

PATHWAYS CMH

PROCEDURE TITLE: Recipient Access and Schedule of Fees for Copying - Appendix 2 of Privacy Policy	CATEGORY: Recipient Rights
EFFECTIVE DATE: April 2003	BOARD APPROVAL DATE: April 2003
REVIEWED DATE: May 5, 2015; April 22, 2016; April 15, 2017	REVISION(S) TO PROCEDURE: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
RESPONSIBLE PARTY/APPROVAL: Recipient Rights Supervisor or Designee/ Mary J. Swift, CEO	

PURPOSE:

The following standards shall be adhered to:

The recipient has a right of access to inspect and obtain a copy of their Protected Health Information (PHI) in a designated record set, for as long as the PHI is maintained in said designated record set. All requests must be made in writing. The exceptions to this right of access are:

- Psychotherapy Notes.
- Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.
- The information is part of a research project and the recipient has agreed to the denial of access when consenting to participate in the research that includes treatment. The recipient must be informed whether or not access will be permitted after the research project is over.

An employee who is a recipient, parent of a minor recipient, legal guardian, or who has power of attorney for a recipient, must follow the procedures enumerated in his policy.

PROCEDURES:

All requests to inspect or copy must be made in writing to Pathways' Records Department.

A. Summary of Section 748 and 42 CFR Part 2:

1. Clinical records staff shall file a summary of MHC section 748 in each recipient record when it is opened.
2. Programs providing substance abuse services, including Co-occurring treatment, shall give a summary of federal laws concerning the confidentiality of recipient records to recipients upon admission.

B. Disclosures:

Pathways will process requests for information from the recipient's records in a timely, consistent manner as set forth in this procedure.

1. The following priorities and time frames shall apply to release of information requests processed by the clinical records department and authorized clinicians. Access may not take longer than 30 days. If the information is not on-site, then the records department may take up to 60 days.

2. The recipient will be provided with access to the protected health information in the form and format requested by the recipient, if it is readily producible in such form and format; or, if not, in a readable hard copy form or such other form and format as agreed to by Pathways and the recipient.
 - (ii) Notwithstanding paragraph (2), if the protected health information that is the subject of a request for access is maintained in one or more designated record sets electronically and if the recipient requests an electronic copy of such information, Pathways must provide the recipient with access to the protected health information in the electronic form and format requested by the recipient, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by Pathways and the recipient.

3. Time and manner of access:
 - (i) The Pathways must provide the access as requested by the recipient in a timely manner, including arranging with the recipient for a convenient time and place to inspect or obtain a copy of the protected health information, or mailing the copy of the protected health information at the recipient's request. The Pathways may discuss the scope, format, and other aspects of the request for access with the recipient as necessary to facilitate the timely provision of access.

 - (ii) If an recipient's request for access directs the Pathways to transmit the copy of protected health information directly to another person designated by the recipient, Pathways must provide the copy to the person designated by the recipient. The recipient's request must be in writing, signed by the recipient, and clearly identify the designated person and where to send the copy of protected health information.

Pathways clinical records department and authorized clinicians will keep a record of all disclosures which includes:

- a. Verification of the identity of the recipient requesting disclosure (see Appendix 13).
- b. Date request was received.
- c. Information released and date released.
- d. Fee charged.
- e. To whom it is released.
- f. The purpose stated by the person requesting the information.

- g. A statement indicating how the disclosed information is germane to the stated purpose.
 - h. The subsection of Section 748 of the Mental Health Code, or other applicable law, under which a disclosure was made.
 - i. A statement stamped on the information that the recipient receiving confidential information shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained and in accordance with Section 748.
4. Unless Mental Health Code, MCL 330.1748(4) applies, if Pathways denies access in the following situations, the recipient must be provided a review of the denial. The recipient must receive the written denial in plain language, told the basis of the denial, how they may exercise their rights to have the denial reviewed, and a description of how the recipient may complain to Pathways or the Secretary of CMS. The reviewer will be a licensed health care professional who did not participate in the original decision to deny. After the review the recipient will either be denied or provided access in these situations:
 - A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the recipient or another person.
 - The PHI makes reference to another person, except a health care provider, and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably like to cause substantial harm to such other person.
 - The request for access is made by the recipient's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably like to cause substantial harm to the recipient or another person.
6. When information is to be disclosed without identifying the name of the recipient, clinical records staff and authorized clinicians will follow the Pathways procedure for de-identifying recipient information as outlined in Appendix 15.
7. When disclosure is appropriate, clinical records staff and authorized clinicians will provide copies to authorized receivers stamped with the redisclosure information. Each disclosure outside the agency will contain the following notice:

This information has been disclosed to you from records protected by State and Federal confidentiality rules (42 CFR Part 2, 45 CFR Part 160 and 164 and section 748 of the Michigan Mental Health Code) The Federal and State rules prohibit you from making any further disclosures of this information unless further disclosure is expressly permitted by the written authorization of the person, guardian or parent of a minor child to whom it pertains or otherwise permitted by law. A general authorization for the release of medical

or other information is NOT sufficient for this purpose. 42 CFR Part 2 restricts any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

8. When information is being requested for evaluation, accreditation, or statistical compilation, the primary clinician will determine whether such disclosure is appropriate for that recipient and will determine whether the recipient's identity may be disclosed.
9. Unless MCL 330.1748(4) applies, the primary clinician will determine when identification would be harmful to a recipient.
10. The Clinical Records Department will retain the original request, the authorization for release of information, and a copy of the cover letter in the recipient's record for the appropriate record retention period for medical and business-related records or for not less than six years from the date of release, whichever is longer.
11. The Supervisor of Medical Records or designee shall carry out a routine audit of the release of information at least quarterly, paying particular attention to the following factors:
 - a. Validity of authorization.
 - b. Appropriateness of information abstracted in response to the request.
 - c. Retention of authorization, request, and transmitting cover letter.
 - d. Procedures for telephone, electronic, and in-person requests.
 - e. Compliance with designated priorities and time frames.
 - f. Proper processing of fees.
 - g. Maintenance of confidentiality.
12. The Supervisor of Medical Records or designee shall give periodic in-service training to all employees involved in the release of information process.

C. Designated Record Set:

By HIPAA definition it is a group of records maintained by or for Pathways that is:

- The medical records and billing records about the recipient maintained by or for Pathways.
- The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for Pathways; or

- Used, in whole or in part, by Pathways to make decisions about recipients.

The term record means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for Pathways.

D. Fee Schedule:

Pathways will base the fee on an assessment of such factors as the costs of equipment and supplies, employee costs, and administrative overhead and shall include postage, including express mail costs when incurred at the request of the authorizing party. Pathways has established maximum fees for copies of patient records:

1. The first copy of the recipient's record will be free of charge to the recipient only. The PHI that is released to the client shall be logged in the recipient's record in the correspondence log.
2. Pathways will charge 15 cents per page along with the hourly wage of the records staff person preparing the PHI, times the number of hours it takes to prepare the PHI. An invoice prepared by the records staff person shall be included in the packet of PHI. Copy of the invoice shall be sent to the billing office.
3. The Supervisor of Medical Records has the authority to waive fees.

REFERENCES:

Act 258 of the Public Acts of 1974, as amended (Michigan Mental Health Code) Sections 748 and 752.

45 CFR Part 164 Section 524.

42 CFR Part 2 Section 2.23.