

(was Administration Policy 9-09-070)

Chapter: **DIRECTLY-OPERATED PROGRAM MANAGEMENT**
Title: **INDIVIDUAL'S RIGHT TO AN ACCOUNTING OF DISCLOSURES**

Prior Approval Date: 12/6/07
Current Approval Date: 8/05/09

Approved by: _____

Executive Director

Date

Donald J. Habkuf x *8/5/09*

I. ABSTRACT

This policy establishes the standards and procedures of the Macomb County Community Mental Health Board (MCCMH) for compliance with the Privacy Rules of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) by providing consumers with an opportunity to receive an accounting of the disclosures made of their personal health information.

II. APPLICATION

This policy shall apply to the MCCMH administrative offices and to all directly-operated network providers of the MCCMH Board.

III. POLICY

It is the policy of the MCCMH Board to consider and respond to all requests from consumers, former consumers, or their legal representatives to receive an accounting of certain disclosures of their personal health information.

IV. DEFINITIONS

A. None.

V. STANDARDS

A. Disclosures of personal health information that need to be accounted for may have been made by multiple programs in MCCMH and by outside business associates.

- B. All requests for an accounting must in writing, preferably using the Request for Accounting of Personal Health Information Disclosure, MCCMH #310 (Exhibit A).
- C. MCCMH shall respond to requests for an accounting of personal health information (PHI) disclosures within 60 days from the date of the request.
- D. MCCMH shall account for all uses and disclosures of its consumers' personal health information except for those in the following categories:
 - 1. Disclosures to carry out treatment, payment, and health care operations (this includes disclosures made by business associates for these purposes as well);
 - 2. Disclosures made to the individual;
 - 3. Disclosures made pursuant to a consumer (parent/guardian) signed release of information.
 - 4. Disclosures made incident to a use or disclosure that is otherwise permitted or required by law or regulations;
 - 5. Disclosures to correctional institutions or law enforcement officials when the consumer is an inmate;
 - 6. Disclosures made to the Secretary of Health and Human Services for compliance purposes and for any other disclosures allowed to be made without the individual's permission;
 - 7. Disclosures made as part of a limited data set (released in aggregate); and
 - 8. Disclosures that occurred prior to April 14, 2003.
- E. MCCMH shall include the following items in every accounting:
 - 1. The date of the disclosure;
 - 2. The name and address (if the address is known) of the person or organization receiving the personal health information;
 - 3. Identification of the personal health information disclosed; and
 - 4. A brief statement that reasonably informs the consumer of the purpose for the disclosure.

- F. With respect to multiple disclosures of a consumer's personal health information to the same person or entity for the same purpose, MCCMH shall present all of the information listed in V.E. for the first disclosure in the accounting period. MCCMH shall also present the frequency, periodicity, or number of disclosures made during the accounting period and the date of the most recent disclosure.
- G. With respect to disclosures of identifiable consumer personal health information for a particular research purpose with 50 or more individuals participating, MCCMH shall provide the following in an accounting:
1. The name of the protocol or other research activity;
 2. A description, in plain language, of the research protocol or other research activity, including the purpose and criteria for selection of particular records;
 3. A description of the type of personal health information that was disclosed;
 4. The date or period of time during which such disclosure occurred, or may have occurred, including the date of the last disclosure during the accounting period;
 5. The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
- H. In the event that it is reasonably likely that the personal health information of a particular consumer has been disclosed for a protocol or research activity (G. above), MCCMH shall, if requested by the consumer, assist him/her in contacting the entity that sponsored the research and the researcher.
- I. A request for an accounting shall be made subject to the consumer's agreement to pay a reasonable, cost-based fee. MCCMH shall inform the consumer of the fee on the Request for Accounting of Personal Health Information Disclosure and obtain his/her written agreement to pay the fee prior to preparing the accounting. MCCMH shall offer the consumer an opportunity to withdraw or modify his/her request in order to avoid or reduce the fee.

VI. PROCEDURES

- A. Determining Which Disclosures Must Be Included in the Accounting

1. Every staff member who is responsible for disclosing personal health information either internally or externally is responsible for reviewing the standards in V. above, in particular the list of exceptions to the accounting requirement.
 2. In any case where a staff member is unsure of whether or not a disclosure needs to be included in an accounting, he/she must:
 - a. Contact a Supervisor for assistance in making the determination; or
 - b. The Privacy Officer for assistance in making the determination; or
 - c. Complete a Personal Health Information Disclosure to be Included in Consumer's Accounting, MCCMH #308 (Exhibit B), as described below.
- B. Staff shall complete a Personal Health Information Disclosure to be included in Consumer's Accounting each time there is a disclosure which does not fall under one of the HIPAA Privacy rule exceptions (See V.D.1-8 in this policy). This form is intended to organize and keep this information up to date.
- C. Requests for Accounting
1. If a consumer or his/her parent (if a minor) or guardian requests an accounting, he/she should complete the request in writing, preferably on the Request for Accounting of Personal Health Information form (Exhibit B).
 2. In those cases where the consumer is not willing or able to do so, a staff member should complete the form and ask the consumer to sign it indicating that he/she has been informed of the accounting fee.
 3. The staff member should send the form as soon as possible to the Program Supervisor or to the MCCMH Privacy Officer if the record is closed.
- D. Completing an Accounting
1. Upon receiving the Request for Personal Health Information Disclosure form, the Program Supervisor or the MCCMH Privacy Officer shall list the disclosures in date order as described in V.E.1-4 and V.G.1-6.
 2. The accounting may be given to the consumer in person or sent to him/her by U.S. mail.

3. The accounting shall be completed as soon as possible, but not longer than 60 days from the date of the request.
4. The consumer (parent or guardian as applicable) shall be requested to sign an Acknowledgment of Receipt of the Accounting, MCCMH #309 (Exhibit C), and return it to the MCCMH Program Supervisor or Privacy Officer. If the accounting is mailed, the Acknowledgment form and a stamped envelope shall be included for the requestor to return the signed form to MCCMH.

VII. REFERENCES / LEGAL AUTHORITY

- A. Health Insurance Portability and Accountability Act of 1996 (HIPAA), P.L. 104-191
- B. 45 CFR §§ 164.501, 164.528

VIII. EXHIBITS

- A. Request for Accounting of Personal Health Information Disclosure MCCMH #310
- B. Personal Health Information Disclosure to be Included in Consumer's Accounting, MCCMH #308
- C. Consumer Acknowledgment of Receipt of Accounting, MCCMH #309

Macomb County Community Mental Health Request for Accounting of Personal Health Information Disclosure

I request an accounting of all personal health information disclosed by Macomb County Community Mental Health Board pursuant to the requirements of the Privacy Rule. I understand that this accounting will not include disclosures that were made:

1. To carry out treatment, payment, and health care operations (this includes disclosures made by business associates for these purposes as well);
2. To me or pursuant to a release of information signed by me (parent/guardian as applicable);
3. Incident to a use or disclosure that is otherwise permitted or required by law or regulations;
4. To the Secretary of Health and Human Services for compliance purposes and for any other disclosures allowed to be made without my permission;
5. To correctional institutions or law enforcement officials when consumer is an inmate;
6. As part of a limited aggregated data set.
7. Prior to April 14, 2003.

I am requesting the accounting from: _____ to _____

I understand that a reasonable fee is charged for the preparation of the accounting; Fee: _____

Consumer Name: _____

Social Security Number: _____ DOB: _____

Address: _____

Signed: _____ Date: _____
Consumer/Parent/Guardian signature

Internal Use Only

Date Accounting Completed: _____

Signature of staff person completing Accounting: _____
Name/position

Attach copy of accounting.

Request for Accounting of Personal Health Information Disclosure, MCCMH #310 (4/03), MCCMH MCO Policy 10-340, Exhibit A

**Macomb County Community Mental Health
Consumer Acknowledgment of Receipt of Accounting**

I _____ have received the accounting of
disclosures of PHI for _____ as requested.
(Consumer Name)

Signature (Consumer/Parent/Guardian)

Date

MCCMH #309 (4/03)