



# HIPPA Privacy Rule Policies

<b>Policies and Procedures</b> <b>REQUESTS FOR ACCESS</b>	Policy # 9	
APPROVED BY:	ADOPTED:	
SUPERCEDES POLICY: NEW	REVISED: 07122017	
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## Purpose

To describe the circumstances under which an individual is entitled to inspect and obtain copies of their Protected Health Information (PHI) maintained by LifeMed ID and how LifeMed ID will assist its customers with responding to requests for access in accordance with state and federal privacy laws, HIPAA Regulations and LifeMed ID’s contracts with its customers.

## Policy

It is the policy of LifeMed ID to allow individuals to inspect and obtain copies of their PHI in accordance with state and federal privacy laws, HIPAA Regulations and LifeMed ID’s contracts with its customers.

All workforce members must comply with this policy. Violations of this policy will result in disciplinary action based on the seriousness of the offense or other factors. Disciplinary action may include written warning, suspension, or termination.

## Definitions

“Customer” is an entity from which LifeMed ID receives PHI subject to a Business Associate Agreement (or other written agreement with the entity) in compliance with the HIPAA Regulations and approved by LifeMed ID’s legal counsel.

“Designated Record Set” means:

1. A group of records maintained by or for a Covered Entity that is:
  - a. The medical records and billing records about individuals maintained by or for a covered Health Care Provider;
  - b. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a Health Plan; or
  - c. Used, in whole or in part, by or for the Covered Entity to make decisions about individuals.
2. For purposes of this definition, the term record means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a Covered Entity.





For definitions of other capitalized terms or phrases, please refer to: *HIPAA-HITECH Privacy and Security Glossary*.

## Procedures

1. Individual's Right to Access to PHI. Individuals generally have the right to inspect and obtain copies of their PHI maintained in a Designated Record Set, except for:
  - a. Psychotherapy notes, and
  - b. Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.
2. Responsibility for Access Determinations.
  - a. The customer's Privacy Office is responsible for granting or denying access requests.
  - b. Any LifeMed ID workforce member who receives a notice from a customer requesting LifeMed ID to provide PHI to an individual will forward the notice immediately to the LifeMed ID's Privacy Officer which will oversee responding to or handling the notice.
3. Requests from LifeMed ID's customer.
  - a. If the customer notifies LifeMed ID of a granted request for access, LifeMed ID will comply with the request.
  - b. LifeMed ID's workforce member or supervisor will advise LifeMed ID's Privacy Officer of the request and assist with obtaining the customer's Privacy Office contact information.
  - c. LifeMed ID's Privacy Officer will contact the customer's Privacy Office to notify them of the request and will obtain a copy of the Designated Record Set.
  - d. Upon receiving confirmation from the customer, LifeMed ID's Privacy Officer will send the PHI to the customer's Privacy Office unless the customer requests LifeMed ID to send the PHI directly to the individual.
4. Request Made Directly to LifeMed ID If an individual or an individual's Personal Representative submits a request directly to LifeMed ID for access to their PHI:
  - a. The workforce member receiving the request or his/her supervisor will advise LifeMed ID's Privacy Officer of the request.
  - b. LifeMed ID's Privacy Officer will contact the customer's Privacy Office to notify them of the request.
  - c. LifeMed ID's Privacy Officer will forward a copy of the Designated Record Set to the customer's Privacy Office, unless the customer requests that it be sent directly to the individual, in which case, a copy will also be sent to the customer.



If the customer's Privacy Office grants the request, the LifeMed ID Privacy Officer will oversee implementing the necessary procedures to comply with the granted request as described above.

5. Inspection of Records. Subject to applicable state laws, the customer's Privacy Office will have access to, and will have the right upon request, to inspect and, at its own expense, copy, and obtain a copy of PHI pertaining to individuals in a Designated Record Set, for as long as the PHI is maintained in the Designated Record Set by LifeMed ID
6. Provision and Timing of Access.
  - a. **Timing:** If a customer grants an access request, the PHI will be made available within the time period specified by the applicable contract with the customer. If no time period is specified, the PHI will be made available within thirty (30) days of the request
  - b. **Electronic Copies:** If the PHI requested is maintained in one or more Designated Record Sets electronically and if the individual requests an electronic copy of such information, LifeMed ID must provide the individual with access to the PHI in the electronic form and format requested, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by LifeMed ID's Privacy Officer and the individual.
  - c. **Summary of Information:** LifeMed ID may provide the individual with a summary of the PHI requested in lieu of providing access to the PHI, or may provide an explanation of the PHI to which access has been provided, if the individual agrees in advance to such a summary or explanation and agrees in advance to any fees imposed.
  - d. **Directed to Another Person:** If the individual requests that the PHI be sent directly to another person designated by the individual, LifeMed ID will provide the copy to the person designated by the individual. The individual's request must be in writing, signed by the individual, and clearly identify the designated person and where to send the copy of PHI.
7. Charges. Appropriate and reasonable cost-based fees may be charged to the individual for copies, or for a summary or explanation agreed to in advance (see Section 6(c) above), for supplies and labor for copying (whether in paper or electronic form), postage, if requested to be mailed, and, if applicable, preparation of an explanation or summary of the PHI. The LifeMed ID' Privacy Officer will ensure calculation of appropriate charges.
8. Documentation and Retention. The designated office will document the information about the handling of the request for access in the individual's record as required by the customer or the customer's contract, and in accordance with LifeMed ID's internal policies and procedures. The LifeMed ID Privacy Officer will ensure that documentation associated with a request for access to PHI that has been granted includes:
  - a. The Designated Record Sets that are subject to access by individuals,
  - b. The titles of the persons or offices at your customer responsible for processing requests for access by individuals,



- c. The titles of persons and office at LifeMed ID receiving and implementing requests for access granted by your customer, and
- d. Steps taken by LifeMed ID to accommodate a granted request for access to PHI.

## Documentation

This version of the policy, together with any forms and other documentation created or obtained in accordance with the policy, will be retained by LifeMed ID for a period of at least 6 years plus the current year from the date of creation or the date when last in effect, whichever is later.



## Regulatory Authority

### 45 C.F.R. §164.524 Access of individuals to protected health information.

#### (a) **Standard:** Access to protected health information.

*(1) Right of access. Except as otherwise provided in paragraph (a)(2) or (a)(3) of this section, an individual has a right of access to inspect and obtain a copy of protected health information about the individual in a designated record set, for as long as the protected health information is maintained in the designated record set, except for:*

- (i) Psychotherapy notes;*
- (ii) Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding; and*
- (iii) Protected health information maintained by a covered entity that is:*
  - (A) Subject to the 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*
  - (B) Exempt from the Clinical Laboratory Improvements Amendments of 1988, pursuant to 42 CFR 493.3(a)(2).*

#### (b) **Implementation specifications:** requests for access and timely action

*(1) Individual's request for access. The covered entity must permit an individual to request access to inspect or to obtain a copy of the protected health information about the individual that is maintained in a designated record set. The covered entity may require individuals to make requests for access in writing, provided that it informs individuals of such a requirement.*

*(2) Timely action by the covered entity.*

- (i) Except as provided in paragraph (b)(2)(ii) of this section, the covered entity must act on a request for access no later than 30 days after receipt of the request as follows.*
  - (A) If the covered entity grants the request, in whole or in part, it must inform the individual of the acceptance of the request and provide the access requested, in accordance with paragraph (c) of this section.*
  - (B) If the covered entity denies the request, in whole or in part, it must provide the individual with a written denial, in accordance with paragraph (d) of this section.*
- (ii) If the covered entity is unable to take an action required by paragraph (b)(2)(i)(A) or (B) of this section within the time required by paragraph (b)(2)(i) of this section, as applicable,*



*the covered entity may extend the time for such actions by no more than 30 days, provided that:*

- (A) The covered entity, within the time limit set by paragraph (b)(2)(i) of this section, as applicable, provides the individual with a written statement of the reasons for the delay and the date by which the covered entity will complete its action on the request; and*
- (B) The covered entity may have only one such extension of time for action on a request for access.*

**(c) Implementation specifications:** *Provision of access. If the covered entity provides an individual with access, in whole or in part, to protected health information, the covered entity must comply with the following requirements.*

*(1) Providing the access requested. The covered entity must provide the access requested by individuals, including inspection or obtaining a copy, or both, of the protected health information about them in designated record sets. If the same protected health information that is the subject of a request for access is maintained in more than one designated record set or at more than one location, the covered entity need only produce the protected health information once in response to a request for access.*

*(2) Form of access requested.*

*(i) The covered entity must provide the individual with access to the protected health information in the form and format requested by the individual, 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 the covered entity and the individual.*

*(ii) Notwithstanding paragraph (c)(2)(i) of this section, 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 individual requests an electronic copy of such information, the covered entity must provide the individual with access to the protected health information in the electronic form and format requested by the individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by the covered entity and the individual.*

*(iii) The covered entity may provide the individual with a summary of the protected health information requested, in lieu of providing access to the protected health information or*



*may provide an explanation of the protected health information to which access has been provided, if:*

- (A) The individual agrees in advance to such a summary or explanation; and*
- (B) The individual agrees in advance to the fees imposed, if any, by the covered entity for such summary or explanation.*

**(3) Time and manner of access.**

*(i) The covered entity must provide the access as requested by the individual in a timely manner as required by paragraph (b)(2) of this section, including arranging with the individual 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 individual's request. The covered entity may discuss the scope, format, and other aspects of the request for access with the individual as necessary to facilitate the timely provision of access.*

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

**(4) Fees.** *If the individual requests a copy of the protected health information or agrees to a summary or explanation of such information, the covered entity may impose a reasonable, cost-based fee, provided that the fee includes only the cost of:*

- (i) Labor for copying, the protected health information requested by the individual, whether in paper or electronic form;*
- (ii) Supplies for creating the paper copy or electronic media if the individual requests that the electronic copy be provided on portable media;*
- (iii) Postage, when the individual has requested the copy, or the summary or explanation, be mailed; and*
- (iv) Preparing an explanation or summary of the protected health information, if agreed to by the individual as required by paragraph (c)(2)(ii) of this section.*



## References

### External

1. Omnibus Final Rule: <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=a1031c979126e6440b522063b7bba578&rgn=div5&view=text&node=45:1.0.1.3.78&idno=45%20>