

## HHS Publishes Guidance on Patient Access to Records under HIPAA

**Articles** February 4, 2016

On January 7, 2016 the Department of Health and Human Services (“HHS”) released a fact sheet and a series of frequently asked questions to help to clarify an individual’s right to access and obtain a copy of his or her health information under HIPAA. In its announcement, HHS notes that individuals face obstacles in assessing their health information and that “this must change.” The FAQs address a number of topics including the information covered under the access right, the form in which information is to be provided, the limited exceptions to the individual’s right, the timing requirements for the provision of access, and the interplay between the access rights of HIPAA and the requirements for patient access under the HITECH Act’s EHR Incentive Program. The publication provides a summary of general issues related to access and includes a number of FAQs addressing particular questions, facts, and circumstances. It is important for physical therapists and all health care providers to review this document so that they can be better aware of HHS’ position on the right to access and make any necessary revisions to current policies and procedures. As noted above, HHS has chosen to develop FAQs on this issue based upon previous noncompliance by health care providers. Given the publication of these FAQs and past enforcement actions, a reasonable conclusion can be drawn that HHS may be less tolerant of noncompliance in this area should this issue arise during an audit or investigation.

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