

**COMMUNITY MENTAL HEALTH CENTER  
OF EAST CENTRAL GEORGIA  
POLICY**

**SUBJECT:** Client Access to Protected Health Information  
**POLICY NUMBER:** PIM 3.04  
**EFFECTIVE DATE:** April 29, 2003  
**RESCISSION DATE:**

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<b>SUPERSEDES:</b> Policy # IM-7	<b>REVIEWED DATE:</b> <b>LAST REVISION DATE:</b> November 7, 2003
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**POLICY:**

It is the policy of the Community Mental Health Center of East Central Georgia (CMHC) to recognize the rights of clients to access health information pertaining to them in a designated record set as specified in 45 CFR Section 165.524. the CMHC further recognizes that access to protected health information may be limited or restricted as defined in this policy, in the Notice of Privacy Practices and as allowed by law.

**DEFINITIONS:**

- I. Abstract (Summary): A brief summary on facility letterhead of the essential information as requested on a proper authorization.
- II. Client: Any individual who has received or is receiving services from the CMHC.
- III. Designated Record Set: A group of any records under the control of the CMHC from which Protected Health Information is retrieved by the name of the individual or by identifying number.
- IV. Direct access: An in-person review of the medical record, and/or obtaining a copy of the record.
- V. Mental Health/Developmental Disabilities/Substance Abuse Professionals: Professionals as defined in Provider Manual for Community Mental Health Developmental Disabilities and Addictive Diseases Providers. (Section III, Chapter B, 4 – 7).
- VI. Personal Representative: A person with a court order appointing them as guardian or with a valid Power of Attorney signed by the consumer specifying the authority to review and make decisions regarding medical, psychiatric, treatment or habilitation concerns.
- VII. PHI: Protected Health Information: Individually identifiable health information, defined as any information, including demographic information, collected from an individual that:
  - A. Is created or received by a healthcare provider, health plan, employers, or healthcare clearinghouse: and

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- B. Related to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual, and
  - 1. Identifies the individual, or
  - 2. With respect to which, there is reasonable basis to believe that the information can be used to identify the individual.
  
- VIII. Psychotherapy Notes: Notes recorded in any medium by a health care provider who is a mental health professional (MPH) documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are **separated** from the rest of the individual's medical record. Such **notes exclude** medication prescriptions and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.
  
- IX. Official Signature: Legal Name, credential, and professional designation (such as MHP, SAP, DDP).
  
- X. Disclosure of PHI Summary: An accounting of disclosures of PHI (in paper or electronic format) containing: date of disclosure; name and address of the organization or person who received the PHI; a brief description of the information disclosed; purpose for which the PHI was disclosed.

**PROCEDURES:**

- I. The CMHC's clients have the right to request access to PHI concerning them in a designated record set.
  - A. A client who has or is receiving services from a CMHC facility, parent of a minor, and personal representative or legal guardian as relevant to their representation, must request in writing for access to inspect, or receive copies of, Protected Health Information except in those instances covered by Federal Regulation and outlined in the Notice of Privacy Practices acknowledged at admission, and must further specify the exact information requested for access.
  - B. The "Request for Client Access to Their Protected Health Information" form (CMHC Form #108 Rev. 03/03) shall be provided to facilitate the request. CMHC personnel may assist the client in initiating the process requesting access to Protected Health Information.
  - C. All request by clients and their legal representatives for PHI must be forwarded to the Privacy Officer or designated Medical Records Personnel.
  - D. If it is acceptable after discussion with the client, the CMHC may provide a summary of the PHI to the client. If the summary is acceptable, the CMHC shall determine the appropriate staff to provide that explanation to the client. The client's agreement to a summary shall be documented in writing in the record as a check in the appropriate box in the "Request for Client Access to Their Protected Health Information" form.

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The client's agreement to any cost associated with the summary shall be documented in the record as a check in the appropriate box in the "Request for Client Access to Their Protected Health Information" form. The form shall be filed in the client's medical record.

- E. This request shall be processed in a timely consistent manner according to established timeframes but not more than 30 days after receipt of the request.
  - 1. If the record cannot be accessed within the 30 days, the timeframe may be extended once for no more than an additional 30 days with notification in writing to the individual outlining reasons for the delay and the date the request will be concluded.
- F. Requests for Access to Protected Health Information may be denied **without a right to review** as follows:
  - 1. If the information conforms to one of the following categories: psychotherapy notes; information compiled for use in a civil, criminal or administrative action or proceeding; or information that would be prohibited from use or disclosure under the Certified Laboratory Information Act (CLIA) laws and regulations;
  - 2. If the consumer is participating in research related treatment and has agreed to the denial of access to records for the duration of the study;
  - 3. If access is otherwise precluded by law;
  - 4. If the 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 informant. All Victim Notification and Duty To Warn documentation, as well as any other documentation that contains demographics of victims or potential victims shall be removed before any review of the record by anyone not employed by the CMHC, and if the CMHC employee is a client worker, then the information shall be removed before any review of the record; or
  - 5. If the CMHC has been provided a copy of a court order from a court of competent jurisdiction which limits the release or use of PHI.
- G. Requests for Access to Protected Health Information may be denied provided the individual is **given a right to have the denial reviewed** as follows:
  - 1. A MHP/DDP/SAP based on an assessment of the particular circumstances, determines that the access requested is reasonably likely to endanger the life or physical safety of the client or another person.
  - 2. The facility may deny the client access to PHI if the information requested makes reference to someone other than the client and a MHP/DDP/SAP has determined that the access requested is reasonably likely to cause serious harm to that other person.
  - 3. The facility may deny a request to receive a copy or inspect PHI by a personal representative of the client if the CMHC has a reasonable belief that the client has been or may be subjected to domestic violence, abuse, or neglect by such person; or treating such person as the personal representative could endanger the individual; and the CMHC exercising professional judgment, decides that it is not in the best interest of the client to treat that person as the client's personal representative.

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- II. The CMHC may deny access to clients who request access to PHI pertaining to themselves under specified circumstances.
  - A. Upon denial of any request for access to PHI, in whole or in part, a written letter shall be sent to the client, or other valid representative making the request for access, stating in plain language the basis for the denial.
  - B. If the client has a right to a review of the denial as outlined in subsection 1 (G) above, the letter shall contain a statement of how to make an appeal of the denial including the name, title, address, and telephone number of the person to whom an appeal should be addressed.
  - C. This letter shall also address the steps to file a complaint with the Secretary of Health and Human Services.
  - D. If the information requested is not maintained by the CMHC, but it is known where the client may obtain access, the CMHC must inform the client where to direct the request for access. The client is to have access to records from another CMHC operated facility that are maintained in the current facility's record.
  
- III. Procedures for Appeal and Review of Denial of Requests As Defined in Subsection (1) (G).
  - A. A client, parent of a minor, or guardian of a client has the right to appeal the decision to withhold portions or all of the record for safety or confidentiality reasons.
  - B. The appeal shall be submitted in writing to the CMHC's Executive Director, who will designate a MHP/DDP/SAP.
  - C. The designated MHP/DDP/SAP who did not participate in the original decision to deny access shall review the record and the request for access to the client's record.
    - 1. The reviewer must determine if access meets an exception as described in Section 1.
    - 2. If the reviewer determines that the initial denial was appropriate, the client must be notified in writing, using plain language, that the review resulted in another denial of access. The notice must include the reasons for denial and must describe the process to make a complaint to the Secretary of the United States Department of Health and Human Services.
    - 3. If the denial was not appropriate, the MHP/DDP/SAP who acts as the reviewer shall refer the request to the Privacy Officer for action.
      - a. The Privacy Officer will notify the client in writing of the action.
    - 4. If access is denied to any portion of the PHI, access must still be granted to those portions of the PHI that are not restricted.
    - 5. The CMHC is bound by the decision of the reviewer.
  
- IV. The CMHC provides clients access to PHI and imposes fees in accordance with relevant Federal and state laws.
  - A. If CMHC provides a client or legal representative with access, in whole or in part, to protected health information, the facility must comply with the specifications as outlined in federal regulations to the extent of the facility's capabilities and as identified in the CMHC's Notice of Privacy Practices.
    - 1. Requested information must be provided in designated record sets.

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2. If the requested information is maintained in more than one designated record set or in more than one location, the CMHC only needs to produce the information one time in response to the request.
  3. The CMHC may provide a summary or explanation of the requested PHI if:
    - a. The client agrees in advance to the summary or explanation in place of the record.
    - b. The client agrees in advance to any fees imposed for the summary or explanation.
    - c. These agreements shall be documented as set forth in subsection (3)(D) above.
  4. If the requested information is maintained electronically and the consumer requests an electronic or faxed copy, the CMHC must accommodate the request if possible and should explain the risk to security of the information when transmitted as requested.
  5. If the information is downloaded to a computer disk, the consumer should be advised in advance of any charges for the disk and for mailing the disk. CMHC shall establish a reasonable cost for the duplication of this information on a disk.
  6. If the information is not available in the format requested, the CMHC must produce a hard copy document or other format agreed upon by the CMHC.
- B. The CMHC shall provide the access requested in a timely manner and arrange for a mutually convenient time and place for the consumer to inspect the PHI or obtain copies, unless access by another method has been requested by the client and agreed to by the CMHC as set forth in subsection (IV)(A) 4 above. Any requests for accommodations shall be sent or given in writing to the Privacy Officer.
- C. The fee charged will be in compliance with the current Georgia and federal law.
- V. Release of PHI of a Deceased Client Conforms with Georgia Code.
- A. The PHI of a deceased consumer may only be released via a Probate Court order from the County Probate Court where the deceased resided or from another Probate Court in the State of Georgia to the person appointed by the court as administrator of the client's estate or the executor of the client's will.
  - B. Upon request to obtain information, the Privacy Officer or designee shall ask for a copy of the Probate Court Order.
- VI. The Privacy Officer will collect information during the month of April each year beginning 2004 for the purpose of providing feedback to the Executive Director and to the Leadership Team to determine the denial or granting of access, and to analyze the due process review component for any reviewable denials.
- VII. Staff failure to comply or assure compliance with the policy may result in disciplinary action, including dismissal.

**ATTACHMENT:**

- I. [Request for Client Access to Protected Health Information \(CMHC Form #108 revised 03/03\).](#)

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**REFERENCES:**

- I. Provider Manual for Community Mental Health, Developmental Disabilities and Addictive Diseases Providers: Section III, Chapter E, 2, PPs.10; Section III, Chapter B, pp. 4 – 7.
- II. Public Law 104 – 191, 104<sup>th</sup> Congress.

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Acting Executive Director

\_\_\_\_\_  
Date

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CSB Chair

\_\_\_\_\_  
Date

**:PLN**