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| MONTCALM CARE NETWORK**611 North State Street, Stanton, MI 48888** |
| SUBJECT: HIPAA Right to Request Access or Amendment to Records | Section: 11861 |
| Effective Date: January 28, 2003 | Revised Date: March 25, 2003, July 25, 2006, Sept 24, 2013 |
|  Version: 2 |  Status: Current |

**Right to Request Access to Records:**

Upon request, Montcalm Care Network must allow a consumer to inspect and/or copy his or her own medical records, billing records, or other records used by Montcalm Care Network to make decisions about the consumer.

If Montcalm Care Network does not maintain the requested information, but knows where the requested information is kept, Montcalm Care Network must inform the consumer where to direct the request for access.

The consumer may request that the information be provided in a particular format of his or her own choosing (e.g., electronic or paper.) Montcalm Care Network must comply if the information can be readily producible in that format. If Montcalm Care Network cannot readily provide the requested format, Montcalm Care Network will work with the consumer to reach an agreement on an alternate format in which to provide the copy of the PHI.

Montcalm Care Network may provide the consumer with a summary of the requested information instead of the actual information, if the consumer agrees to accept a summary and agrees to accept any charges imposed by Montcalm Care Network for preparation of the summary.

Montcalm Care Network may charge reasonable cost-based fees for copying, postage, and preparation of a summary (if the individual has agreed to a summary), with said fees covering only labor associated with the copying of the materials and postage if the individual requested a copy be mailed. If the consumer wishes to inspect the information instead of receiving a copy, Montcalm Care Network will arrange for a convenient time and place for the inspection. It is the policy of Montcalm Care Network to have the Privacy Officer, or another individual designated by the Privacy Officer, remain with the consumer as he or she reviews the record.

Montcalm Care Network must act on all requests for access or inspection within thirty (30) days by either sending a denial letter or providing the requested access. If the request is from the Department of Health & Human Services (DHHS), or Child Protective Services (CPS), response is required within fourteen (14) days, according to Montcalm Care Network's Confidentiality Policy #8906. If the requested information is stored off-site, Montcalm Care Network may have up to sixty (60) days to provide access. If Montcalm Care Network cannot meet these time frames, Montcalm Care Network can receive one 30-day extension by sending the consumer a letter including the reason for the delay, and the date by which Montcalm Care Network will comply with the request.

Copies of PHI must be provided to other parties if designated by the consumer. The consumer’s request must be written and signed and must clearly identify the designated recipient and where to send the copy of PHI. If a consumer’s request has been for electronic PHI (ePHI), Montcalm Care Network may email the requested information (unencrypted) to the consumer provided this method is specifically requested by the consumer, and provided Montcalm Care Network has advised them of the risks involved, and the consumer still prefers to receive the information by unencrypted email. Montcalm Care Network shall ensure that the individual has signed an acknowledgement of the warning inherent in this method of delivery of sensitive electronic information. Montcalm Care Network is not responsible for safeguarding the PHI once delivered to the consumer.

**Denial of Consumer Request for Access:**

Montcalm Care Network can deny access for any of the reasons set forth below. If the reason for the denial applies to only a portion of the requested information, then the request should be granted to the extent possible. If a request is denied, a written letter shall be provided.

*Nonreviewable Grounds for Denial:*

In the following circumstances, Montcalm Care Network is not required to provide access to the consumer and the consumer does not have the right to request a review of the denial:

* The request is for psychotherapy notes. For the purposes of HIPAA, psychotherapy notes include only those notes that are separated from the rest of the consumer’s medical record and document or analyze conversations during a counseling session. Please note that the rest of the medical record, even though it may include mental health diagnoses, etc., is not considered to be “psychotherapy notes” and, therefore, must be disclosed to the consumer (unless another ground for denial exists);
* The request is for information compiled in anticipation of a civil, criminal or administrative proceeding;
* The information requested 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 information;
* Montcalm Care Network is providing health care services on behalf of a correctional institution and the consumer is an inmate, (if providing the records would jeopardize the health, safety, security, custody, or rehabilitation of the consumer, other inmates, or the safety of any employee or agent of the correctional institution).
* The request is for information collected and maintained in the course of research that includes treatment and the consumer agreed to the denial of access when consenting for the research study. Please note that denial under these circumstances can only be temporary and the consumer must be afforded access once the research study has been completed.

*Reviewable Grounds for Denial*

In the following circumstances Montcalm Care Network may refuse to grant access to the consumer, but must give the consumer the right to have the denial reviewed by another licensed health care professional who did not participate in the original denial:

* A health care professional determines that allowing access to the information would be reasonably likely to endanger the life or safety of the consumer or another person;
* The requested information makes reference to another person (other than a health care provider) and a licensed health care professional determines that the access requested is reasonably likely to cause substantial harm to this other person;
* The request is made by a personal representative and a licensed professional has determined that the requested access is reasonably likely to cause substantial harm to the consumer or another person.

Right to Request Amendment to Consumer Information:

Under Michigan Law, a consumer, guardian, or parent of a minor consumer may challenge the accuracy, completeness, timeliness or relevance of factual information in the recipient's treatment record. The recipient, guardian, or parent of the minor shall be allowed to insert into the record a statement correcting or amending the information at issue. The statement shall become part of the record. Montcalm Care Network must accept the statement, and include the statement in the treatment record.

Under HIPAA, a consumer also has the right to request that his or her information in a billing record be amended or that the actual treatment record be amended (not just a correction statement to be inserted with the record). Montcalm Care Network may require that the consumer submit the request in writing and that the consumer provide a reason to support the requested amendment. Montcalm Care Network must either accept or deny a consumer’s request within sixty (60) days of the request. Montcalm Care Network can obtain one 30-day extension, if it provides the consumer with written notice of the reason for the delay and the date upon which the information will be provided.

*Accepting a Request for Amendment:*

If Montcalm Care Network agrees to the requested amendment, Montcalm Care Network must do the following within the sixty (60) daytime frame (or ninety (90) days, if the extension is requested):

* Make the requested amendment;
* Inform the consumer that the amendment has been accepted;
* Obtain from the consumer the names of all individuals who received the protected health information, obtain the consumer’s agreement to notify these individuals of the amendments, and inform the individuals of the amendments;
* And, identify and inform all persons or entities who have the information that is the subject of the request who have relied upon this information, or can be expected to rely upon this information in the future to the detriment of the consumer.

*Denying a Request for Amendment:* The following are grounds for denial:

* Montcalm Care Network believes that the record is accurate and complete.
* Access to the medical record has been denied for one of the reasons set forth above in the access section of the policy.
* The information is not part of a designated record set (i.e., not part of the medical records, billing records, or other records used to make decisions about the consumer).
* The information was not created by Montcalm Care Network (e.g., medical records from another provider).

Note, however, per Michigan Law, Montcalm Care Network must allow and cannot deny, the consumer the right to submit a statement of correction or amendment, which will then become part of the treatment record.

If the request is denied, Montcalm Care Network must provide the consumer with a written denial letter. The consumer has the right to submit a statement of disagreement and Montcalm Care Network has the option of responding with a written rebuttal. It is the policy of Montcalm Care Network to have the Privacy Officer prepare a written rebuttal in response to all statements of disagreement.

See also procedure #8200C Corrections, Additions, and Authentication of Legal Documents.

Staff Responsibilities:

Employees should inform consumers that all requests for access or amendment should be in writing and either mailed or hand-delivered to Montcalm Care Network, to the attention of the Privacy Officer. The request should be signed and dated by the consumer or the consumer's representative. If requests are hand-delivered to the office, all employees are responsible for making sure that the request is dated and signed, and is given to the Privacy Officer.

The Privacy Officer, either personally or by delegation, will be responsible for keeping a log of all requests and the deadline for the requested information and/or amendment.

If Montcalm Care Network does not maintain the requested information, but knows where the requested information can be found, the Privacy Officer is responsible for contacting the consumer to inform him or her of the location of the requested information.

The Privacy Officer shall act consistent with the protocols set forth in this policy regarding providing access and time frames for response in addressing requests for amendments.

AUTHORITIES:

Mental Health Code, Section 330.1748

45 CFR 164.524 (inspection/copy)

45 CFR 164.526 (amendment) MCL 330.1748and 1749

MAC 330.7051