

**PURPOSE**

To permit individuals receiving benefits from one or more of the Michigan Department of Health and Human Services' (MDHHS) health programs to request amendments to their protected health information.

**PROCEDURE****Amendment  
Request- Mental  
Health Records****Inserting Information in the Treatment Record by  
Recipients, Guardians, or Parents of a Minor Recipient**

- a. All staff is responsible to assure that recipients, their guardians, or the parents of recipients who are minors, be allowed to enter challenges to the recipient's treatment record. All staff is responsible to assure that anything written into the treatment record of a recipient is by the recipient, the recipient's guardians, or the parent of a minor recipient in accordance with guidelines set forth in this procedure.
- b. Staff will arrange a reasonable period of time (Monday - Friday, 9:00 am-5:00 pm) for statements to be placed in the recipient's treatment record.
- c. Recipients, their guardians, or the parents of recipients who are minors will not be permitted to place comments in, delete, mar, or otherwise deface other sections of the treatment record.
- d. Staff will not be permitted to place comments on, delete, mar, or otherwise deface the recipient or guardian comments of the treatment record.
- e. Designated clinical staff will review comments before filing into treatment record.
- f. The designated clinical staff will note the date of insertion into the progress notes.
- g. Requests for amendments and related documentation must be maintained for a minimum of 6 years.

**Amendment  
Request - Non-  
Mental Health  
Records**

1. Individuals must request amendments to their protected health information in writing and can use the form DCH 1229, Amendment of Health Record Request. Individuals making a request for an amendment by telephone or e-mail should be forwarded a copy of the form. Verification of the requester's identity must be obtained prior to considering the amendment request. The request form must be maintained for a minimum of 6 years.
2. MDHHS employees that receive a request for an amendment can provide the individual with the form DCH 1229, Amendment of Health Record Request. All amendment requests should be immediately forwarded to the privacy office or the MDHHS facility's privacy officer. The request will be processed and coordinated with any other impacted MDHHS components designated by the individual.
3. MDHHS will designate an individual or individuals who will be responsible for processing a particular amendment request. The specific component responsible for recording the protected health information or originating the record must be consulted, if possible. Prior to making an amendment decision and should sign the amendment form.
4. MDHHS must act on the individual's request, no later than sixty days after receipt of a request, as set forth below:
  - a. Accepting the Amendment. If the MDHHS accepts the requested amendment, in whole or in part, the MDHHS must:
    - (i) Make the appropriate amendment by identifying the records in the designated record set that are affected by the amendment and appending the amendment to such record.
    - (ii) Inform the individual, in writing, that the amendment is accepted by sending the individual a copy of the form DCH 1229 with the acceptance noted.

- (iii) Obtain the individual's identification of and agreement to have MDHHS notify the relevant persons with whom the amendment needs to be shared.
  - (iv) Make reasonable efforts to inform and provide the amendment within a reasonable time to persons identified by the individual as having received protected health information about the individual and needing the amendment; and persons. Including business associates, that the MDHHS knows have the protected health information that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the individual.
- b. Denying the Amendment. If the MDHHS denies the requested amendment, in whole or in part, the MDHHS must:
- (i) Inform the individual in writing that the amendment is denied by sending the individual a copy of the form DCH 1229. When the agency denies a request to amend PHI the notice must:
    - a. Be on time (within the 60 days or the 30 day extension).
    - b. Be in plain language.
    - c. Contain the basis for the denial.
    - d. Contain a statement regarding the individual's right to submit a statement disagreeing with the denial and directions as to how the individual may file the statement of disagreement.
    - e. Contain a statement that the individual may request that the denial and the individual's statement of disagreement be included in any future disclosures of the individual's PHI.
    - f. Contain a statement and directions for the individual to complain, or give the name, title, phone number, address of designate agency person who receives complaints

Note: The agency can deny a request to amend PHI when:

- PHI was not created by the agency.
  - PHI is information not included in our DRS.
  - The PHI is not available for inspection under 164.524(a)(2) or (3) (when access is denied whether reviewable or not).
  - PHI is accurate and complete
    - (ii) Permit the individual to submit to the covered entity a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement.
    - (iii) Identify, as appropriate, the record or protected health information in the designated record set that is the subject of the disputed amendment and append or otherwise link the individual's request for an amendment, the MDHHS's denial of the request, the individual's statement of disagreement, if any, and the MDHHS's rebuttal, if any, to the designated record set. MDHHS may, but is not required to, prepare a written rebuttal to the individual's statement of disagreement. If a rebuttal statement is prepared, a copy of it must be provided to the individual who submitted the statement of disagreement.
5. If a statement of disagreement has been submitted by the individual, the MDHHS must include the material set forth in subsection (iii) of the preceding paragraph, or, at the election of the MDHHS, an accurate summary of any such information, with any subsequent disclosure of the protected health information to which the disagreement related.
  6. If the individual has not submitted a written statement of disagreement, the MDHHS must include the individual's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the protected health information only if the individual has requested such action.
  7. If MDHHS is informed by another covered entity of an amendment to an individual's protected health information,

MDHHS must amend the protected health information in designated record sets.

8. Requests for amendments, and documentation of the response to such requests, must be maintained for a minimum of 6 years and recorded on the Beneficiary and Provider Contact Tracking System or facility alternative.

*\*When other applicable privacy or confidentiality laws conflict with HIPAA, comply with the law that provides the individual with greater privacy protection or rights. (Examples of state and federal laws are: Medicaid, Substance Abuse, Public Health Code, HIV/AIDS/STDs, Mental Health Code). When in doubt, contact the Bureau of Legal Affairs.*

## REFERENCES

45 CFR §164.524, §164.526, §164.530, Form DCH 1229.

## CONTACT

For additional information concerning this procedure, contact the MDHHS Bureau of Legal Affairs.