

Lost Medical Record Information Paper

September 2021

A HIPAA covered entity missing medical records, or unable to provide beneficiaries with a copy or inspection of their designated record set, is generally in violation of the HIPAA Privacy and Security Rules. As such, the DHA Privacy and Civil Liberties Office is often the recipient of the aforementioned lost medical record inquiries. As such, this Lost Medical Record Information Paper, in accordance with DHA-IPM 18-018, Physical Custody and Control of the DoD Health Record, December 11, 2020, addresses the questions most often posed to our Office on the subject at hand.

With the DoD-wide implementation of MHS GENESIS, most Service members have health encounters documented electronically. However, the availability and accountability of complete DoD Health Records has the highest level of visibility. As such, it is unacceptable for a Military Medical Treatment Facility (MTF) or Dental Treatment Facility to be unable to locate the complete DoD Health Record for a beneficiary. MTFs or Dental Treatment Facilities must have, and implement, thorough in and out-processing procedures to ensure all records for a patient are available as soon as possible.

- DoD Health Records, both in electronic and paper-based formats, are considered protected health information and personally identifiable information subject to the provisions of DoDM 6025.18, Implementation of the Health Insurance Portability and Accountability Act Privacy Rule in DoD Health Care Programs, December 11, 2020 and DoDM 5400.11 V2, DoD Privacy and Civil Liberties Programs: Breach Preparedness and Response Plan, May 21, 2021. Once a record is deemed lost, specific steps must be taken to report the information and notify the affected beneficiary or party in accordance with the aforementioned Privacy Manuals.

- MTFs must exhaust all means to locate a missing record. When records are identified as missing, each MTF staff member is responsible for searching their immediate work area. MTF personnel will mobilize and help search for a missing record.

- The following procedures are required after discovering a record is missing:
 1. Identify possible borrower charge-out locations.

 2. Check the Defense Enrollment Eligibility Reporting System via the General Inquiry of Defense Enrollment Eligibility Reporting System to see if the beneficiary's status or dependency has changed. If it has, check to see if the record is filed under the previous sponsorship.

 3. Check for record misfiles in each record storage room.

 4. Search provider offices, exam rooms, and other record storage areas to include "closed" record storage; ensure the record has not been forwarded to a peer review or clinical review committee, meeting, or function.

 5. Verify the record has not been sequestered from the Main File, i.e., Psychotherapy Notes.

 6. Verify the record has not been temporarily separated from the Main File for any other official review function.

 7. Contact all previous MTFs responsible for maintaining the beneficiary's DoD Health Record per DHA IPM 18-018.



- If after extensive MTF search, including contacting all of the patient's previous MTFs, the investigation has not yielded the recovery of the missing record, the officer responsible for the record room reporting the loss is responsible for informing the MTF Commander or Director. Only the MTF Commander, MTF Director or MTF Record Custodian may deem a missing record as lost. Once a record is deemed lost:
 1. MTF HIPAA Privacy Officer (HPO) must follow the guidelines and procedures, in accordance with DoDM 6025.18, in consultation with the installation Public Affairs Officer and available installation legal staff and/or the Medical Legal Consultant.
 2. Contact the DHA Privacy and Civil Liberties Office at: dha.ncr.admin-mgt.mbx.dha-privacyguidance@mail.mil or (703) 275-6363.



Reference:

- DoDM 6025.18, Implementation of the Health Insurance Portability and Accountability Act Privacy Rule in DoD Health Care Programs, December 11, 2020
- DoDM 5400.11 V2, DoD Privacy and Civil Liberties Programs: Breach Preparedness and Response Plan, May 21, 2021
- DHA-IPM 18-018, Physical Custody and Control of the DoD Health Record, December 11, 2020

If you have any questions about any of the information above, please contact the DHA Privacy Office Policy Team at: dha.ncr.admin-mgt.mbx.dha-privacyguidance@mail.mil.