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Review Date: 6/13/13

North Sound Mental Health Administration

Section 2500 – Privacy: Individual’s Right to Amend Protected Health Information (PHI)

Authorizing Source: RCW 70.02; 45 CFR 165 (HIPAA)

Cancels:

See Also:

Providers must have own “HIPAA & WAC compliant policy”

Responsible Staff: Privacy Officer

Approved by: Executive Director

Signature:

Date: 7/17/2013

POLICY #2515.00

SUBJECT: INDIVIDUAL’S RIGHT TO AMEND PROTECTED HEALTH INFORMATION (PHI)

PURPOSE

The North Sound Mental Health Administration (NSMHA), in compliance with the Privacy Rules of Health Insurance Portability and Accountability Act (HIPAA) Administrative Simplification provisions, sets out in this policy the process for providing clients with an opportunity to amend their Protected Health Information (PHI) that is maintained by NSMHA in a designated record set.

POLICY

NSMHA will consider all requests from clients or former clients (the “Requestor”) to amend their PHI that is maintained by NSMHA in a designated record set for as long as we maintain it, regardless of whether such information was created or obtained prior to the HIPAA compliance date. We will require that all requests for amendment be in writing and be submitted on NSMHA “Request for Amendment” form (“Request Form”). In any case where the Requestor cannot obtain or complete a Request Form, we will provide the Requestor with information needed to submit a PHI amendment or correction request, in lieu of the Request Form. We will require that the Requestor inform us, in writing, as to the reason for the amendment. We will notify our clients of our policies and procedures for requesting amendments in our Privacy Notice, and any changes we make to those policies and procedures.

We will respond to all requests from Requestors for amendment or correction to their PHI within 10 days from the date of each such request. If we are unable to respond within this amount of time, we will so notify the Requestor in writing prior to the expiration of the 10-day period, and provide the reason why we need additional time and the estimated date (no more than 11 days beyond the original 10 days) by which we expect to complete action on their request.

In those instances where we grant the request for amendment, we will do the following:

1. Inform the Requestor in writing;
2. Attempt to obtain agreement from Requestor as to the identities of anyone having received his or her PHI and needing the amendment or correction, and those persons, including Business Associates, who NSMHA knows have the disputed PHI and may have relied upon the subject PHI in the past, or who might reasonably be expected to rely upon it in the future, to the detriment of the Requestor.
3. Notify all persons identified in (2) above of the amendment within a reasonable time. If the disclosure is made using one of the standard transactions that do not permit additional material, NSMHA reserves the right to transmit the appended material to the recipient of the standard transaction.

Denials:

NSMHA reserves the right to deny any request for amendment or correction if it determines that:

1. NSMHA did not create the information, unless the Requestor proves that the originator of the PHI is no longer available to act on the requested information;
2. The information is not part of the designated record set;
3. The information would not be available for inspection by the Requestor for reasons specified in the regulation on access (for example, an individual's right to access his or her PHI does not extend to psychotherapy notes as defined in the HIPAA rule);
4. The information is accurate and complete.

In those instances where we deny the request for amendment, we will do the following:

1. Provide the Requestor with a written denial that is in plain language and that:
 - a. Contains the basis for the denial; and
 - b. Contains notification that the individual has the right to provide a written statement disagreeing with the denial and how they might file such a statement.
2. Describe to the client the procedure for filing a complaint either with:
 - a. Department of Health and Human Services (DHHS); or
 - b. With the person or office in our organization who is responsible for receiving complaints – including their name or title and their telephone number.
3. Inform the individual that he or she may file a statement of disagreement with our denial that does not exceed 250 words, including any attachments.
4. Inform the Requestor that they may request, should they not file a statement of disagreement, that their request for amendment and the related denial be attached to all future disclosures of the subject PHI.

We reserve the right to prepare rebuttals and append them to the designated record set. If we do so, we will provide the Requestor with a copy of any such rebuttal.

Designated Record Set:

It is our policy to take the following actions with respect to the designated record set in amendment situations:

1. When the amendment request has been granted:
 - a. Identify the subject PHI in the designated record set; and
 - b. Append the amendment to the PHI; *or*
 - c. Provide a link to the location in the file of the amendment.
2. When the amendment request has been denied and the client requests it:
 - a. Identify the subject PHI in the designated record set; and
 - b. Append the request for amendment and the denial to the PHI; *or*
 - c. Provide a link to the location in the file of the request and the denial.
3. When the amendment request has been denied and the client has filed a statement of disagreement, and we have or have not prepared a rebuttal:

- a. Identify the subject PHI in the designated record set; and
- b. Append the request for amendment, the denial, the statement of disagreement, and, if prepared, our rebuttal to the PHI; *or*
- c. Provide a link to the location in the file of all of the items listed in (b).

If disclosure of any PHI containing appended material is made by NSMHA using one of the standard transactions that do not permit additional material, NSMHA reserves the right to transmit the appended material to the recipient of the standard transaction.

Documentation retention requirements include:

1. Policies and procedures for individuals right to amendment of PHI
2. Amendment Request Form
3. Notifications
4. Amendment requests and all related documentation

Other policies and procedures to review that are related to this policy:

1. The Designated Record Set
2. Administrative requirements – documentation retention

ATTACHMENTS

2515.01 – Procedure 2515-A

2515.02 – Form 2515-A