



ACCESS TO RECORDS POLICY

PURPOSE

To establish a policy through which the employees, individuals we support and/or guardians may have access to their personnel records or protected health information.

SCOPE

This applies to all employees of LADD and individuals served by LADD.

POLICY

It is the policy of LADD to follow HIPAA standards and provide for the person supported and guardians to access, inspect and obtain a copy of their information; and to approve disclosures and have an accounting of disclosures. This policy also covers employees and how they can access their personnel records.

STANDARDS AND DEFINITIONS:

Individual Records Sign Out – Found in the HIPAA log located at each location and is used to document when a staff removes a hard copy of the person's record for an appointment.

Disclosure Authorization – LADD requires a release, signed by the person or their guardian, giving permission for LADD to share information regarding the person as directed in the disclosure (called Release of Confidential Information, HIPAA Disclosure). This document is sometimes referred to as a release and can include information specific to individual circumstances.

The State of Michigan requires a specific disclosure authorization format when releasing information related to behavioral health called the DHS 3927 Consent to Share Behavioral Health Information for Care Coordination Purposes, Michigan Department of Health and Human Services to CMH.

Documentation of Disclosure of Protected Health Information – The CCO, acting as the Privacy Officer is responsible to document disclosures of PHI. The information is documented in a database for tracking purposes. All records that have been disclosed are copied and maintained by the CCO for reference. This form may be completed as well along with the CCO copies of the disclosed records.

Request for Records Release – This form is completed by the person supported, guardian or employee to request copies of their records. The form is reviewed by the CCO for processing with the appropriate department. Other formats may be accepted from sources such as the Social Security Administration or attorneys.

PROCEDURE

1. Request for Access – The people we serve and or their legal guardian may request access to their records at any time. Any request made by an individual other than the person served or their legal guardian that does not fall under the category of Treatment, Payment and Health Care Operations must make their request for access to an individual's records in writing. If a satisfactory Release has not been provided with the request the CCO will request a Release of Confidential Information/ HIPAA Disclosure Authorization before allowing access to individual records.
2. Action on Request for Access – The CCO shall act on a request for access no later than thirty (30) calendar days after LADD's receipt of the request. Every effort will be made to provide the requested information in the timeframe given by the requestor. If the CCO is unable to act on the request within the applicable time required by the preceding paragraph the CCO may extend the time for the action by no more than thirty (30) calendar days, provided:

- a. Within the applicable time required by the preceding paragraph, the CCO shall provide the individual with a written statement of the reason (s) for the delay and the date by which LADD will complete its action on the request: and,
 - b. Only one such extension shall be permitted on a request for access.
3. Inform Individual on Action on Request – If the request is granted, in whole or in part, the CCO will provide the information requested. If the request is denied, in whole or in part, the CCO shall provide the individual with a written denial.
4. Form and Format – The protected health information will be provided to the individual in the form or format requested by the individual, if it is readily producible in that form or format. If it is not readily producible in that form or format, it shall be provided in a readable hard copy form or such other form or format as agreed to by the CCO and the individual.
5. Summary in Lieu of Access – The individual may be provided a summary of the protected health information requested, in lieu of providing access to the protected health information, or may be provided an explanation of the protected health information to which access has been provided if:
 - a. The individual agrees in advance to such a summary of explanation; and,
 - b. The individual agrees in advance to the fees imposed by LADD for such summary or explanation.
6. Time and Manner of Access – Access shall be provided in a timely manner as stated in “Action on Request for Access,” including arranging with the individual for a convenient time and place to inspect or obtain a copy of the protected health information, or mailing the copy to the individual at the individual’s request. The CCO may discuss the scope, format and other aspects of the request for access with the individual as necessary to facilitate the timely provision of access.
7. Fees – If the individual requests a copy of the protected health information, or agrees to a summary or explanation of such information, LADD may impose charges as set forth under Fees for Accounting.
8. Reviewable Grounds for Denial – LADD may deny an individual access, in any of the following circumstances; provided that the individual is given a right to have the denial reviewed as stated in “Review of Denial” below:
 - a. Endangerment- A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person.
 - b. Reference to Another Person- The protected health information makes references to another person and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person.
 - c. Personal Representative- The request for access is made by the individual’s personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.
 - d. Other- Incident reports are peer review documents only and are not part of the clinical record and are not to be used as a substitute for clinical documentation. Data from incident reports shall only be used to look for methods and opportunities to improve services, determine and correct problems, identify potential violations of rights, and assist in trending for review of significant health risks to consumers and staff. An incident or peer review report generated pursuant to MCL 330.1143a does not constitute a summary report as intended by this section and shall not be maintained in the clinical record of a recipient. Further, Incident Reports are not public records, and are not subject to court subpoena
9. Actions if Access is Denied – If an individual’s access to protected health information is denied, in whole or in part, LADD shall comply with the following:
 - a. Making Other Information Accessible- LADD shall, to the extent possible, give the individual access to any other protected health information requested, after excluding the protected health information to which LADD had the ground to deny access.
 - b. Written Denial- CCO shall provide a written denial to the individual within the applicable time period. This denial shall contain:
 1. The basis for the denial.

2. If applicable, a statement of the individual's review rights, including a description of how the individual may exercise such review rights
 3. A description of how the individual may complain pursuant to L.A.D.D., Inc.'s complaint procedures or to the Secretary of Health and Human Resources, including the name or title, and the telephone number of the LADD contact person or office designated to receive complaints.
 4. If LADD does not maintain the protected health information that is the subject of the individual's request for access, and LADD knows where the requested information is maintained, a statement informing the individual where to direct the request for access.
10. Review of Denial – If access is denied on a ground permitted under "Reviewable Grounds," the individual shall have the right to have the denial reviewed by a licensed health care professional who is designated by the CCO to act as a reviewing official and who did not participate in the original decision to deny.
- a. The individual's request for review shall be promptly referred to that designated reviewing official. The designated reviewing official shall then determine, within reasonable period of time, whether or not to deny the access requested based on the standards stated in "Reviewable Ground for Denial".
 - b. The CCO shall then promptly provide written notice to the individual of the determination of the designated reviewing official and implement the designated reviewing official's determination.
11. Documentation – CCO shall maintain, or cause to be maintained, documentation of:
- a. The designated record that are subject to access by individuals; and,
 - b. The titles of the persons or offices responsible for receiving and processing request for access by individuals.

The documentation shall be maintained by LADD in written or electronic form for seven years after the date of its creation or the date when it was last in effect, whichever is later.

12. EMPLOYEE ACCESS TO FILE – Pursuant to Michigan law **BULLARD-PLAWECKI EMPLOYEE RIGHT TO KNOW ACT 397**, employees may review and request a copy of their personnel file. They may also file a response regarding the content of their personnel file. If an employee would like to review their personnel file, a written request must be submitted to the LADD Office.

The request for review should include the employee's name, dates of employment and the specific location at which the employee works or worked. Appointments will be scheduled during regular office hours, unless other arrangements are necessary. The examination of the file will be supervised, no contents of the file(s) are to be removed or destroyed.

If an employee requests a copy of the contents of their personnel file, LADD requires reimbursement at the current established rate. Copies will be made by LADD and given to the employee within 2 weeks of the request.

If there is a disagreement between LADD and the employee regarding the contents of the file, the employee may submit up to 5 pages (8.5x11) of written response. This response will be included when/if the personnel file is divulged to a third party at the employees written request.

Employee files are kept at a minimum of seven years.