

the determination of the reviewing official.

If Inspection Contact denies access to any PHI, the Plan will, to the extent possible, continue to provide access to other PHI for which there are no grounds to deny access.

e. Denying a Request to Access, Inspect, or Copy (Where Participant has NO Right to Review)

If Inspection Contact denies the request, a copy of Form 10.08(a) indicating that the request has been denied will be sent to the Participant within the thirty/sixty (30/60) day timeframe. The copy will indicate whether the Participant has the right to a review of the denial.

The Participant has no right to have a denial reviewed if Inspection Contact denies a request to access, inspect, or copy PHI, for any of the following reasons:

- The PHI is Psychotherapy Notes;
- The PHI was compiled in reasonable anticipation of, or for use in, civil, criminal, or administrative proceedings;
- The Plan maintains that the PHI is also subject to the Privacy Act (5 U.S.C. § 552a), and the Privacy Act allows the denial of access;
- The Plan received the PHI from someone other than a health care provider under a promise of confidentiality, and providing access to the PHI would be reasonably likely to reveal the source; or
- The Plan has temporarily suspended access to PHI created for research involving Treatment, if the Participant agreed to the suspension of access when agreeing to participate in the research.

f. Form for Denial

If the request for access is denied, Inspection Contact will within the timeframes, provide a written denial (see Section 10.08(a)) to the Participant in plain language which contains:

- The basis for the denial;
- A statement of the individual's review rights, if any; and

- A description of how the individual may complain to the Plan, pursuant to the complaint procedure in Section 6.03, or to HHS.

g. Documenting Requests

All requests, acceptances, and denials of PHI will be documented and retained for a period of six (6) years.

h. Citations

45 CFR § 164.524

5.03 Amend PHI

a. Participant's Rights

A Participant has the right to request that the Plan amend his or her PHI in a Designated Record Set. The Plan must generally honor these rights, except in certain circumstances. When the Plan amends PHI, it must communicate the Amendment to other persons to whom it has disclosed the PHI as described in Section 5.03(c). The Plan will require Business Associates to make Designated Record Sets that they maintain available for Amendment requests.

b. Processing a Request

The Plan is responsible for receiving and processing requests for Amendments to PHI. The Plan has assigned this responsibility to Amendment Contact (see Section 10.03). Requests must be submitted on the Request to Amend Form (see Section 10.08(b)) and sent to Amendment Contact. The Plan will develop procedures with Business Associates to coordinate the right to request Amendment of Designated Record Sets in the Business Associates' custody.

Amendment Contact will respond to a Participant's request within sixty (60) days after receipt. If Amendment Contact is unable to respond within this timeframe, he or she will send the Participant written notice that the time period for reviewing the request will be extended for no longer than thirty (30) more days, along with the reasons for the delay and the date by which Amendment Contact expects to address the request.

c. Amending PHI and Notifying Others

If Amendment Contact accepts a request for Amendment, in whole or in part, a copy of Form 10.08(b) indicating that the request has been accepted will be sent to the Participant within the sixty (60) day time frame. Amendment Contact will amend the PHI appropriately, and make reasonable efforts to inform and provide the Amendment to:

- Persons identified by the Participant as having received the PHI that is to be amended; and
- Persons, including Business Associates, who the Plan knows have the PHI that is the subject of the Amendment and who may have relied, or could foreseeably rely, on the information to the detriment of the Participant.

d. Denying an Amendment

If Amendment Contact denies the request for Amendment, in whole or in part, a copy of Form 10.08(b) indicating that the request was denied will be sent to the Participant within the sixty (60) day time frame. Amendment Contact may deny a request to amend a Participant's PHI if he or she determines that the PHI:

- Was not created by the Plan (unless the Participant provides a reasonable basis to believe that the creator of the PHI is no longer available to amend the PHI);
- Is not part of the Designated Record Set;
- Is not available for inspection under the HIPAA Privacy Rule; or
- Is accurate and complete.

If Amendment Contact denies the request, it will permit the Participant to submit a statement of disagreement and the basis for the disagreement, limited to five (5) pages. In response, Amendment Contact may provide a rebuttal statement and send a copy to the Participant.

Amendment Contact will attach to each Designated Record Set that is subject to the request a completed copy of Form 10.08(b) (including any attached disagreement statements and rebuttals) indicating the denial of the Amendment request.

When the Plan makes subsequent disclosures of the disputed PHI, a copy of Form 10.08(b) (or a summary of the information included on Form 10.08(b)) will be attached to the PHI disclosed in the following circumstances:

- When the Participant has submitted a statement of disagreement;
- When the Participant has so requested.

e. Documenting Requests

All requests, acceptances, denials, and supporting statements regarding Amendment of PHI will be documented and retained for a period of six (6) years.

f. Citations

45 CFR § 164.526

5.04 Restricted Use of PHI

a. Participant's Rights

A Participant has the right to request that the Plan restrict the use and disclosure of his or her PHI. The Plan is not required to agree to a restriction, but it must abide by an agreed to restriction except in certain circumstances. The Plan will require Business Associates to make PHI that they maintain available for restriction requests.

b. Processing a Request

The Plan is responsible for processing requests for restricted use of PHI. The Plan has assigned this responsibility to Restriction Contact (see Section 10.03). Requests must be submitted on the Request for Restricted Use Form (see Section 10.08(c)) and sent to Restriction Contact. The Plan will develop procedures with Business Associates to coordinate the restricted use of PHI in the Business Associates' custody.

Restriction Contact will not agree to any requests for restricted use of PHI. Restriction Contact will send a copy of Form 10.08(c) to the Participant. The Form will indicate that the request was denied.

c. Documenting Requests

All restricted use of PHI requests will be documented and retained for a period of six (6) years.

d. Citations

45 CFR § 164.522(a)

5.05 Confidential Communications

a. Participant's Rights

A Participant has the right to request that the Plan use alternative means or alternative locations to communicate PHI to the Participant. The Plan must accommodate reasonable requests if the Participant clearly states that the disclosure of the PHI by the usual means could endanger the Participant. The Plan will require Business Associates that maintain PHI to reasonably honor a Participant's request for alternative means or locations to communicate the PHI to the Participant.

b. Processing a Request

The Plan is responsible for receiving and processing requests for Confidential Communication of PHI. The Plan has assigned this responsibility to Communications Contact (see Section 10.03). Requests must be submitted on the Request for Confidential Communications Form (see Section 10.08(d)) and sent to Communications Contact. The Plan will develop procedures with Business Associates to coordinate the Confidential Communications of PHI in Business Associates' custody.

Communications Contact will determine whether to approve or deny the request on the basis of its reasonableness. Reasonableness will be determined on the basis of the administrative difficulty in complying with the request and in consultation with the Privacy Official, as needed. If the payment of benefits is affected by this request, the Plan may also deny this request unless the Participant contacts the Communications Contact to discuss alternative payment means.

Communications Contact will provide notice of the decision to approve or deny the request.

- If approved, a copy of Form 10.08(d) indicating that the request has been approved will be sent to the Participant and each Business Associate that has access to that Participant's PHI.
- If denied, a copy of Form 10.08(d) indicating that the request has been denied will be sent to the Participant.

c. Documenting Requests

All requests for Confidential Communication of PHI will be documented and retained for a period of six (6) years.

d. Citations

45 CFR § 164.522(b)

5.06 Accounting of Non-Routine Disclosures

a. Participant's Rights

A Participant has the right to request an accounting of PHI disclosures made under Section 10.10 and disclosures not otherwise permitted by Section 4. However, an accounting is not available to the Participant in circumstances involving:

- National security or intelligence purposes;
- Correctional institutions or law enforcement officials;
- Limited data sets; and
- Disclosures occurring before the compliance date for the Covered Entity.

The Participant can request that the accounting include disclosures made on or after the later of:

- April 14, 2003; or
- The date that is six (6) years prior to the date of the request.

The Plan will require Business Associates that maintain PHI to reasonably honor a Participant's request for accountings of PHI disclosures.

b. Processing a Request

The Plan is responsible for receiving and processing requests for an accounting of PHI disclosures. The Plan has assigned this responsibility to Disclosure Contact (see Section 10.03). Requests must be submitted on the Request for Accounting of Non-Routine Disclosures Form (see Section 10.08(e)) and sent to Disclosure Contact. The Participant must indicate whether the requested accounting is for disclosures made within the past six (6) years or some shorter time period. The Plan will develop procedures with Business Associates that maintain PHI to coordinate the requests for accounting of PHI disclosures.

Disclosure Contact generally will respond to a request for an accounting within sixty (60) days after receipt. If Disclosure Contact is unable to respond within this timeframe, he or she will send the Participant written notice that the time period for reviewing the request will be extended for no longer than thirty (30) more days, along with the reasons for the delay and the date by which Disclosure Contact expects to address the request.

Disclosure Contact will send a copy of Form 10.08(e) to the Participant, with the accounting of PHI disclosures attached.

Disclosure Contact will provide a Participant with one accounting in any twelve (12)-month period free of charge. A reasonable fee will be charged for subsequent accountings within the same twelve (12)-month period.

Disclosure Contact may temporarily suspend a Participant's right to receive an accounting of disclosures to:

- A health oversight agency for health oversight purposes; or
- A law enforcement official for law enforcement purposes,

if the agency or official informs Disclosure Contact or the Plan in writing that the accounting would be reasonably likely to impede the agency's activities, and if it indicates the time for which the suspension is required.

Disclosure Contact will suspend a Participant's right to receive an accounting of these disclosures for up to thirty (30) days upon an oral request from the agency or official.

c. Content of the Accounting

Disclosure Contact will include the following information in an accounting of PHI disclosures:

- Date of disclosure;
- Name (and address, if known) of person or entity that received the PHI;
- Brief description of the PHI disclosed; and
- An explanation of the purpose of the disclosure or a copy of the request for disclosure.

The HIPAA Privacy Rule permits an abbreviated accounting of multiple PHI disclosures made to the same person or entity for a single purpose, and of certain disclosures for research purposes. Disclosure Contact will consult with the Privacy Official in deciding to abbreviate an accounting of these types of disclosures.

d. Documenting Requests

All requests for accounting of PHI disclosures will be documented and retained for a period of six (6) years.

e. Citations

45 CFR § 164.528