax XXX-XXXX
E-mail: XXXX.XXXX@mail.state.ar.us

4010.4.1.6 Client requests for accountings of PHI disclosures will be filed in the client's health record and maintained for a period of 6 years from the date the request is completed.

4010.5.0 Any questions concerning DHS Policy Number 4010 should be directed to:

DHS Office of Chief Counsel
Post Office Box 1437/Slot S260
Little Rock, Arkansas 72203-1437
Telephone: (501) 682-8934

Your Right to Amend Information in your Record:

- You have a right to request amendments to your information held in DHS files.
- You have a right to have an answer to your request within 60 days. If there are delays in getting you the answer, you will be told. The delay cannot be more than 30 days. You'll receive an answer in writing.
- If you disagree with the answer, you can provide a written statement saying how you'd like your record to be changed. DHS will keep this statement with your record.
- DHS may also write an answer to your statement, which will also be placed in your record. You can have a copy of this.
- Anytime your record is shared, both your statement and DHS answer will be included, when relevant.

You have a right to file a privacy complaint:

Individuals can file privacy complaints with either DHS or with the U.S. Department of Health and Human Services, Office for Civil Rights.

Privacy complaints may be directed to any of the following:

Arkansas Department of Human Services

Arkansas Department of Human Services
XXXXXXXXXXXXXXXXXXXX
PO Box 1437, Slot XXXX
Little Rock, Arkansas 72201-1437
Phone: 1-800-XXX-XXXX
Fax: XXX-XXX-XXXX Email: XXXX.XXX@mail.state.ar.us

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

Medical Privacy, Complaint Division
200 Independence Avenue, SW
HHH Building, Room 509H
Washington, D.C. 20201
Phone: 866-627-7748
TTY: 886-788-4989 Email: www.hhs.gov/ocr

This form is available in alternate formats that meet the guidelines for the Americans with Disabilities Act (ADA).
Contact DHS at: Phone XXX-XXX-XXXX, TTY XXX-XXX-XXXX or fax XXX-XXX-XXXX.

ARKANSAS DEPARTMENT OF HUMAN SERVICES
Protected Health Care Disclosure Accounting Acknowledgement

Date: _____

Dear Mr./Ms. _____:

Your request for an accounting of disclosures of your protected health information has been received. DHS will provide you with an accounting of disclosures within 60 days. If we are unable to respond to your request within this time frame, we will notify you of the delay in writing.

If you have any questions concerning this process, you may contact us at the following address.

DHS Privacy Officer
Department of Human Services
P.O. Box 1437, Mail Slot _____
Little Rock, Arkansas 72203-1437

You may alternatively contact this office by calling 1-800-XXX-XXXX.

Sincerely,

DHS Representative Signature

ARKANSAS DEPARTMENT OF HUMAN SERVICES
Protected Health Care Disclosure Accounting Response

Date: _____

Dear Mr./Ms. _____:

Attached please find attached the accounting of protected health information disclosures that you requested on _____.

If you have any questions concerning this process, you may contact us at the following address.

DHS Privacy Officer
Department of Human Services
P.O. Box 1437, Mail Slot _____
Little Rock, Arkansas 72203-1437

You may alternatively contact this office by calling 1-800-XXX-XXXX.

Sincerely,

DHS Representative Signature

ARKANSAS DEPARTMENT OF HUMAN SERVICES
Protected Health Care Disclosure Accounting Delay

Date: _____

Dear Mr./Ms. _____:

Your request for an accounting of disclosures of protected health information has been reviewed, but an accounting of disclosures has not yet been completed. The Department will issue the accounting within the next 30 days.

If you have any questions concerning this process, you may contact us at the following address.

DHS Privacy Officer
Department of Human Services
P.O. Box 1437, Mail Slot _____
Little Rock, Arkansas 72203-1437

You may alternatively contact this office by calling 1-800-XXX-XXXX.

Sincerely,

DHS Representative Signature