eHealth Exchange
ANNUAL MEETING
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Who Gets Your Records and How?



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Panel



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Who may request records under HIPAA and why?

The requester's role and the legal basis determine whether HIPAA permits disclosure.

PURPOSE	WHO MAY REQUEST
Treatment	Health care providers, including providers not covered by HIPAA, for treatment.
Payment	Health plans, providers or other covered entities for their payment activities.
Health care operations	Covered entities for their own operations; other covered entities subject to relationship and purpose limits.
Research	Researchers with authorization, a documented waiver or another permitted research basis.
Public health	Public health authorities; certain FDA-regulated entities and other recipients under § 164.512(b).

Individual-directed requests

Patient right of access

The individual or their personal representative.

Third-party directive

The individual or personal representative directs a qualifying EHR copy to a chosen recipient.

HIPAA authorization

The individual or a requester relying on a valid authorization, such as an attorney, insurer or researcher.

Business associates may request on a covered entity's behalf, consistent with HIPAA and their agreements.

3 Types of Individual-Directed Requests

Patient right of access, a patient's third-party directive and an authorization are distinct mechanisms.

	PATIENT RIGHT OF ACCESS	THIRD-PARTY DIRECTIVE	HIPAA AUTHORIZATION
Requester	Individual or personal representative.	Individual or personal representative selects the recipient.	Individual, or requester relying on a valid authorization.
Scope	Patient's own PHI in a designated record set, subject to exclusions.	Electronic copy of PHI in an EHR sent to a third party.*	PHI specified in the authorization.
Duty	Must provide access, subject to permitted denials.	Must transmit qualifying electronic EHR copy, subject to applicable limits.*	Permits disclosure; does not itself require it.
Form	Verify identity. May require a written request if the individual is informed.	Written, signed direction identifying the recipient and destination.	Valid authorization with required elements and statements.
HIPAA timing	30 days; one 30-day extension with written notice.	Same § 164.524 timing for a qualifying directive.*	No deadline in § 164.508.
HIPAA fees	Reasonable, cost-based limits under § 164.524(c)(4).	The § 164.524(c)(4) fee limit does not apply.*	The § 164.524(c)(4) fee limit does not apply.

Other law may impose shorter deadlines, lower fees or separate disclosure duties.

[3–6] 45 C.F.R. §§ 164.524, 164.508, 164.514(h). *Read the third-party directive and fee provisions with Ciox v. Azar and OCR's notice.

TEFCA Exchange Purposes and Response Requirements

Each exchange purpose has eligibility and response rules. HIPAA's legal basis still applies.

PURPOSE	XP CODE	WHO MAY QUERY / CONDITIONS	QUERY RESPONSE*
Treatment	**T-TREAT**	Health care providers and their delegates requesting for HIPAA treatment.	**SHOULD respond** **No response duty**
	T-TRTMNT	Vetted covered entity providers, specified government providers and eligible delegates. Documented present or planned clinical event required.	**Specified nodes MUST** **Others SHOULD**
Payment	**T-PYMNT**	Health plans or providers, directly or through delegates.	**MAY respond**
Health care operations	**T-HCO**	Queries by covered health plans/providers or their delegates. Use the applicable HCO subcode.	**SHOULD respond**
Public health	**T-PH**	Queries by a public health authority or its delegate. ECR and ELR reporting subcodes are push-only.	**SHOULD respond**
Individual Access Services	**T-IAS**	An IAS provider with a direct contract with the individual, for access to that individual's information.	**MUST respond**
Government benefits determination	**T-GOVDTRM**	Government agencies or their delegates, for benefits other than health care.	**SHOULD respond**

*SOP exceptions apply. T-TRTMNT duties cover provider/delegate nodes and qualifying IAS nodes. Research and authorization have no standalone XP.



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QUESTIONS?

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