



HIPAA PRIVACY RULE AS IT APPLIES TO STATE WORKERS' COMPENSATION

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I. 45 CFR 164.512

- A. The Privacy Rule permits covered entities to disclose protected health information to workers' compensation insurers, state administrators, employers, and other persons or entities involved in workers' compensation systems, without the individual's authorization.

I. 45 CFR 164.512 Continued

- 1) This also includes cases under the Black Lung Benefits Act, the Federal Employees' Compensation Act, the Longshore and Harbor Workers' Compensation Act, and the Energy Employees' Occupational Illness Compensation Program Act.

I. 45 CFR 164.512 Continued

- 2) Release of information is limited to the extent the disclosure is required by State or other law.
 - a) Problem – must know what is releasable under each individual state workers' compensation act and under which state act the request is being made.
 - b) Plus – HIPAA requires you to reasonably limit the amount of protected health information to the minimum necessary to accomplish the workers' compensation purpose (also applies to payment purposes).

I. 45 CFR 164.512 Continued

- 3) HIPAA does allow you to establish standard protocols as part of your minimum necessary policies and procedures.
- 4) You are permitted to reasonably rely on the official's representation that the information requested is the minimum necessary for the intended purpose.
 - a) You are not required to make a minimum necessary determination.

I. 45 CFR 164.512 Continued

- 5) Typically you would need the following minimum information on the request:
 - a) Date of accident
 - b) Body parts alleged to have been injured
 - c) The state where the workers' compensation claim has been filed
 - d) Citation to the provision in the state WC statute that grants the party the right to the information or a state approved authorization form
 - e) Relationship of the requester to the claim

I. 45 CFR 164.512 Continued

✓ Missouri Example:

287.140(7) states: Every hospital...shall permit its record to be copied by and shall furnish full information to the division or the commission, the employer, the employee or his dependents and any other party to any proceedings for compensation under this chapter...

Missouri Authorization to Inspect and/or Copy Medical Records



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

AUTHORIZATION TO INSPECT AND/OR COPY MEDICAL RECORDS

Injury Number
Checked By

TO:	
Employee	Employer
Insurer	Date of Accident
Place and County of Accident	
Description of Injury (Must include part of body affected)	
<p>You are hereby authorized to permit _____ (NAME)</p> <p>in behalf of _____ (PARTY), to inspect and/or copy any and all medical records you have in your possession in regard to the above captioned case, which is now pending before the Division of Workers' Compensation.</p> <p>NOTE: The medical records which may be released according to this authorization are limited to medical treatment for the injury suffered on the date of accident listed above. ONLY records that relate to the injury listed above, as to the type of injury and the part of the body injured, may be included. Medical records from before the date of accident or medical records after the date of accident, which do not relate to this injury, may not be released pursuant to this authorization.</p> <p>This authorization is made in accordance with Section 287.140, RSMo., which reads as follows:</p> <p>"Every hospital or other person furnishing the employee with medical aid shall permit its record to be copied by and shall furnish full information to the Commission, the employer, the employee or his dependents and any other party to any proceedings for compensation under this act, and certified copies of such records shall be admissible in evidence in any such proceedings."</p>	
Date	Signature (Division of Workers' Compensation)

This form is a true and exact copy of the current Form WC-43 (11-94)

WC-43 (11-94)



I. 45 CFR 164.512 Continued

- 1) Missouri Division has their own authorization form and is limited to relevant medical records for treatment and evaluation subsequent to the date of accident.
- 2) Recommend separate HIPAA compliant medical authorization for relevant prior records and for subsequent records where it is not clear whether the records are for related medical care.

II. Frequently Asked Questions on HHS Website

Q: Can a person restrict the information that can be disclosed for workers' compensation purposes?

A: Individuals do not have the right to request a covered entity to restrict a disclosure of protected health information about them for WC purposes when that disclosure is required by law under the WC Act.

II. Frequently Asked Questions on HHS Website

Q: Will the Privacy Rule impede the disclosures needed to pay WC claims?

A: 1) The Privacy Rule is not intended to impede the flow of the health information to those who need it to process or adjudicate claims, or coordinate care – however, the minimum necessary rule does apply
2) The minimum necessary standard does not apply if you receive a signed HIPAA compliant authorization.

II. Frequently Asked Questions on HHS Website

Q: May I disclose the information that is needed to adjudicate a WC claim?

A: Yes, to the extent necessary to comply with the WC law in response to a court order, subpoena, or other lawful process.

II. Frequently Asked Questions on HHS Website

Q: If my state law permits a disclosure with a workers' written release, would the Privacy Rule require more?

A: No, so long as the state law permits disclosure.

II. Frequently Asked Questions on HHS Website

✓ Example:

If state law permits release of records about prior conditions, which are not directly related to the claim, you can make the release.

*HIPAA PRIVACY RULE AS IT APPLIES TO
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