

Part B Insider (Multispecialty) Coding Alert

Reader Questions: Understand the Right of Access Provision to Avoid HIPAA Issues

Question: One of our patients has a sizable balance and hasn't responded to requests for payment. They sent a request asking for a copy of their health records. Can I withhold them until they pay for the services we've already provided?

Texas Subscriber

Answer: No, you cannot withhold protected health information (PHI) for that reason, according to the Department of Health and Human Services (HHS).

"A covered entity may charge an individual that has requested a copy of her PHI a reasonable, cost-based fee for the copy. See 45 CFR 164.524(c)(4). However, a covered entity may not withhold or deny an individual access to her PHI on the grounds that the individual has not paid the bill for health care services the covered entity provided to the individual," HHS says on its website.



Caution: Since the HHS Office for Civil Rights (OCR) instituted its HIPAA Right of Access Initiative in September 2019, the agency has investigated and settled 38 cases, including monetary penalties for the providers.

Ensuring that patients have swift and affordable access to their medical records - no matter their financial situation - is a part of HIPAA and remains a primary focus of the feds. You may want to include Right of Access protocols in your compliance planning and offer training to staff to protect these critical rights.

Resource: Review OCR's guidance on HIPAA Right of Access at www.hhs.gov/hipaa/for-professionals/privacy/guidance/access/index.html.