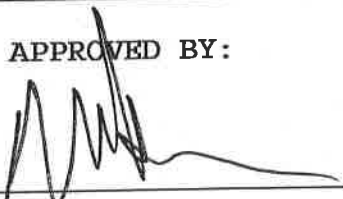


COUNTY OF IMPERIAL
DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

POLICY AND PROCEDURE MANUAL

SUBJECT: Review of a Denial of a Request for Access to Inspect and Obtain a Copy of Protected Health Information	PROCEDURE: 01-31
SECTION: Administration	EFFECTIVE DATE: 4-14-03
REFERENCE: 45 C.F.R. Section 164.524 (a) (4)	PAGE: 1 of 4
AUTHORITY: Behavioral Health Director as the Local Mental Health Director and Alcohol and Drug Administrator	SUPERSEDES: New Procedure
	APPROVED BY: 

PURPOSE: To establish a procedure for allowing an individual an opportunity for review of an ICBHS denial of an individual's or their personal representative's access to inspect and obtain a copy of the individual's protected health information (PHI) in the designated record set maintained and retained by ICBHS.

SCOPE: The information in this document applies to all members of the workforce which includes all employees, contract employees, volunteers, and trainees granted access to protected health information (PHI).

NOTES: The Health Insurance and Portability and Accountability Act of 1996 (HIPAA) provides individuals with new rights regarding their protected health information. These patient rights are mandatory and ICBHS' mental health and alcohol and drug programs as covered entities under HIPAA must assure, for example, in compliance with Section 164.524, that individuals have the right, with certain exceptions, of access to inspect and obtain a copy of protected health information kept in the designated record set. Section 164.524(a) (2), (3) provides "unreviewable" and "reviewable" grounds for denying a client access to his or her own records. Section 164.524(a) (4) establishes if access is denied based on reviewable grounds, an individual has the right to have the denial reviewed by a licensed health care professional who is designated by ICBHS to act as the reviewing official who did not participate in the original decision to deny access.

HIPAA, however, provides individuals with new rights regarding how their health information is maintained and communicated. These patient rights provisions are mandatory and ICBHS' mental health and alcohol and drug programs as covered entities under HIPAA, must assure that individuals are allowed access to their own records. State laws that govern patient access to records may remain in force if they are "more stringent" than HIPAA.

If access is denied on a ground that requires an opportunity for review of the denial, the individual has the right to have the denial reviewed by a licensed health care professional who is designated by ICBHS to act as a reviewing official who did not participate in the original decision to deny.

All supervisors are responsible for enforcing this procedure. Members of the workforce who violate this procedure will be subject to the appropriate and applicable disciplinary process up to and including termination.

DEFINITIONS: Access: The right of an individual to inspect and/or obtain a copy of PHI in the designated record set for as long as the information is maintained by the covered entity in the designated record set.

Designated Record Set: A group of records maintained by or for a covered entity that is the medical records and billing records about individuals maintained by or for a health care provider; the enrollment, payments, claims adjudication, and case or management record systems maintained by or for a health care provider; or used, in whole or in part, by or for ICBHS to make decisions about individuals.

HIPAA: Health Insurance Portability and Accountability Act. The federal law passed in 1996 that provides national standards for health information.

Individual: Under HIPAA, individual means the person who is the subject of PHI.

Personal Representative: A person who has authority under applicable law to make decisions related to health care on behalf of an adult or an emancipated minor, or the parent, guardian, or other person acting in loco parentis who is authorized under law to make health care decisions on behalf of an unemancipated minor, except where the minor is authorized by law to consent to a health care service, or where the parent, guardian or person acting in loco parentis has assented

to an agreement of confidentiality between the provider and the minor.

Protected Health Information (PHI): Individually identifiable information relating to past, present, or future physical or mental health condition of an individual, provision of health care to an individual, or the past, present, or future payment for health care provided to an individual transmitted or maintained in any form or medium including oral, written, or electronic communication.

Record: Any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated.

Workforce: Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for the covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity.

PROCEDURE:

PERSON RESPONSIBLE

ACTION:

ICBHS

1. Denies a client's request to inspect and obtain a copy of PHI.

Client/Personal
Representative

2. Initiates a review of the denial by making a request for review to ICBHS on a Request for Review of a Denial of a Request to Inspect or Obtain a Copy of Protected Health Information

Reviewing Licensed
Health Care Professional

3. Reviews denial.

ICBHS

4. Provides or denies access in accordance with the determination of the reviewing licensed health care professional.
5. Promptly provides written notice to the client of the determination of the reviewing professional.

ICBHS (cont.)

Note: No further review of the denial is required.

6. Retains a record of the request for review of the denial for access to inspect and/or obtain a copy of PHI for six (6) years from the date of its creation or the date it was last in effect, whichever is later, or such longer period required by state law or other federal law.

It is ICBHS' records retention policy that all records be kept a minimum of seven (7) years from the date of discharge, except for minors, whose records shall be kept at least one (1) year after the minor has reached the age of eighteen (18), but in no case less than seven years.

Forms used in this procedure:

Request for Review of a Denial of a Request to Inspect or
Obtain a Copy of Protected Health Information ICBHS 00-76