

**TEXAS ASSOCIATION OF COUNTIES
HEALTH AND EMPLOYEE BENEFITS POOL
HIPAA POLICIES**

**REQUESTS FOR ACCESS
TO PROTECTED HEALTH INFORMATION**

Effective Date: March 17, 2003

POLICY

Participants in the Texas Association of Counties Health & Employee Benefits Pool ("HEBP") Health Plan have the right to request to inspect or obtain a copy of their Protected Health Information ("PHI") in a designated record set, except for psychotherapy notes or information compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative action or proceeding.

PROCEDURE

- Requests for access to PHI must be made in writing.
- When a request for access to PHI is received, it will be acted upon according to the following time frames:
 - Within thirty (30) days if the requested information is maintained and accessible on site; or
 - Within sixty (60) days if the requested information is maintained off site.
- If the request is granted, HEBP informs the participant and provides the access requested, within the time frames above.
- The time frames stated above may be extended one time for no more than thirty (30) days. If the extension is necessary, HEBP will provide the participant, within the time frames above, a written statement that specifies the reason(s) for the delay and the date by which the participant may expect to receive a decision on the request to access the PHI for inspection and/or copying.
- HEBP may deny a request without providing for review of the denial if: 1) the PHI consists of psychotherapy notes or information compiled in anticipation of, or for use in a civil, criminal or administrative action or proceeding; or 2) if the PHI was received by HEBP pursuant to a promise of confidentiality.

- HEBP may deny a request, but will provide a review of the denial, if: 1) a licensed health care professional determines, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person; 2) the PHI makes reference to another person and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to the individual or another person; or 3) the request is made by an individual's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.
- HEBP documents the records that comprise the designated record set that is subject to access requests and maintains such records for a period of six (6) years from the date they were created or were last in effect, whichever is later.
- HEBP maintains the titles of the persons/offices responsible for receiving and processing access requests for a period of six (6) years.

When the Health Plan denies a request for access (in whole or in part):

- The participant is given a statement written in plain language that includes:
 - The reasons for the denial;
 - If applicable, the participant's right to a review of the decision with an explanation of how to exercise this right; and
 - A description of how the participant may file a complaint with the Health Plan and United States Department of Health and Human Services, including the title and telephone number of a Health Plan contact person.
- To the extent possible, HEBP will grant access to other PHI for which there are no grounds to deny access.
- If the denial is reviewable and the participant requests such a review, HEBP will designate a licensed health care professional, not involved in the original denial decision, to serve as a reviewing official. Upon receipt of a review request, HEBP will promptly refer the denial to the reviewing official for reevaluation. HEBP will provide written notice to the participant of the reviewing official's determination.
- If HEBP denies access because it does not maintain the PHI requested but knows where the requested PHI is maintained, HEBP will inform the participant where to direct the request.

When a request for access is accepted (in whole or in part):

- The participant is notified of the decision and may choose to inspect the PHI, copy it, or both, in the form or format requested.
- In lieu of providing access, HEBP may provide a summary of the requested PHI for an additional charge if the participant agrees to the summary and to the additional fee.
- HEBP and the participant will arrange a mutually convenient time and place for the participant to inspect and/or obtain a copy of the requested PHI.
- HEBP will mail a copy of the requested PHI if the participant prefers this method of obtaining a copy.

Fees charged by TAC HEBP for access to PHI:

- HEBP charges a reasonable, cost-based fee for copying, including labor and supplies (for instance, paper, computer disks).
- HEBP charges the cost of postage when the participant requests that the information be mailed.
- No fee is charged for retrieving or handling the PHI or for processing the participant's access request.
- HEBP may charge a nominal fee for preparing an explanation or summary of the requested PHI if the participant is informed of and agrees to receive a summary of the PHI and is willing to pay the fee.