



Monterey County Behavioral Health Policy and Procedure

Policy Number	115
Policy Title	Amendment of Protected Health Information
References	45 CFR § 164.526
Form	Amendment Request Form
Effective	July 30, 2021

Policy

It is the policy of Monterey County Behavioral Health (MCBH), including its contracted providers for Specialty Mental Health Services (SMHS) and Drug-MediCal Organized Delivery System (DMC-ODS) to make amendment(s) to their electronic health record (EHR) that were requested by a beneficiary and that MCBH directs or agrees should be made to assure compliance with 45 CFR Section 164.526.

Procedure

A. Right to Amend

1. A beneficiary has the right to have MCBH Quality Improvement Department licensed staff amend protected health information or a record that is maintained in the EHR.
2. MCBH may deny a beneficiary's request for amendment, if it determines that the protected health information:
 - i) Was not created by MCBH, unless the beneficiary provides a reasonable basis to believe that the originator of protected health information is no longer available to act on the requested amendment;
 - ii) Is not part of the designated record set;
 - iii) Would not be available for inspection; or
 - iv) Is accurate and complete.

B. Request for Amendment and Timely Action

1. Beneficiaries may request that MCBH amend their protected health information maintained in the EHR.
 - i) The request must be submitted in writing via "Request to Amend Protected Health Information" form.
2. Timely action by MCBH:
 - i) MCBH must act on the beneficiary's request for an amendment no later than 60 days after receipt of the request.
 - ii) MCBH is unable to act on the amendment within the time required, MCBH may extend the time by no more than 30 days, provided that:

- a. MCBH will provide the beneficiary with a written statement of the reasons for the delay and the date by which MCBH will complete its action on the request; and
- b. MCBH may have only one such extension of time for action on a request for an amendment.

C. Accepting the amendment

If MCBH accepts the requested amendment, in whole or in part, MCBH will:

1. Make the amendment
 - i) MCBH must make the appropriate amendment to the protected health information that is the subject of the request for amendment by, at a minimum, identifying the records in the designated record set that are affected by the amendment and appending or otherwise providing a link to the location of the amendment.
2. Inform the beneficiary
 - i) MCBH must timely inform the beneficiary that the amendment is accepted and obtain the beneficiary's identification of and written authorization to have the MHP notify the relevant persons with which the amendment needs to be shared.
3. Inform others
 - i) MCBH must make reasonable efforts to inform and provide the amendment within a reasonable time to:
 - (1) Persons identified by the beneficiary as having received protected health information about the beneficiary and needing the amendment; and
 - (2) Persons, including business associates, that the MHP knows have the protected health information that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the beneficiary.

D. Denying the amendment

If MCBH denies the requested amendment, in whole or in part, MCBH will:

1. Denial:
 - i) MCBH must provide the beneficiary with a timely, written denial and must use plain language and contain:
 - (1) The basis for the denial;
 - (2) The beneficiary's right to submit a written statement disagreeing with the denial;
 - (3) A statement that, if the beneficiary does not submit a statement of disagreement, the beneficiary may request that MCBH provide the beneficiary's request for amendment and the denial with any future disclosures of the protected health information that is the subject of the amendment; and
 - (4) A description of how the beneficiary may complain to the MCBH pursuant to the complaint procedures established.
2. Statement of disagreement
 - i) MCBH must permit the beneficiary to submit to the MHP a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement. MCBH may reasonably limit the length of a statement of disagreement.
3. Rebuttal statement
 - i) MCBH may prepare a written rebuttal to the beneficiary's statement of disagreement. Whenever such a rebuttal is prepared, the MHP must provide a copy to the beneficiary who submitted the statement of disagreement.

4. Recordkeeping

- i) MCBH must, as appropriate, identify the protected health information in the EHR that is the subject of the disputed amendment and append or otherwise link the beneficiary's request for an amendment, MCBH denial of the request, the beneficiary's statement of disagreement, if any, and MCBH rebuttal, if any, to the designated record set.

E. Future disclosures

- i) If a statement of disagreement has been submitted by the beneficiary, MCBH must include the material appended or, at the election of the MHP, an accurate summary of any such information, with any subsequent disclosure of the protected health information to which the disagreement relates.
- ii) If the beneficiary has not submitted a written statement of disagreement, MCBH must include the beneficiary's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the protected health information only if the beneficiary has requested such action.
- iii) When a subsequent disclosure described in paragraph (E)(i) or (ii) of this section is made using a standard transaction under part 162 of this subchapter that does not permit the additional material to be included with the disclosure, MCBH may separately transmit the material required by paragraph (E)(i) or (ii) of this section, as applicable, to the recipient of the standard transaction.

F. Actions on notices of amendment

- i) If MCBH is informed by another covered entity of an amendment to a beneficiary's protected health information, in accordance with paragraph (C)(3)(i) of this section, must amend the protected health information in designated record sets as provided by paragraph (C)(1)(i) of this policy.