

SYSTEMWIDE POLICY

Individual's Right of Access to Protected Health Information Policy

This Policy is Applicable to the following Corewell Health sites:

SYSTEMWIDE

Continuing Care, Corewell Health Beaumont Grosse Pointe Hospital, Corewell Health Beaumont Troy Hospital, Corewell Health Big Rapids Hospital, Corewell Health Dearborn Hospital, Corewell Health Farmington Hills Hospital, Corewell Health Gerber Hospital, Corewell Health Grand Rapids Hospitals (Blodgett Hospital, Butterworth Hospital, Helen DeVos Children's Hospital), Corewell Health Greenville Hospital, Corewell Health Ludington Hospital, Corewell Health Medical Group East, Corewell Health Medical Group West, Corewell Health Pennock Hospital, Corewell Health Reed City Hospital, Corewell Health South (Niles, St. Joseph, and Watervliet Hospitals; Corewell Health Medical Group South; Applicable Corewell Health South Regional Sites), Corewell Health Specialty Pharmacy, Corewell Health Taylor Hospital, Corewell Health Trenton Hospital, Corewell Health Wayne Hospital, Corewell Health William Beaumont University Hospital (Royal Oak), Corewell Health Zeeland Hospital, Corporate (Corewell Health East), Corporate (Corewell Health West, South and Priority Health), Outpatient/Physician Practices (CHW), Priority Health

Applicability Limited to:	N/A
Reference #:	70
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Functional Area:	Compliance
Department Area:	Privacy

1. Purpose

To ensure compliance with applicable laws and regulations regarding an Individual's right of access to his/her Protected Health Information (PHI).

2. Definitions

Except as specifically defined herein, capitalized terms used in this document will have the definitions found in the [Digital Services Glossary of Terms Used in Policies and Procedures](#). Compliance with the Digital Services definition of a term is assumed and enforceable within the context of this policy, procedure, or standard document.

3. Compliance

Team members who violate this policy will be subject to performance correction up to and including separation from employment or other working or contractual relationship with Corewell Health.

4. Policy

Entities will reference associated Documentation contained within this document as applicable. Printouts of this document may be out of date and should be considered uncontrolled.

It is the policy of Corewell Health to permit an Individual to access, inspect and obtain a copy of his/her Protected Health Information in accordance with this policy.

A. Right of Access

An Individual has a right of access to inspect and obtain a copy of his/her Protected Health Information in a Designated Record Set, for as long as the Protected Health Information is maintained in the Designated Record Set.

Exceptions to this policy are:

- Psychotherapy Notes;
- Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceedings; and
- Protected Health Information maintained by Corewell Health that is:
 - Subject to the Clinical Laboratory Improvements Act of 1988, 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.

B. Requests for Access, Verification of Identity, and Timely Actions

Corewell Health will 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.

Corewell Health may require an Individual to make a request for access in writing, provided that it has informed the Individual of such a requirement.

1. Individuals' Personal Representatives have the right to access and/or copy the Individual's PHI that is maintained in a Designated Record Set in accordance with federal and state laws and regulations.
 - a. A person who qualifies as a Personal Representative shall have all rights to request access to or copying of PHI contained in the Individual's Designated Record Set (DRS) as if the Personal Representative were the Individual.
 - b. A Personal Representative who requests PHI may be denied access if the Personal Representative is believed to be the perpetrator of abuse on the Individual and/or there is a reasonable expectation that such disclosure would endanger the Individual's safety.
2. Deceased Individuals—If the Individual is deceased, a family member, or other person who was involved in the Individual's care or Payment for health care prior to the Individual's death may obtain a copy of the Individual's Designated Record Set. The PHI of the Individual disclosed should be relevant to such person's involvement, unless doing so is inconsistent with any prior expressed preference of the Individual that is known by Corewell Health.

Corewell Health will take reasonable steps to verify the identity of the Individual making a request for access (or a person making a request for access on behalf of an Individual).

Verification may be done orally, or in writing, and may also depend on how the Individual is requesting and/or receiving access – e.g., in person, by faxing or emailing the request, by way of access to a patient portal (Mychart) or member portal or other means of communication supported by Corewell Health.

Once a request is received, Corewell Health will act no later than thirty (30) days after the receipt of the request, as follows:

- If Corewell Health grants a request, in whole or in part, it will inform the Individual of the acceptance of the request, and provide the access requested.
- If Corewell Health denies the request, in whole or in part, it will provide the Individual with a written denial.
- If Corewell Health is unable to take action on the request within the time limits provided herein, Corewell Health may exceed the time for such action by no more than (30) days, provided that Corewell Health, within the applicable required time limit, provides the Individual with a written statement of the reasons for the delay, and the date by which Corewell Health will complete its action on the request.

Corewell Health may have only one such extension of time for action on a request for access.

C. Provision of Access

If Corewell Health provides the Individual access, in whole or in part, to Protected Health Information, Corewell Health will comply with the following requirements:

- Corewell Health will provide the access requested by the Individual, including inspection or obtaining a copy, or both, of Protected Health Information about the Individual in a Designated Record Set.
- If the same information requested is maintained in more than one Designated Record Set, or at more than one location, Corewell Health need only produce the Protected Health Information once in response to a request.
- Corewell Health will 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 or format as agreed to by Corewell Health and the Individual.
- 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, Corewell Health will 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 Corewell Health and the Individual.
- Corewell Health may send the Protected Health Information via an encrypted or, if requested, unencrypted email, if the Individual requests such electronic transmission. Before the email is sent unencrypted (if requested), steps should be taken to notify the Individual of the risks involved in an unsecure/unencrypted email transmission.
- Corewell Health offers patients access to their electronic medical records through MyChart. Patients may choose to allow others to access their MyChart account. Corewell Health may not charge patients for access to their electronic medical records through MyChart.
- Corewell Health 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, 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 Corewell Health for such summary or explanation.

D. Time and Manner of Access

Access will be provided 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 Protected Health Information, or mailing a copy to the Individual, if requested.

Corewell Health 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.

Corewell Health will not impose measures on an Individual requesting access, if such measure(s) would serve as barrier(s) to, or unreasonably delay, the Individual from obtaining access. For example, Corewell Health will not require an Individual who wants a copy of his/her medical record mailed to his/her home address to physically come to a Corewell Health location to request access and provide proof of identity. Also, Corewell Health will not require an Individual to use MyChart or another electronic means of accessing Protected Health Information, because not all Individuals have access to, or choose to use, patient or member portals.

If an Individual's request for access directs Corewell Health to transmit the copy of Protected Health Information directly to another person designated by the Individual, Corewell Health will provide the copy to the person designated by the Individual. The Individual's request will be in writing, signed by the Individual, and clearly identify the designated person and where to send the copy of Protected Health Information.

E. Fees

Per the Michigan Medical Records Access Act of 2004, and applicable State laws, Corewell Health may impose a reasonable, cost-based fee for the provision of access to Protected Health Information, provided that the fee includes only the cost of:

- Retrieving medical records that are seven (7) years old or older, and not maintained or accessible on-site;
- Labor for copying the Protected Health Information requested by the Individual, whether in paper or electronic form;
- Supplies for creating the paper copy or electronic media if the Individual requests that the electronic copy be provided on portable media;
- Postage, when the Individual has requested the copy, or the summary or explanation be mailed; and
- Preparing an explanation or summary of the Protected Health Information, if agreed to by the Individual, and is otherwise compliant with State laws.

For a medically indigent Individual, fees shall be waived for the first copy of their records, upon proof that the Individual is a recipient of Social Security or has applied for medical assistance from the State of Michigan.

Reduced fees may also be charged to organizations with which Corewell Health, or a Business Associate acting on their behalf, has a contractual arrangement.

F. Denials

If Corewell Health denies access, in whole or in part, to Protected Health Information, Corewell Health will comply with the following requirements:

- Corewell Health will, to the extent possible, give the Individual access to any other Protected Health Information requested, for which it does not have a ground to deny access;
- Corewell Health will provide a timely, written denial to the Individual. The denial will be a plain language and contain the following:
 - The basis for the denial;
 - If applicable, the statement of the Individual's review rights, including a description of how the Individual may exercise such review rights;
 - and
 - A description of how the Individual may complain to Corewell Health pursuant to Corewell Health complaint procedures or to the Secretary of Health and Human Services. The description will include the name or title and telephone number of the contact person or office.

I. REVIEW OF A DENIAL OF ACCESS

If the Individual has requested a review of a denial, Corewell Health will designate a licensed health care professional who is not directly involved in the denial, to review the decision to deny access. Corewell Health will promptly refer a request for review to such designated reviewing official.

The reviewing official will determine, within a reasonable period of time, whether or not to deny the access.

Thereupon, Corewell Health will promptly provide written notice to the Individual of the reviewing official's determination.

Corewell Health will provide or deny access in accordance with the determination of the reviewing official.

II. NON-REVIEWABLE GROUNDS FOR DENIAL

Corewell Health may deny an Individual access, without providing an opportunity for review, if the Protected Health Information is excepted from the right of access. Exceptions to the Individual's right of access are as follows:

If Corewell Health is acting under the direction of a correctional institution, it may deny, in whole or in part, an inmate's request to obtain a copy of Protected Health Information, if obtaining such information 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 responsible for the transporting of the inmate.

An Individual's access to Protected Health Information created or obtained by Corewell Health 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 Corewell Health has informed the Individual that the right of access will be reinstated upon completion of the research.

An Individual's access to Protected Health Information may also be denied if it is:

- Contained in the records that are subject to the Privacy Act (5 U.S.C. 552(a)); 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.

In addition to the exceptions above, access to Protected Health Information may be denied to an Individual, provided that the Individual is given a right to have such denials reviewed, in the following circumstances:

- 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 if access is denied, the Individual has the right to have the denial reviewed by a licensed health care professional who is designated by Corewell Health to act as a reviewing official, and who did not participate in the original decision to deny. The designated physician leader who reviewed the appeal shall prepare a written response to the request to review which shall be provided to the individual requesting access to the PHI.
- Any review of a denial of requested access to PHI is to be conducted within 14 days of the request for access unless circumstances dictate an expedited review.
- Corewell Health will provide or deny access in accordance with the determination of the reviewing official as described above.

III. OTHER RESPONSIBILITY

If Corewell Health does not maintain the Protected Health Information that is the subject of the Individual's request for access, and Corewell Health knows where the request information is maintained, Corewell Health will inform the Individual where to direct the request.

G. Documentation

Corewell Health will document all requests for access to, inspection, and copies of Protected Health Information in the applicable records system(s) (e.g., Electronic Medical Records system(s) for Corewell Health; Customer Tracking System(s) for Priority Health, etc.).

In addition, Corewell Health will document the following, and retain such documentation for a period of six (6) years:

- Designated Record Sets that are subject to access by Individuals;
- and
- The titles of the person(s) or office(s) responsible for receiving and processing requests for access.

5. Revisions

Corewell Health reserves the right to alter, amend, modify or eliminate this document at any time without prior written notice.

- 6. Policies Superseded and Replaced:** This policy supersedes and replaces the following policies as of the effective date of this policy: Compliance with Federal and State Privacy Laws and Regulations, Beaumont Health

7. References

- HIPAA Privacy Regulations: 45 CFR §164.524
- Medical Records Access Act – Act 47 § 333.26269 Fee Section 9

8. Policy Development and Approval

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