

Policy and Procedures for Requests for Correction/Amendment of Protected Health Information

45 CFR 164.526; 5 U.S.C. 552a(d)

PURPOSE: To establish the policy and procedures for receiving and processing requests for Correction/Amendment of protected health information (PHI).

POLICY: Every patient receiving healthcare services at an Indian Health Service (IHS) facility has the right to request corrections or amendments to his/her PHI that was created by IHS providers and its contractors (business associates) in accordance with the HHS/IHS/Privacy Act System of Records No. 09-17-0001, Health and Medical Records System, and the Health Insurance Portability & Accountability Act (HIPAA) Privacy Rule.

PROCEDURE: A patient who believes his/her health information is inaccurate or incomplete may submit a request to the Service Unit Director/Chief Executive Officer (SUD/CEO) or designee for amendment of the record in question.¹

1. The patient must complete IHS Form 917, Request for Amendment of Protected Health Information. All requests must be in writing unless the patient makes a request in person and the SUD/CEO or designee amends the record at that time.
2. The SUD/CEO or designee receiving the request will date stamp IHS Form 917.
3. The patient must receive a date stamped copy of the completed IHS Form 917 as an acknowledgement of the receipt of the request within 10 working days.
4. If a decision on the request for amendment can be made within 10 working days of IHS' receipt of the request, then IHS will simultaneously notify the patient of the receipt and its decision within that 10-day period.
5. If the patient requests amendment of records that are governed by the regulations of another government agency, IHS will forward the request to that agency for processing, and the patient will be notified of the referral.
6. The patient will be notified of the acceptance or denial of the request within 60 days after receipt of the request, unless IHS extends the time period for no more than 30 days as allowed by law. If IHS extends the time period, the patient will be notified of the reasons for the extension and the date by which IHS will act on the request.
7. The SUD/CEO or designee in consultation with the appropriate staff member will review the request for amendment and will inform the patient within sixty (60) days, for approval or denial. IHS may extend the time frame one time only for no more than 30 days if it informs the patient of the reasons for the delay and the date by which IHS will act on the request.
8. The IHS Form 917 will be filed at the site of the contested entry in the health record and maintained for the life of the health record.

¹ For Areas that provide CHS directly through the Area Office, references to the SUD/CEO should be considered references to the Area Director's designee, as applicable, throughout this policy and procedure and the model letters that follow.

APPROVAL OF REQUEST FOR AMENDMENT OF PHI

1. If the request for amendment is approved, the health information will be amended per the procedure outlined in the IHS Manual, Chapter 3, Section 3.14C, Paragraph 6.

Correction of medical record data shall be accomplished as follows:

- a. No erasure or other obliteration shall be made.
 - b. Incorrect data shall be lined out with a single line.
 - c. The date of amendment, the signature of the person making the amendment, the amended information, and the reason for the amendment shall be added.
2. Subject to the individual's agreement, the amended information will be provided: (a) to persons/organizations that IHS knows received the information in the past and who may have relied or may foreseeably rely on such information to the detriment of the patient; and (b) to those persons/organizations identified by the patient as having received the health information and needing the amendment. When such information is sent, it should be accompanied by a statement, "This is an amendment to the information that was previously sent on _____ date _____."
 3. Disclosure of the amended health information will be documented manually or electronically in the Accounting Disclosure Record.
 4. The patient will be notified in writing that the request for amendment of the health information has been approved.

DENIAL OF AMENDMENT OF PHI

1. If the request for amendment is denied, in whole or in part, the SUD/CEO or designee will document the denial on IHS Form 917 and a copy of the form will be sent to the patient within 60 days. The original form will be filed in the appropriate health record.

IHS will only deny a request for amendment for the following reasons:

- a) the health information is not part of the patient's designated record set;
- b) IHS did not create the record;
- c) the record is not available to the patient under federal law; or
- d) the record is accurate and complete.

However, if IHS did not create the record at issue, but the patient provides a reasonable basis to believe that the originator of the health information is no longer available to act on the request, IHS will address the request. When the patient is notified of the denial of his/her request, he/she also will be notified of applicable appeal rights, as described below.

APPEAL RIGHTS

1. If the patient is not a U.S. citizen or alien admitted for permanent residence and the request is denied, he/she may submit to the SUD/CEO or designee a written statement (reasonable in length) disagreeing with the denial and the basis of such disagreement. The law does not allow any further appeal.
 - a) IHS has the right to prepare a written rebuttal to any statement of disagreement. IHS will provide a copy of any rebuttal statement to the patient. Any written rebuttal prepared by IHS is not subject to correction or amendment.
 - b) If the patient has submitted a statement of disagreement, IHS must include such statement or an accurate summary thereof with any subsequent disclosure of the health information to which the disagreement relates.
 - c) If the patient has not submitted a written statement of disagreement, IHS must include the patient's request for amendment and its denial, or any accurate summary of such information, with any subsequent disclosure of the health information *only* if the patient has requested such action.
2. If the patient is a U.S. citizen or alien admitted for permanent residence, he/she may appeal the refusal to amend the requested information to the Area Director. The Area Director must act on the appeal within 30 working days of the patient's appeal, unless the Area Director extends the period for up to an additional 30 working days for good cause. The Area Director will inform the patient in writing of any extension of the appeal period and the reason(s) for the delay. In the event the Area Director denies the appeal, or if the patient elects not to appeal, he/she may submit a statement of disagreement in accordance with paragraph 1, above. When an appeal is denied, the Area Director will inform the patient in writing of the reasons for the denial, and advise the patient of his/her rights to submit a written statement of disagreement and to seek judicial review of the denial. If the patient submits a written statement of disagreement, such statement along with a statement of the Area Director's reasons for denying the appeal (if an appeal was filed) will be provided to previous recipients of the disputed record where an accounting of the previous disclosure was made.
3. Any request for correction/amendment, and any subsequent information pertaining to such request, will become part of the patient's permanent health record.
4. A patient who receives a denial of his/her request for amendment has the right to submit a written statement of disagreement to the SUD/CEO or designee, within 30 days of the denial.
5. The SUD/CEO or designee must respond to any written statement of disagreement within thirty (30) working days from receipt of the patient request for appeal.
6. If the patient has a complaint about IHS' policies and procedures regarding health information, he/she may file such a complaint with the Service Unit Director or with the Secretary, Department of Health and Human Services, Washington, D.C. 20201.

(Insert Service Unit address, SUD's name, Title and Telephone #)

**Model Letter of Acknowledgment of Receipt of Request for Amendment
Service Unit Letterhead and address**

Date:

Jane Doe
1234 Main Street
Main, AZ 12341

Dear Ms Doe,

This is to acknowledge receipt of your request for amendment of your health information.

Your request is being reviewed and a decision will be made and sent to you within 60 days from the date of this letter.

We are currently unable to make a decision on your request for amendment of your health information within 60 days for the following reason (s); **insert reason(s)** therefore, we are extending this period for up to an additional 30 days, to enable us to make a decision.

The record requested is maintained by another government agency; therefore, your request has been forwarded to the agency responsible for your request. Please contact the agency at the address below for all future inquiries regarding this request:

(Insert name and address of the agency)

Thank you for allowing us to be part of your healthcare team.

Signature of SUD/CEO or Designee

Appendix 2
**Model Letter Approving Request for Amendment
Service Unit Letterhead and address**

Date:

Jane Doe
1234 Main Street
Main, AZ 12341

Dear Ms Doe,

After reviewing your letter requesting amendment of your health information, I am pleased to inform you that your requested amendment has been approved. Your record now reflects the amendment requested.

Thank you for allowing us to continue to serve you. IHS is committed to your healthcare. Please contact us in the future for you and your family's health care needs.

Signature of SUD/CEO or Designee

Appendix 3
**Model Letter Denying Request for Amendment
Service Unit Letterhead and Address**

Dear Ms. Doe:

After reviewing your request for the amendment of your health information, I regret to inform you that your request was denied for the reason(s) specified below:

- IHS did not create information
- Your information is not available for patient inspection under federal law.
- Your record is accurate and complete
- Your information is not part of the patient designated record set

If your request was denied, you may do the following:

- a. Submit to the Service Unit Director/Chief Executive Officer (SUD/CEO) a written statement (reasonable in length) disagreeing with the denial and the reason of such disagreement.
- b. If you do not submit a statement of disagreement, you may request in writing that IHS provide this request for amendment (or summary) and the denial with any future disclosures.

IHS has the right to prepare a written rebuttal to any statement of disagreement. You will be provided a copy of any rebuttal statement.

If IHS did not create the information and the originator (healthcare provider/facility) is no longer available to act on your amendment and is the basis for this denial, you may submit to the SUD/CEO I writing evidence of the originator's unavailability and request a supplemental review of our decision.

If you are a United States citizen or alien lawfully admitted for permanent residence, you may also appeal the denial to amend the requested information to the Area Director at the following address:

(Stamp address of Area Director)

In the event your appeal is ultimately denied, or if you elect not to appeal, you may submit a statement of disagreement as described in (a) above. If you appeal and your appeal is denied, you may also seek judicial review of the denial.

If you have complaints about IHS' policies and procedures regarding health information, you may file such complaint with the Service Unit Director/Chief Executive Officer of this facility:

(Stamp address of Service Unit)

or with the Secretary, Department of Health and Human Services, Washington, D.C 20201

Thank you for allowing us to meet your healthcare needs.

Signature of SUD/CEO