

# Patient Right of Access to PHI: Meeting Today's Regulatory Requirements and Expectations

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# Privacy Rule Right of Access Very Broad



- Patient or Personal Representative has right to access, review, copy and share “designated record set”.
  - Medical and billing records of provider
  - Enrollment, payment, claims adjudication and case/medical management records of a health plan
  - Other records used to make decisions about patient
- Policy considerations underpinning Privacy Rule standard and guidance

# Policies & Processes for Patient Access



- Are there standardized policies, procedures and processes across the organization?
- Do they align with the policy and process in your Notice for Privacy Practices?
- Has your organization identified each service area and location where patients can request or obtain access to their PHI?
- Does your organization employ a business associate to receive or fulfill requests for patient access to, or sharing of, PHI?
- How do the business associate's processes align with the organization's policies and Notice of Privacy Practices?

# Minimize Barriers in Request Process



- Organizations may require that requests for access be in writing
- Require verification of identity of requestor
- Cannot put “unreasonable measures” that create barriers or significant delays into process
  - Require individual to be physically present to make request, verify identity or receive requested PHI
  - Require use of web portal for requesting access
  - Require requests for access to PHI be mailed

# Provide PHI In Form/Format Requested



- Individual is entitled to copy of PHI in form or format requested, if readily producible.
- Has your organization surveyed the form & format of the PHI maintained across the organization?
- How does your organization communicate to individuals their options in designating producible form and format?
- When the requested form or format not readily producible, what processes are in place to negotiate alternatives?

# Reasonable Cost Based Fees



- Does your organization set costs for copies of PHI that reflects the allowable reimbursement permitted by the regulation?
- Has your organization set processes for how costs are determined and documented:
  - Labor for copying PHI whether in paper or electronic form?
  - Supplies for creating paper copy or electronic media?
  - Postage, if individual requests mailing?
- If a business associate is used to fulfill requests for patient access to PHI, does their fee schedule meet requirements of the Rule?
- Is there a process for fee waiver in cases of financial hardship?

# Questions?



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