

# Checklist for Implementing Patient's Right to Access Their Protected Health Information

Status	Description
	Psychotherapy notes;
	Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding; and
	PHI that is maintained by a covered entity (CE) that is 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
	PHI that is maintained by a CE that is exempt from the Clinical Laboratory Improvements Amendments of 1988, pursuant to 42 CFR 493.3(a)(2).
	PHI maintained by a correctional institution, or a covered health care provider acting under the direction of a correctional institution, if access would jeopardize the health, safety, security, custody, or rehabilitation of the patient or other inmates, or the safety of any officer, employee, or other person at the correctional institution or those responsible for transporting the inmate.
	PHI created or obtained by a covered health care provider in the course of research that includes treatment may be temporarily suspended for as long as the research is in progress, provided that the individual has agreed to the denial of access when consenting to participate in the research that includes treatment, and the covered health care provider has informed the individual that the right of access will be reinstated upon completion of the research.
	PHI contained in records subject to the Privacy Act, 5 U.S.C. 552a, may be denied, if the denial of access under the Privacy Act would meet the requirements of that law.
	PHI 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.

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Patients have the right to inspect and/or to receive a copy of their PHI except for the following limitations:

Status	Description
	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 patient or another person;
	The PHI 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 is made by the patient'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 patient or another person.

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## Requests for access and timely action

Status	Description
	A CE must permit an individual to request access to inspect or to obtain a copy of the individual's PHI that is maintained in a designated record set. The CE may require individuals to make requests for access in writing, provided that it informs individuals of such a requirement (such as in the Notice of Privacy Practices.)
	The CE must act on a request for access within 30 days after receipt of the request unless the PHI is not maintained or accessible on-site, in which case the CE must act within 60 days from receipt of the request.
	If the CE is unable to take action within the time period above, the CE may extend the time for such actions by no more than 30 days, provided that the CE provides the individual with a written statement of the reasons for the delay and the date by which the CE will complete its action on the request; and the CE may have only one such extension of time for action on a request for access.

## Provision of access

Status	Description
	If the CE provides the individual with access, in whole or in part, to PHI, the CE must permit an inspection and/or copying as requested, although if the PHI is maintained at more than one site, it only has to produce it once in response to a request for access.
	The CE must provide the information in the form or format requested by the individual, if it is readily producible in such form or format; or, if not, in a readable hard copy form or such other form or format as agreed to by the CE and the individual.

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## Provision of access

Status	Description
	The CE 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, if the individual agrees in advance to such a summary or explanation; and the individual agrees in advance to the fees imposed, if any, by the CE for such summary or explanation.
	The CE must provide the access as requested by the individual in a timely manner, including arranging with the individual for a convenient time and place to inspect or obtain a copy of the PHI, or mailing the copy of the PHI at the individual's request. The CE 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.
	If the individual requests a copy of the PHI or agrees to a summary or explanation of such information, the CE may impose a reasonable, cost-based fee, provided that the fee includes only the cost of: copying (including supplies and labor), postage (when the individual has requested the copy, or the summary or explanation, be mailed), and preparation (of the explanation or summary of the PHI), if agreed to by the individual in advance.

## Documentation

Status	Description
	A CE must document designated record sets subject to access by individuals and the titles of the person or offices responsible for receiving and processing requests for access to PHI.

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## Denial of access

Status	Description
	If the CE denies access, in whole or in part, to PHI, the CE must, to the extent possible, give the individual access to any other PHI requested, after excluding the PHI to which access is denied.
	Within the time limits described above, the CE must provide a written denial in plain language containing the reason for the denial, a description of the individual's right to a review of the denial, if any, and a description of how to complain to the CE or to the U.S. Secretary of HHS. The description must include the name, or title, and telephone number of the person or office within the CE designated to receive complaints.
	If the CE does not maintain the requested PHI and knows where it is maintained, the CE must inform the individual where to direct the request for access.
	If the individual requests a review of the denial (for those denials that are reviewable as described above) the CE must arrange for review by a licensed health care professional, who was not directly involved in the original decision to deny. The reviewing official must determine, within a reasonable period of time, whether or not to deny the access requested, and the CE must promptly provide written notice to the individual of the determination of the reviewing official.