

**Accounting for Disclosures of Protected Health Information
HIPAA Privacy Rule § 164.528
Frequently Asked Questions**

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1. What is the HIPAA right to an accounting?

An individual has a right to an accounting of disclosures of protected health information (PHI) made by a covered entity or its business associate(s). The covered entity must account for all disclosures of PHI made in the six years prior to the date of the individual's request, unless the individual requests an accounting covering less than six years. The accounting does not have to include disclosures made before the Privacy Rule compliance date.

2. Does the accounting have to include uses of PHI?

No. Only disclosures of PHI must be included. HIPAA defines "use" as "the sharing, employment, application, utilization, examination, or analysis of information within an entity that maintains such information." "Disclosure" means "the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information."

CAUTION FOR HYBRID ENTITIES: When a covered health care component shares information with a non-covered component of the hybrid entity, it is considered a *disclosure*, not a *use*.

3. Does the accounting have to include every disclosure of PHI?

No. The accounting does not have to include the following disclosures of PHI:

- Disclosures that occurred before the Privacy Rule compliance date
- Disclosures to carry out treatment, payment, or health care operations
- Disclosures made to the individual who is the subject of the PHI
- Incidental disclosures—that is, those that are incident to a use or disclosure that is otherwise permitted or required by the Privacy Rule
- Disclosures made pursuant to an authorization
- Disclosures for a facility directory
- Disclosures to persons involved in the individual's care (such as friends or family)
- Disclosures for national security or intelligence purposes made pursuant to Privacy Rule § 164.512(k)(2)

- Disclosures of PHI that are made to correctional institutions or law enforcement officers, when those disclosures are consistent with Privacy Rule § 164.512(k)(5)
- Disclosures made as part of a limited data set in accordance with Privacy Rule § 164.514(e)

All other disclosures of PHI must be included in the accounting.

4. May a covered entity refuse an individual's request for an accounting?

Generally, no. In most cases the request must be honored. There is one very limited exception, however. The covered entity *must* temporarily suspend an individual's right to receive an accounting when *both* of the following conditions are met:

- 1) the disclosure is to a health oversight agency or law enforcement official (in accordance with sections of the Privacy Rule that permit the disclosure), *and*
- 2) the agency or official provides the entity with a written or oral statement explaining that an accounting to the individual would be reasonably likely to impede the agency's activities and specifying the time frame for which the suspension is required.

5. What must be included in the accounting?

The accounting must include the following information for each disclosure:

- Date of disclosure, and
- Name of entity or person who received the PHI and, if known, the entity's or person's address, and
- Brief description of the PHI disclosed, and
- One of the following:
 - Brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or
 - A copy of any written request for disclosure by US DHHS for compliance purposes, or
 - A copy of any written request for disclosure by a person or entity authorized to receive PHI for national priority uses and disclosures under Privacy Rule § 164.512 (such as a public health authority, health oversight agency, etc.).

There are special rules governing disclosures for research purposes in some cases. See Privacy Rule § 164.528(b)(4)(i). There is also a special rule governing *some* circumstances in which multiple disclosures are made to the same person or entity for a single purpose. See question 6, below.

6. Suppose multiple disclosures are made to the same person or entity for a single purpose. How may covered entities account for these?

There is a special rule for accounting for multiple disclosures of PHI that are made to the same person or entity for a single purpose when the multiple disclosures fit into one of the following categories:

- 1) The multiple disclosures are made to the US DHHS for compliance purposes, as required by Privacy Rule § 164.502(a)(2)(ii), or
- 2) The multiple disclosures are made to the same person or entity for one of the “national priority” purposes that is described under Privacy Rule § 164.512 (disclosures that can be made without the individual’s permission—such as disclosures that required by law, disclosures to health oversight agencies, etc.).

If one of the above two circumstances applies, the covered entity may account for the disclosures by doing *all* of the following:

- Providing the information that must be included in an accounting (listed in question 5, above) for the *first* of the multiple disclosures,
- Noting the frequency, periodicity, or number of disclosures made during the accounting period, and
- Providing the date of the last such disclosure that was made during the period for which the accounting is requested.

Note that this procedure may be used *only if* the multiple disclosures fit into one of the two categories described in the first paragraph of this answer.

7. After an individual requests an accounting, how quickly must the covered entity provide it?

Within 60 days. If the covered entity cannot provide the accounting within that period of time, the entity may have one 30-day extension. To receive the extension, the entity must give the individual a written statement setting forth the reasons for the delay and the date by which the entity will provide the accounting. The written statement must be provided within 60 days after the individual’s request for the accounting. Only one thirty-day extension is allowed.

8. Can the covered entity charge a fee for the accounting?

A covered entity must provide one free accounting in any 12-month period. If an individual requests additional accountings within the 12-month period, the entity may charge a reasonable, cost-based fee, *provided that* the entity informs the individual of the fee in advance and provides the individual with an opportunity to withdraw or modify the request for the accounting in order to avoid or reduce the fee.