



ALLEGHENY COUNTY
BUREAU OF CORRECTIONS

APPLICABILITY: All Authorized Personnel

POLICY NUMBER: # 2113

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TITLE: Incarcerated Individual's Access to Health Record

NCCHC: J-A-08

ACA: 4-ALDF-4D-26

AUTHORIZED BY: SHANE T. DADY

SIGNATURE: _____

AUTHORIZED BY: WILLIAM K. JOHNJULIO, MD

SIGNATURE: _____

POLICY

It is the policy of the Allegheny County Bureau of Corrections (ACBOC) Healthcare Services Department that an incarcerated individual may review records from his or her medical file (including dental records) by submitting a request to a staff member designated by the Warden.

PURPOSE

To provide guidelines and procedures for an incarcerated individual's request to access their health information that is in compliance with state and federal requirements.

PROCEDURAL GUIDELINES

28 CFR 513.42 - Inmate access to medical records

28 CFR 513.44- Fees for copies of inmate medical records

28 CFR 16.10 - Fees

45 CFR 164.524 Access of individual to protected health information

1. An incarcerated individual has the right to access for review and obtain a copy of his or her medical file (including dental records) by submitting a written request to a staff member designated by the warden.
2. In addition, two categories of information are expressly excluded from the right of access:
 - a. Psychotherapy notes, which are the personal notes of a mental health care provider documenting or analyzing the contents of a counseling session, that are maintained separate from the rest of the patient's medical record.
 - b. Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.
3. Laboratory reports which contain only scientific testing results and which contain no staff evaluation or opinion are ordinarily disclosable. Lab results of HIV testing may be reviewed by the incarcerated individual.
4. A copy of an incarcerated individual's HIV test results may be forwarded to a third party outside the institution as chosen by the incarcerated individual, provided the incarcerated individual gives written authorization for the disclosure.
5. Medical records containing subjective evaluations and opinions of medical staff relating to the incarcerated individual's care and treatment will be provided to the incarcerated individual only after the staff review. These records include:
 - a. outpatient notes,
 - b. consultation reports,
 - c. narrative summaries or reports by a specialist,
 - d. operative reports by the physician,
 - e. summaries by specialists as the result of laboratory analysis, or

- f. in-patient progress reports.
6. Prior to release to the incarcerated individual, records described in item 5 above shall be reviewed by staff to determine if the release of this information would present a harm to either the incarcerated individual or other individuals.
 7. A covered entity that is a correctional institution or a covered health care provider acting under the direction of the correctional institution may deny, in whole or in part, an incarcerated individual's request to obtain a copy of protected health information, if obtaining such copy would jeopardize the health, safety, security, custody, rehabilitation of the individual or other incarcerated individuals, or the safety of any officer, employee, or other person at the correctional institution responsible for transporting the incarcerated individual.
 8. Any records determined not to present harm will be released to the incarcerated individual at the conclusion of the review by staff.
 9. If any records are determined by staff not to be releasable, based upon the presence of harm, the incarcerated individual will be advised in writing and provided the address of the agency component to which the incarcerated individual may address a formal request for the withheld records.
 10. Within a reasonable time after receipt of the request, Allegheny County Healthcare Services Department staff are to provide an incarcerated individual personal copies of requested disclosable documents maintained in the incarcerated individual medical record.

PROCEDURAL DETAILS

1. Incarcerated individuals may request access to and or copies of their medical record by submitting an incarcerated individual request form to the deputy warden for health services (DWHS), or his/her designee.

2. The DWHS, or his/her designee, will designate a qualified health care professional to meet with the incarcerated individual and complete the request for health record access form.
3. The DWHS, or his/her designee, may deny, in whole or in part, an incarcerated individual's request to review or obtain copies of protected health information if doing so would jeopardize the health, safety, security, custody, rehabilitation of the individual, other incarcerated individuals, or the safety of any officer, employee, other person at the correctional institution, or those responsible for transporting the incarcerated individual.
4. Prior to the incarcerated individual's review of records (or copies are given to an incarcerated individual), a qualified healthcare professional will review the records to determine if a legitimate security concern exists (i.e., whether there is any information which, if disclosed to the incarcerated individual, might reasonably be expected to harm the incarcerated individual or another person).
5. The DWHS, or his/her designee, will act on the request for access within 30 days of receipt of the request.
6. If the request is granted, the DWHS, or his/her designee, will notify the incarcerated individual and arrange for the incarcerated individual to review the health record with a qualified health care professional and will be permitted to take notes.
7. The qualified health care professional will complete a note in the incarcerated individual's health record that the incarcerated individual was given access to review their health record.
8. A copy of the requested health record will be provided to the incarcerated individual free of charge.
9. In the event the request for review of the records is denied, for the reasons stated in item 3, the DWHS, or his/her designee, will provide the incarcerated

individual with a written denial. The notice will include the incarcerated individual's right to file a complaint through the ACJ complaint process regarding the denial decision.

10. The DWHS, or his/her designee, will maintain a record of all incarcerated individual requests for access to health records including:

- a. name and DOC,
- b. date of request,
- c. date of response, and
- d. list of records provided including time frame of records.

11. Incarcerated individuals participating in the substance use disorder program can request access to their own substance use disorder record through writing.

12. The written request must be addressed to the director of substance use programs. The incarcerated individual has the right to review their individual record with the director of substance use programs and/or assigned substance use counselor present. The director of substance use programs has the discretion to withhold information from the participant's access if the director believes the information could be detrimental to the participant's well-being.