



**OFFICE**  
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# SHARING HEALTH INFORMATION WITH FAMILY MEMBERS AND FRIENDS

There is a federal law, called the Health Insurance Portability and Accountability Act of 1996 (HIPAA), that sets rules for health care providers and health plans about who can look at and receive your health information, including those closest to you – your family members and friends. The HIPAA Privacy Rule ensures that you have rights over your health information, including the right to get your information, make sure it's correct, and know who has seen it.

## What Happens if You Want to Share Health Information with a Family Member or a Friend?

HIPAA requires most doctors, nurses, hospitals, nursing homes, and other health care providers to protect the privacy of your health information. However, if you don't object, a health care provider or health plan may share relevant information with family members or friends involved in your health care or payment for your health care in certain circumstances.

### When Your Health Information Can be Shared

- Under HIPAA, your health care provider may share your information face-to-face, over the phone, or in writing. A health care provider or health plan may share relevant information if:
- You give your provider or plan permission to share the information.
- You are present and do not object to sharing the information.
- You are not present, and the provider determines based on professional judgment that it's in your best interest.

### Examples:

- An emergency room doctor may discuss your treatment in front of your friend when you ask your friend to come into the treatment room.
- Your hospital may discuss your bill with your daughter who is with you and has a question about the charges, if you do not object.
- Your doctor may discuss the drugs you need to take with your health aide who has come with you to your appointment.
- Your nurse may **not** discuss your condition with your brother if you tell her not to.
- HIPAA also allows health care providers to give prescription drugs, medical supplies, x-rays, and other health care items to a family member, friend, or other person you send to pick them up.

A health care provider or health plan may also share relevant information if you are not around or cannot give permission when a health care provider or plan representative believes, based on professional judgment, that sharing the information is in your best interest.

**Examples:**

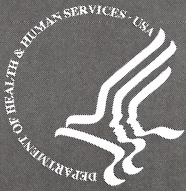
- You had emergency surgery and are still unconscious. Your surgeon may tell your spouse about your condition, either in person or by phone, while you are unconscious.
- Your doctor may discuss your drugs with your caregiver who calls your doctor with a question about the right dosage.
- A doctor may **not** tell your friend about a past medical problem that is unrelated to your current condition.

For more information about sharing your health information with family members and friends, or more information about HIPAA, visit [www.hhs.gov/ocr/privacy/hipaa/understanding/index.html](http://www.hhs.gov/ocr/privacy/hipaa/understanding/index.html).



For more information, visit [www.hhs.gov/ocr](http://www.hhs.gov/ocr).

U.S. Department of Health & Human Services  
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## OFFICE FOR CIVIL RIGHTS

# PRIVACY, SECURITY, AND ELECTRONIC HEALTH RECORDS

Your health care provider may be moving from paper records to electronic health records (EHRs) or may be using EHRs already. EHRs allow providers to use information more effectively to improve the quality and efficiency of your care, but EHRs will not change the privacy protections or security safeguards that apply to your health information.

### EHRs and Your Health Information

EHRs are electronic versions of the paper charts in your doctor's or other health care provider's office. An EHR may include your medical history, notes, and other information about your health including your symptoms, diagnoses, medications, lab results, vital signs, immunizations, and reports from diagnostic tests such as x-rays.

Providers are working with other doctors, hospitals, and health plans to find ways to share that information. The information in EHRs can be shared with other organizations involved in your care if the computer systems are set up to talk to each other. Information in these records should only be shared for purposes authorized by law or by you.

You have privacy rights whether your information is stored as a paper record or stored in an electronic form. The same federal laws that already protect your health information also apply to information in EHRs.

### Benefits of Having EHRs

Whether your health care provider is just beginning to switch from paper records to EHRs or is already using EHRs within the office, you will likely experience one or more of the following benefits:

- **Improved Quality of Care.** As your doctors begin to use EHRs and set up ways to securely share your health information with other providers, it will make it easier for everyone to work together to make sure you are getting the care you need. For example:
  - o Information about your medications will be available in EHRs so that health care providers don't give you another medicine that might be harmful to you.
  - o EHR systems are backed up like most computer systems, so if you are in an area affected by a disaster, like a hurricane, your health information can be retrieved.
  - o EHRs can be available in an emergency. If you are in an accident and are unable to explain your health history, a hospital that has a system may be able to talk to your doctor's system. The hospital will get information about your medications, health issues, and tests, so decisions about your emergency care are faster and more informed.

- **More Efficient Care.** Doctors using EHRs may find it easier or faster to track your lab results and share progress with you. If your doctors' systems can share information, one doctor can see test results from another doctor, so the test doesn't always have to be repeated. Especially with x-rays and certain lab tests, this means you are at less risk from radiation and other side effects. When tests are not repeated unnecessarily, it also means you pay less for your health care in copayments and deductibles.
- **More Convenient Care.** EHRs can alert providers to contact you when it is time for certain screening tests. When doctors, pharmacies, labs, and other members of your health care team are able to share information, you may no longer have to fill out all the same forms over and over again, wait for paper records to be passed from one doctor to the other, or carry those records yourself.

## Keeping Your Electronic Health Information Secure

Most of us feel that our health information is private and should be protected. The federal government put in place the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule to ensure you have rights over your own health information, no matter what form it is in. The government also created the HIPAA Security Rule to require specific protections to safeguard your electronic health information. A few possible measures that can be built in to EHR systems may include:

- "Access control" tools like passwords and PIN numbers, to help limit access to your information to authorized individuals.
- "Encrypting" your stored information. That means your health information cannot be read or understood except by those using a system that can "decrypt" it with a "key."
- An "audit trail" feature, which records who accessed your information, what changes were made and when.

Finally, federal law requires doctors, hospitals, and other health care providers to notify you of a "breach." The law also requires the health care provider to notify the Secretary of Health and Human Services. If a breach affects more than 500 residents of a state or jurisdiction, the health care provider must also notify prominent media outlets serving the state or jurisdiction. This requirement helps patients know if something has gone wrong with the protection of their information and helps keep providers accountable for EHR protection.

To learn more, visit [www.hhs.gov/ocr/privacy/](http://www.hhs.gov/ocr/privacy/).



For more information, visit [www.hhs.gov/ocr/](http://www.hhs.gov/ocr/).

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



# OFFICE FOR CIVIL RIGHTS

## YOUR HEALTH INFORMATION PRIVACY RIGHTS

Most of us feel that our health information is private and should be protected. That is why there is a federal law that sets rules for health care providers and health insurance companies about who can look at and receive our health information. This law, called the Health Insurance Portability and Accountability Act of 1996 (HIPAA), gives you rights over your health information, including the right to get a copy of your information, make sure it is correct, and know who has seen it.

### Get It.

You can ask to see or get a copy of your medical record and other health information. If you want a copy, you may have to put your request in writing and pay for the cost of copying and mailing. In most cases, your copies must be given to you within 30 days.

### Check It.

You can ask to change any wrong information in your file or add information to your file if you think something is missing or incomplete. For example, if you and your hospital agree that your file has the wrong result for a test, the hospital must change it. Even if the hospital believes the test result is correct, you still have the right to have your disagreement noted in your file. In most cases, the file should be updated within 60 days.

### Know Who Has Seen It.

By law, your health information can be used and shared for specific reasons not directly related to your care, like making sure doctors give good care, making sure nursing homes are clean and safe, reporting when the flu is in your area, or reporting as required by state or federal law. In many of these cases, you can find out who has seen your health information. You can:

- **Learn how your health information is used and shared by your doctor or health insurer.** Generally, your health information cannot be used for purposes not directly related to your care without your permission. For example, your doctor cannot give it to your employer, or share it for things like marketing and advertising, without your written authorization. You probably received a notice telling you how your health information may be used on your first visit to a new health care provider or when you got new health insurance, but you can ask for another copy anytime.
- **Let your providers or health insurance companies know if there is information you do not want to share.** You can ask that your health information not be shared with certain people, groups, or companies. If you go to a clinic, for example, you can ask the doctor not to share your medical records with other doctors or nurses at the clinic. You can ask for other kinds of restrictions, but they do not always have to agree to do what you ask, particularly if it could affect your care. Finally, you can also ask your health care provider or pharmacy not to tell your health insurance company about care you receive or drugs you take, if you pay for the care or drugs in full and the provider or pharmacy does not need to get paid by your insurance company.

- **Ask to be reached somewhere other than home.** You can make reasonable requests to be contacted at different places or in a different way. For example, you can ask to have a nurse call you at your office instead of your home or to send mail to you in an envelope instead of on a postcard.

If you think your rights are being denied or your health information is not being protected, you have the right to file a complaint with your provider, health insurer, or the U.S. Department of Health and Human Services.

To learn more, visit [www.hhs.gov/ocr/privacy/](http://www.hhs.gov/ocr/privacy/).



For more information, visit [www.hhs.gov/ocr/](http://www.hhs.gov/ocr/).

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



The Department of Health  
Care Policy and Financing

## Privacy Under HIPAA

**This section provides a general outline of the HIPAA Privacy provisions. Readers seeking detailed and definitive descriptions should consult the CMS documents referenced below. Readers are advised to seek legal counsel for answers to legal questions.**

The HIPAA Privacy rules define the rights of individuals (including clients of the CO Medicaid Program) and the obligations of providers and others regarding the individual's Protected Health Information (PHI). The Privacy rules became effective on April 14, 2002, with nationwide implementation required two years later. The CO Medicaid Program is fully compliant with the letter and the spirit of these rules.

The Privacy Rule protects all "individually identifiable health information" held or transmitted by a covered entity or its business associates, in any form or media, whether electronic, paper, or oral. The Privacy Rule calls this information "protected health information" (PHI). Health plans (including the CO Medicaid Program), health care providers and health clearinghouses are all covered entities under the rule.

While HIPAA sets a national minimum standard for protecting such patient information, it allows more stringent state laws to supersede the minimum standard.

### Health Plans, Health Care Providers and Health Care Clearinghouses

For entities covered by HIPAA, including the CO Medicaid Program, the privacy rules define and limit the circumstances in which an individual's PHI may be used or disclosed. A covered entity may disclose some or all of a subject individual's PHI, even without specific authorization from the individual:

- to the subject individual when requested by the subject individual
- for treatment, payment and health care operations for the individual
- if incidental to an otherwise permitted use
- to others, if authorized in writing by the subject individual
- to others, if the subject individual has been given the opportunity to approve or deny this

A covered entity must disclose PHI:

• to the subject individual

- to the Secretary of Health and Human Services when it is to be used as part of an investigation or to determine compliance

Department of Health Care Policy  
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· Denver, CO 80203-1818 · (303)  
866-2993 Phone · (303) 866-4411

In addition, covered entities (including the CO Medicaid Program) are required by these rules to:

- provide notice of their privacy practices and a point of contact for further information and for submitting complaints
- limit disclosure of PHI to the minimum necessary (other than for health care treatment and certain other purposes)
- disclose to the individual to whom, when, and why PHI might be shared where it is ~~authorized by these rules to do so~~
- amend health care records at an individual's request. Covered entities can deny the individual's request if it is accurate and complete or was not created by the covered entity receiving the request.
- track disclosures of PHI for other than 1) health care treatment, payment and operations, 2) to the subject individual or 3) for certain public benefit purposes.

Fax  
Medicaid Customer Service - 303-  
866-3513; toll free 1-800-221-  
3943

[Transparency Online Project](#)  
[\(TOP\) System](#) [Privacy &](#)  
[Security Policy](#)

Providers may not condition treatment, nor may health plans condition payment, upon a patient's signing an authorization.

## Rights of Patients/Clients

The HIPAA Privacy Rule specifies that clients/patients have the right:

- to see and have a copy of their health care information record
- to request changes to their health care record and if denied, to submit a statement of disagreement which will be included in the client/patient record
- to request that disclosure of their health care information be further restricted to that necessary for treatment, payment and limited other immediate needs
- to request a list of the instances when their health care information has been disclosed for other than a) treatment, b) payment, c) health care operations or d) when the disclosure was specifically approved in writing
- to request that communications of PHI be sent to alternative locations or by alternative means to further protect the privacy of the subject individual
- to file complaints with the Department of Health & Human Services' Office of Civil Rights.

## Penalties for Non-compliance

Like other HIPAA rules, the Privacy Rules carries penalties for noncompliance unless the violation is due to reasonable cause, did not involve willful neglect and was corrected within 30 days.



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## U.S. Department of Health & Human Services

*Improving the health, safety, and well-being of America*

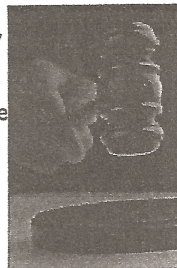
### Health Information Privacy

#### Court Orders and Subpoenas

A covered health care provider or health plan may disclose protected health information required by a court order, including the order of an administrative tribunal. However, the provider or plan may only disclose the information specifically described in the order.

A subpoena issued by someone other than a judge, such as a court clerk or an attorney in a case, is different from a court order. A covered provider or plan may disclose information to a party issuing a subpoena only if the notification requirements of the Privacy Rule are met. Before the covered entity may respond to the subpoena, the Rule requires that it receive evidence that reasonable efforts were made to either:

- notify the person who is the subject of the information about the request, so the person has a chance to object to the disclosure, or to
- seek a qualified protective order for the information from the court.



For further information on this topic, please refer to 45 C.F.R. § 164.512(e) and OCR's Frequently Asked Questions.

#### The HIPAA Privacy Rule for Consumers

[Your Health Information Privacy Rights](#)  
[Privacy and Your Health Information](#)  
[Your Medical Records](#)  
[Employers and Health Information in the Workplace](#)  
[Personal Representatives](#)  
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