

Adams County Communications Center Authority (ADCOM)
Policy Regarding Requests for Public and Criminal Justice Records
Effective May 21, 2020

PURPOSE

To establish the rules and procedures for requesting to inspect or obtain copies of ADCOM records, and providing for the fees ADCOM will impose, consistent with the requirements of and authority granted by Applicable Law.

DEFINITIONS

1. "***Applicable Law***" means all federal, state, and local laws, rules, and regulations governing requests to inspect or obtain copies of ADCOM records, including but not limited to, the Colorado Public (Open) Records Act, C.R.S. § 24-72-201, *et seq.*; Colorado Criminal Justice Records Act, C.R.S. § 24-72-301, *et seq.*; Children's Code Records and Information Act, C.R.S. § 19-1-301, *et seq.*; HIPAA; and, relevant Court decisions or other applicable laws.
2. "***Criminal Justice Records***" has the meaning set forth in the Colorado Criminal Justice Records Act, C.R.S. § 24-72-301, *et seq.*
3. "***HIPAA***" means the Health Insurance Portability and Accountability Act of 1996, the 2009 Health Information Technology for Economic and Clinical Health Act, and their implementing regulations and applicable Court decisions.
4. "***Public Records***" has the meaning set forth in the Colorado Public (Open) Records Act, C.R.S. § 24-72-201, *et seq.*
5. "***Requested Record(s)***" means the Public Records and/or Criminal Justice Records that are subject to a specific request pursuant to this policy.

PROCEDURE

1. All requests for Public Records and/or Criminal Justice Records shall be in writing using ADCOM's *Records Request Form*. Anyone making a verbal request will be asked to submit the request in writing, and no action related to the request will be taken until a completed and a signed *Records Request Form* is received.
 - a. An individual wishing to obtain a copy of his/her Public Records that contain health information protected from disclosure under HIPAA shall *also* complete and submit ADCOM's *Patient Medical Records Access Request Form*.
 - b. An individual directing that his/her Public Records containing health information protected from disclosure under HIPAA be provided to a third party shall *also* complete and submit an *Authorization to Release Medical Information*.

- c. If the Requested Records contain Criminal Justice Records, a *Statement Affirming No Pecuniary Gain* must be submitted before ADCOM will produce the Requested Records.
2. The *Records Request Form*, *Patient Medical Records Access Request Form*, *Authorization to Release Medical Information Form* and *Statement Affirming No Pecuniary Gain* are available on ADCOM's website at <http://www.adcom911.org/> or at its administrative offices, 7321 Birch Street, Commerce City, CO 80022.
3. All requests for Public Records and/or Criminal Justice Records must comply with Applicable Law. ADCOM will comply with Applicable Law with respect to whether it must, may, or cannot produce the Requested Records and the fees it charges for producing the Requested Records.
4. Upon receipt of a completed and signed *Records Request Form* and any other required forms, ADCOM will prepare the Requested Records for inspection at ADCOM's administrative offices, or, at the record requester's direction, delivery by (a) in-person pick-up, (b) mail, (c) unsecured fax, or (d) unencrypted email. Requests for inspection at ADCOM's administrative offices are subject to ADCOM's standard security protocols and may be denied if required by those protocols. Email transmissions are limited to file sizes of 10 MB or less. ADCOM will not transmit Requested Records containing Protected Health Information (as defined by HIPAA) via unsecured fax or unencrypted email unless the record requester also submits a *Patient Medical Records Access Request Form* or an *Authorization to Release Medical Information*, as applicable, specifically authorizing transmission via electronic means. ADCOM assumes no liability for such methods of transmission.

FEES AND CHARGES

1. ADCOM may notify the record requester that a copy of the Requested Record is available, but will be sent only when ADCOM receives payment or makes satisfactory arrangements for payment of all costs associated with transmitting the Requested Record and for all other fees lawfully allowed; provided, however, that no transmission fees will be charged for transmitting the Requested Record via electronic mail.
2. Where the fee for a certified copy or other copy, printout, or photograph of a Requested Record is specifically prescribed by law, the specific fee shall be charged. If a fee is not specifically prescribed by law, ADCOM will furnish copies, printouts, or photographs of a Requested Record for a fee of \$0.25 per standard page. ADCOM shall charge a fee not to exceed the actual cost of providing a copy, photograph, or printout in a form other than a standard page. ADCOM shall charge the actual costs it incurs in having the copies made off-site by an outside copying facility.
3. If, in response to a specific request, ADCOM's custodian of records performs a manipulation of data so as to generate a record in a form not used by ADCOM (including a privilege log), an hourly administrative fee equal to the hourly research and retrieval fee discussed below shall be charged to the person or entity making the request; provided, however, that the fee shall not exceed the actual cost of manipulating the data and generating the record in

accordance with the request. An individual or entity making a subsequent request for the same or similar records shall be charged the same fee.

4. If the amount of time required by ADCOM to research and retrieve the documents necessary to fulfill a specific request exceeds one hour, including the time required to identify and segregate records that must or may not be produced, the person or entity making the request shall be charged a research and retrieval fee of \$33.58 per hour, or such maximum hourly research and retrieval fee as may be established by the Colorado Legislative Council from time to time. ADCOM will not impose a charge for the first hour of time expended in connection with the research and retrieval of Requested Records.
5. ADCOM will destroy any Requested Records that have not been picked up within 30 calendar days of the date the request was submitted to ADCOM. ADCOM shall keep any fees pre-paid by the requestor to compensate ADCOM for the costs it incurred in preparing the Requested Records.
6. In accordance with HIPAA, if ADCOM produces Public Records directly to a patient pursuant to a *Patient Medical Records Access Request Form*, then ADCOM, in its discretion, shall charge either:
 - a. A flat fee of \$6.50 for electronic copies of medical or mental health records that ADCOM maintains electronically; or
 - b. The actual labor costs incurred by ADCOM to produce the medical or mental health records, which may include:
 - i. Labor for copying the medical or mental health records, whether in paper or electronic form;
 - ii. Supplies for creating the paper copy or electronic media if the individual requests that the electronic copy be provided on portable media;
 - iii. Postage, when the individual has requested the copy, or a summary or explanation of such information, be mailed; and,
 - iv. Preparing an explanation or summary of the medical or mental health records, if the individual agrees to such an explanation or summary, and the associated fees, in advance.

The foregoing fees only apply to a patient's request for a copy of his/her HIPAA records pursuant to a *Patient Medical Records Access Request Form*. If the patient directs that his/her HIPAA records be sent to any other individual or entity, or if any other individual or entity requests a copy of a patient's HIPAA records, and an *Authorization to Release Medical Information* signed by the patient has been provided, the foregoing fees do not apply, and the third-party will be charged the fees otherwise set forth in this policy.