

RE: Notice of Privacy Practices

DATE: January 28, 2015

You have asked how often a notice of privacy practices must be provided to the patient. The regulations do not explicitly state how often the notice must be provided, after the first provision of notice. Below are a summary of the rules.

45 C.F.R. § 164.520(c)(2) states that a covered direct treatment provider “must provide the notice no later than the date of the first service delivery, including service delivered electronically.” If the covered health care provider maintains “a physical service delivery site,” the notice must be available at the site for individuals to request to take with them, and the provider must “post the notice in a clear and prominent location where it is reasonable to expect individuals ...to be able to read the notice.”

When the notice of privacy practice is provided electronically, the provider must send the electronic notice automatically and contemporaneously in response to the individual’s first request for service. Automatic and contemporaneous electronic notice must all be provided if the service or care is provided electronically. The provider must make a good faith effort to obtain a return receipt or other transmission from the individual in response to receiving the notice. If the individual fails to receive the electronic notice of privacy practice, a paper copy must be provided.

Whenever the notice is revised, the provider must make the notice available upon request on or after the effective date of the revision, as well as post the notice in a “clear and prominent location” at the site of delivery.

If the covered entity maintains a website that provides information about the covered entity’s customer services or benefits, then the covered entity must prominently post its notice on the website and make the notice available electronically through the website. The notice may be provided to an individual by email for as long the individual agrees to receipt by electronic notice.

There are additional rules in emergent circumstances, which can be provided upon request.