

DATA REQUEST AND COPY COSTS

Minnesota Sex Offender Program

Issue Date: 1/5/16 Effective Date: 2/2/16 Policy Number: 135-5170

POLICY: MSOP will respond to all requests for information and data in a timely manner. MSOP will allow inspection of such data and charge for copies consistent with statutory requirements and DHS policy.

AUTHORITY: Minn. Stat. §§13.025; 13.03; 13.04; 13.46
Minn. Rule 1205.0300
Minnesota Department of Human Services (DHS) Policy 2.60, “Data Requests and Copy Costs”
Minn. Stat. §246.014, subd. (d)

APPLICABILITY: Minnesota Sex Offender Program (MSOP), program-wide

PURPOSE: To provide consistent practices for evaluating and responding to requests for information and data, and to ensure compliance with Minnesota Department of Human Services (DHS) Policy 2.60 “Data Requests and Copy Costs,” Minnesota Statutes and Minnesota Rules regarding data practices.

DEFINITIONS:

Client record – private information (including the client Health Services Record and client treatment record) created in the course of client care, from admission through program departure.

Copied page – one side of a piece of paper with copied information. A two-sided copy counts as two pages.

Data Request – request for data or information compiled, stored and maintained by the Minnesota Sex Offender Program.

Government data –all existing government data collected, created, received, maintained or disseminated by a government entity.

Gratis – copies of a document given to the client free of charge as determined by the Minnesota Statutes and Minnesota Sex Offender Program (MSOP) policies.

Other private data – private data on individuals collected, maintained, used, or disseminated by the welfare system, including private data outside of the client record.

Public data – data accessible to the public as outlined in Minn. Stat. §13.03.

Research request – request for data or information requiring summary data or compilation.

Summary data – statistical records and reports derived from data on individuals in which individuals are not identified and from which neither their identities nor any other characteristics that could uniquely identify an individual are ascertainable.

PROCEDURES:

- A. Clients Inspecting or Requesting Copies of Private Data in the Client Record
 1. Inspection

- a) A client may request inspection of his or her record by forwarding a Request to Review Client Record (135-5170a-6010), attached) to Health Information Management Services (HIMS).
- b) HIMS staff:
 - (1) review the requested file to ensure an accurate and complete record;
 - (2) schedule a 30-minute appointment with the primary therapist or Health Services staff member to review the record; and
 - (3) notify the client of the appointment using the Appointment and Inspection Letter (135-5170d), attached).
- c) The primary therapist or Health Services staff:
 - (1) remains with the client and monitors the inspection;
 - (2) provides clarification of the information when requested;
 - (3) when necessary, schedules additional 30-minute appointments to facilitate completion of the review within 30 days;
 - (4) documents on the Request to Review Client Record the request date, time and signature for completion of the request; and
 - (5) forwards the completed Request to Review Client Record to HIMS for filing in the client record.

2. Copies

- a) A client may request copies by submitting a Client Request form (420-5099a) to HIMS, identifying the specific name(s) and date of the documents requested.
- b) HIMS staff:
 - (1) estimate a cost for private data (see section H below);
 - (2) inform the client of the summary of charges through a Data Request Copy Cost Form (135-5170b), attached) along with the original client request;
 - (3) allow 30 days for the return of the signed Data Request Copy Cost Form (the client must submit a new request if HIMS does not receive the signed Data Request Copy Cost Form within 30 days);
 - (4) receive the approved/signed Data Request Copy Cost Form, make a copy of the Data Request Copy Cost Form for the client and send the original to MSOP Financial Services for processing (Financial Services staff will keep the original for their records and inform HIMS of payment received); and
 - (5) copy the requested document(s) and send the copies to the client with the duplicate of the Data Request for Copy Costs Form.

B. Data Requests

1. Individuals may request to inspect or obtain copies of information or data maintained and stored by the MSOP by submitting a request to the Legal Department.
2. Legal Department staff receive and document the data request.
3. The MSOP Records Manager or designee reviews the data request for:
 - a) request type:
 - (1) data request; or
 - (2) research request;
 - b) authorization to release the requested data; and
 - c) any applicable fees or charges.
4. Authorization to Release the Requested Data
If the request is for data and the category of data is unclear, the MSOP Records Manager consults with the MSOP Legal and Records Manager to determine if the information requested is releasable.
5. Research Request
If the data request requires summary data to be compiled or information technology staff to collect data, the MSOP Records Manager submits a SharePoint Data or Research Request Workflow. (See Section C, below.)
6. The Legal Department staff redacts any data not releasable to the requestor, and sends the redacted document(s) a different Legal Department staff for review of the redaction.
7. The MSOP Records Manager or designee notifies the requestor of the availability of the data.
8. When a client requests to review public data and/or private data not from his/her treatment or medical record, the MSOP Records Manager/designee may send the documents to the MNIT@DHS staff for posting on the individual client's legal network space. The documents will be available for 30 days and the client may print the documents as set forth in MSOP Division Policy 120-5600, "Client Computer Network." In consultation with the MSOP Legal and Records Director, the MSOP Records Manager/designee may provide the documents for review in alternative format instead of on the client network.

C. Research Requests

1. Individuals may request to inspect or obtain copies of information or data from MSOP by submitting a request.
 - a) Staff members may enter requests using the SharePoint Data or Research Request Workflow.
 - b) The staff member's direct supervisor approves or denies all research requests prior to submission to the Research and Evaluation Director.
2. The Research and Evaluation Director or designee enters requests received by letter, e-mails or phone calls to the SharePoint Data or Research Request Workflow.
3. The Research and Evaluation Director or designee reviews the data or research request for:

- a) request type:
 - (1) data request (see Section B, above); or
 - (2) research request;
- b) authorization to release the requested data; and
- c) any applicable fees or charges.

4. Authorization to Release the Requested Data

If the request involves data and the category of the data is unclear, the Research and Evaluation Director/designee forwards a copy of the request to the MSOP Records Manager. The MSOP Records Manager consults with the MSOP Legal and Records Director to determine if the information requested is releasable.

- 5. If the requested information is releasable, the Research and Evaluation Director or designee routes the request to the appropriate staff for processing and completion after applicable fees have been collected.
- 6. The Research and Evaluation Director, the Records Manager or a designee:
 - a) collects, documents and coordinates the data or research request;
 - b) redacts any data not releasable to the requestor; and
 - c) notifies the requestor of the availability of the data.

D. Frequency of Review

- 1. An individual shown private data and informed of its meaning is only entitled to request the data every six months. An individual may request a more frequent review if there is a pending dispute or action pursuant to Minn. Stat. §13.04, subd. 3, or if the data is collected or created on the individual since the last request.
- 2. An individual shown public data is only entitled to request the data every six months. An individual may request a more frequent review if there is additional data collected or created since the last request.

E. Denial of Inspection or Copies

Upon the request of any person denied access to data, Legal Department staff, or the Research and Evaluation Director:

- 1. notifies the requestor in writing that the request has been denied; and
- 2. cites the specific reason such as a policy, statutory section, temporary classification or specific provision of law upon which the denial was based.

F. General Copies

- 1. Clients may request copies of documents in their possession by submitting a Client Request to HIMS staff.
- 2. A client may print copies of documents appropriately placed on the client computer network in accordance with MSOP Division Policy 120-5600, "Client Computer Network."

3. Once the deadline has passed for documents to be available on the client computer network, any copies requested may be charged at the general copy rate (see Section H, below).
4. HIMS staff will not copy copyrighted material or documents considered contraband according to DCT Policy 120-1000, "Contraband in DCT Facilities," MSOP Division Policy 415-5030, "Contraband," or MSOP Policy 602.310, "CPS Contraband." HIMS staff will return the originals to the requestor or secure the item as contraband.

G. Gratis Copies

1. Treatment Material
Clinical staff provide copies of documents developed by clinicians for individual client or group use such as assignments or worksheets. These documents are not part of the client's record.
2. Health Services Materials
Health Services staff may provide clients with reports or documents for the purpose of providing appropriate follow-up medical care.
3. Client Banking
Finance staff print and send clients their vocational compensation earnings statements and a monthly client banking statement. See MSOP Division Policy 125-5300, "Client Social Welfare."
4. Social Security Administration
HIMS staff print and send a current medical order to the client when the client requests a copy for the purpose of obtaining a social security card.
5. The author or designee provides a copy to the client of the following documents or documents clinical staff deem appropriate for the client. The staff providing the copy notes on the last page of the document his or her name and the date and time when they provide any of the following documents to the client. The staff must forward completed original documents to HIMS for filing.
 - a) Administrative Restriction Status and Protective Isolation Status documents (copies will be provided to the clients per MSOP Policy 301.085, "Protective Isolation Status" and MSOP Policy 301.084, "Administrative Restriction Status");
 - b) Client Incompatibility documents per MSOP Division Policy 210-5120, "Client Incompatibility;"
 - c) Treatment Memos;
 - d) Vocational Treatment Notices;
 - e) Individual Program Plan methods;
 - f) Sex Offender Assessments;
 - g) Assessments of Sexual Arousal and/or Sexual Interest;
 - h) Psychological Assessments and updates;

- i) Individual Treatment Plans;
- j) Quarterly Treatment Progress Reports; and
- k) Annual Treatment Progress Reports.

H. Copy Costs (per DHS Policy 2.60 “Data Requests and Copy Costs”)

MSOP staff only process complete Data Request for Copy Cost forms.

1. Cost for staff time - Refer to DHS Policy 2.60 “Data Requests and Copy Costs.”

2. Private Data

a) MSOP charges the subject of the data:

- (1) the cost of staff time required to copy, certify, and mail the data; and
- (2) when applicable, \$0.08 per copied page, or \$0.59 per compact disc or \$16.26 for an encrypted flash drive.

b) MSOP charges a requestor who is not the data subject:

- (1) the cost of staff time required to search, retrieve, copy, certify, and mail the data or electronically transmit; and
- (2) when applicable, \$0.08 per copied page, or \$0.59 per compact disc or \$16.26 for an encrypted flash drive.

c) Social Security Disability Appeals

MSOP does not charge a fee to provide copies of records requested by a client or the client's authorized representative if the request for copies of records is for purposes of appealing a denial of Social Security Disability income or Social Security Disability benefits under Title II or Title XVI of the Social Security Act. For the purpose of further appeals, a client may receive no more than two medical record updates without charge, but only for medical record information not previously provided.

3. Public Data, General Copy Cost

a) For Requests of 100 Pages or Fewer

MSOP charges a flat fee of no more than \$.25 per copied page if the request is 100 pages or fewer.

b) For Requests Totaling More Than 100 Pages

MSOP charges the “actual costs” for producing the data, plus a per-copied-page cost.

(1) Actual Costs for More Than 100 Pages

Costs of staff time noted in Procedure H, Section 1 for the time required for searching for and retrieving data, copying, certifying, and electronically transmitting or mailing the data.

- (2) When applicable, \$0.08 per copied page, or \$0.59 per compact disc or \$16.26 for an encrypted flash drive.

4. Summary Data

MSOP charges the “actual costs” for producing the data, plus a per-copied-page cost;

- a) actual cost of staff time noted in DHS Policy 2.60 “Data Requests and Copy Costs” for the time required for searching for and retrieving data, compiling, making, certifying, and electronically transmitting or mailing the data; and
- b) When applicable, \$0.08 per copied page, or \$0.59 per compact disc or \$16.26 for an encrypted flash drive.

REVIEW: Annually

REFERENCES: DHS Data Practices Manual.
DHS Policy 2.60, “Data Requests and Copy Costs”, Section “Determining Charges: Private Data”
MSOP Policy 301.085, “Protective Isolation Status”
MSOP Policy 301.084, “Administrative Restriction Status”
Health Insurance Portability and Accountability Act 45 §164.524
Minnesota Government Data Practices Act Minn. Stat. Chapter 13
MSOP Division Policy 120-5600, “Client Computer Network”
MSOP Division Policy 125-5300, “Client Social Welfare”
MSOP Division Policy 210-5120, “Client Incompatibility”

ATTACHMENTS: Request to Review Client Record (135-5170a-6010)
Data Request Copy Cost Form (135-5170b)
Release of Information (ROI) Log (135-5170c)
Appointment and Inspection Letter (135-5170d)
Appointment and Inspection Letter – Client Network Version (135-5170f)
Request for Records (135-5170g)
SharePoint Data or Research Request Workflow (online file)

SUPERSESSION: MSOP Policy 500.192, “Data Request and Copy Costs,” 9/2/14.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

/s/
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Minnesota Sex Offender Program