

PLUMAS COUNTY, CALIFORNIA



HIPAA RELATED POLICIES AND PROCEDURES

EFFECTIVE APRIL 14, 2003

INDIVIDUAL RIGHTS TO INSPECT AND COPY PROTECTED HEALTH INFORMATION

Policy:

Except for specified circumstances, an individual has a right to access, inspect and obtain a copy of their protected health information from Plumas County.

Purpose:

Individuals have the right to access their health information.

Responsibilities:Unreviewable grounds for denial:

An individual's access may be denied, without providing the individual an opportunity for review, if the information requested is:

- Psychotherapy notes;
- Information compiled in a reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding;
- Protected Health Information maintained by the County that is subject to Clinical Laboratory Improvements Amendments of 1988, 42 U.S.C. 263a, to the extent the provision of access to the individual would be prohibited by law; or exempt from the Clinical Laboratory Improvements Amendments of 1988, pursuant to 42 CFR 493.3(a)(2).
- Information created or obtained in the course of research that includes treatment, may be temporarily suspended for as long as the research is in progress provided the individual was previously informed of this and consents;
- If the covered entity is a correctional institution and if it would jeopardize the health, safety, security, custody or rehabilitation of an inmate or others;
- For records that are subject to the Privacy Act, 5 U.S.C. 552a, access may be denied if the denial of access would meet the requirements of the Act; or
- If the protected health information was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

Reviewable grounds for denial:

The County may deny an individual access, provided the individual is given a right to have such denials reviewed, when:

- 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 individual or another person;
- The protected health information makes reference to another person (unless such other person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or
- The request for access is made by the individual'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 likely to cause substantial harm to the individual or another person.

Review of a denial of access procedures:

If access is denied on the grounds above, the individual has the right to have the denial reviewed by a licensed health care professional who is designated by the County to act as a reviewing official and who did not participate in the original decision to deny. The County must provide or deny access in accordance with the determination of the reviewing official.

The County must comply with the requirements, which include:

- Making accessible any other requested information in the designated record set that the County does not feel there are grounds to deny access to;
- The County must provide a timely, written denial to the individual in plain language that must contain:
 1. The basis of the denial;
 2. If applicable, a statement of the individual's review; and
 3. A description of how the individual may complain to the County or to the Secretary of the U.S. Department of Health and Human Services; the description must include the name, or title, and telephone number of the contact person or designated office.
- If the County does not maintain the health information that is the subject of the individual's request for access, but knows where the requested information is maintained, the County must inform the individual where to direct their request for access; and
- The County must promptly refer a request for review to such designated reviewing official. The designated reviewing official must determine within a reasonable period of time, whether or not to deny the access.

Process:

Plumas County requires the request to be submitted in writing on the required form.

The Privacy Officer is responsible for receiving requests.

The County will act on a written request for access to health information within 5 days of receipt of the request, or 15 days if the request is for a copy of the information. Denials must be in writing.

The County must provide access in the form requested by the individual. If it is not readily producible in such form, the County must provide a readable hard copy form or other such form as agreed to by the County and the individual.

The County may provide the individual with a summary or explanation of the protected health information requested if the individual agrees in advance to the summary or explanation and to the fee imposed, if any. This summary shall be available within 10 working days of receipt of the written request. The County may have a single extension not to exceed 30 days to provide a summary if the record is of extraordinary length; however, the County must inform the individual of the reason for the delay and the date the summary will be completed. Individuals retain the right to access their records even if the County has provided a summary.

Plumas County will provide an individual access as requested, arranging for a convenient time and place for the individual to inspect or obtain the copy of the protected health information. The County may charge fees, based on actual cost, for providing a copy if the individual agrees to the fees in advance. These fees shall not exceed twenty-five cents (\$0.25) per page or fifty cents (\$0.50) per page for records that are copied from microfilm and any additional reasonable clerical costs incurred in making the records available. If an individual, who is not represented by an attorney, needs a copy for an appeal regarding eligibility for a public benefit program, the County must waive fees pending outcome of the hearing.

Plumas County will request payment from the individual at time of pick up of the copies.

Date issued: April 14, 2003
Last revision date: July 28, 2004

Reference: 45 CFR 164.524, and 45 CFR 164.530(j); CA Health & Safety Code §123110