



Patient Access API Educational Resource

What are important things beneficiaries should consider before authorizing a third-party app to retrieve their health care data?

It is important for you to take an active role in protecting your health information. Knowing what to look for when choosing an app is an important step each beneficiary may consider taking to help protect the privacy and security of their health information and can help you make more informed decisions. When deciding to use an app, you should always look for an easy-to-read privacy policy that clearly explains how the app will use your data¹. If an app does not have a privacy policy, you should be advised **not** to use the app. Other important things you should consider include:

- What health data will this app collect? Will this app collect non-health data from my device, such as my location?
- Will my data be stored in a de-identified or anonymized form?
- How will this app use my data?
- Will this app disclose my data to third parties?
 - Will this app sell my data for any reason, such as advertising or research?
 - Will this app share my data for any reason? If so, with whom? For what purpose?
- How can I limit this app's use and disclosure of my data?
- What security measures does this app use to protect my data?
- What impact could sharing my data with this app have on others, such as my family members?
- How can I access my data and correct inaccuracies in data retrieved by this app?
- Does this app have a process for collecting and responding to user complaints?
- If I no longer want to use this app, or if I no longer want this app to have access to my health information, how do I terminate the app's access to my data?
 - What is the app's policy for deleting my data once I terminate access? Do I have to do more than just delete the app from my device?
- How does this app inform users of changes that could affect its privacy practices?

What are a beneficiary's rights under the Health Insurance Portability and Accountability Act (HIPAA) and who must follow HIPAA?

The U.S. Department of Health and Human Services (HHS) Office for Civil Rights (OCR) enforces the HIPAA Privacy, Security, and Breach Notification Rules, and the Patient Safety Act and Rule. You can find more information about beneficiary rights under HIPAA and who is obligated to follow HIPAA here: <https://www.hhs.gov/hipaa/for-individuals/guidance-materials-for-consumers/index.html>

¹ (42 CFR §431.60(f)(1)); ² (42 CFR §431.60(f)(2)); ³ (42 CFR §431.60(f)(i)); ⁴ (42 CFR §431.60(f)(ii))

Are third-party apps covered by HIPAA?

Most third-party apps will not be covered by HIPAA. Instead, these apps will fall under the jurisdiction of the Federal Trade Commission (FTC) and the protections provided by the FTC Act. The FTC Act, among other things, protects against deceptive acts (e.g., if an app shares personal data without permission, despite having a privacy policy that says it will not do so). Oversight over the FTC Act is monitored by the Office for Civil Rights (OCR) and the Federal Trade Commission (FTC)². To learn more about mobile app privacy and security, see the FTC's "Understanding Mobile Apps" page at:

<https://www.consumer.ftc.gov/articles/0018-understanding-mobile-apps>

What should a beneficiary do if they think their data have been breached or an app has used their data inappropriately?

Any person who receives mental health services through the Monterey County Behavioral Health and its contracted providers may file a complaint. There is no deadline to file a complaint, but it is best to do it soon after the issue arises in order to provide more specific and detailed information. A beneficiary may file a complaint in writing, calling, or in person with the Quality Improvement team located at 1611 Bunker Hill Way, Suite 120, Salinas, CA 93906, (831) 755-4545 (TTY/TDD: 831-796-1788).

Beneficiaries can also file a complaint to the HHS Office for Civil Rights (OCR)³ using the OCR complaint portal: <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>

To learn more about filing a complaint with OCR under HIPAA, visit:

<https://www.hhs.gov/hipaa/filing-a-complaint/index.html>.

Beneficiaries can file a complaint to the Federal Trade Commission (FTC)⁴ using the FTC complaint assistant: <https://www.ftccomplaintassistant.gov/#crnt&panel1-1>

¹ (42 CFR §431.60(f)(1)); ² (42 CFR §431.60(f)(2)); ³ (42 CFR §431.60(f)(i)); ⁴ (42 CFR §431.60(f)(ii))