

## § 2400.7

## 29 CFR Ch. XX (7–1–10 Edition)

### § 2400.7 Special procedures for requesting medical records.

(a) Upon an individual's request for access to his medical records, including psychological records, the Privacy Officer shall make a preliminary determination on whether access to such records could have an adverse effect upon the requester. If the Privacy Officer determines that access could have an adverse effect on the requester, OSHRC shall notify the requester in writing and advise that the records at issue can be made available only to a physician of the requester's designation. Upon receipt of such designation, verification of the identity of the physician, and agreement by the physician to review the documents with the requesting individual, to explain the meaning of the documents, and to offer counseling designed to temper any adverse reaction, OSHRC shall forward such records to the designated physician.

(b) If, within sixty (60) days of OSHRC's written request for a designation, the requester has failed to respond or designate a physician, or the physician fails to agree to the release conditions, then OSHRC shall hold the documents in abeyance and advise the requester that this action may be construed as a technical denial. OSHRC shall also advise the requester of his rights to administrative appeal and thereafter judicial review in a district court of the United States.

### § 2400.8 Procedures for requesting amendment.

(a) *Submission of requests for amendment.* Upon review of an individual's personal record, that individual may submit a request to amend such record. This request shall be submitted in writing to the Privacy Officer and shall include a statement of the amendment requested and the reasons for such amendment, e.g., relevance, accuracy, timeliness or completeness of the record.

(b) *Action to be taken by the Privacy Officer.* Upon receiving an amendment request, the Privacy Officer shall promptly:

(1) Acknowledge in writing within ten (10) working days the receipt of the request;

(2) Make such inquiry as is necessary to determine whether the amendment is appropriate; and

(3) Correct or eliminate any information that is found to be incomplete, inaccurate, irrelevant to a statutory purpose of OSHRC, or untimely and notify the requester when this action is complete; or

(4) Notify the requester of a determination not to amend the record, of the reasons for the refusal, and of the requester's right to appeal in accordance with § 2400.9.

### § 2400.9 Procedures for appealing.

(a) *Submission of appeal*—(1) If a request to inspect, copy or amend a record is denied, in whole or in part, or if no determination is made within the period prescribed by this part, then the requester may appeal to the Chairman, Attn: Privacy Appeal, OSHRC, One Lafayette Centre, 1120-20th Street, NW., Ninth Floor, Washington, DC 20036-3457.

(2) The requester shall submit his appeal in writing within thirty (30) days of the date of denial, or within ninety (90) days of such request if the appeal is from a failure of the Privacy Officer to make a determination. The letter of appeal should include, as applicable:

(i) Reasonable identification of the record to which access was sought or the amendment of which was requested.

(ii) A statement of the OSHRC action or failure to act being appealed and the relief sought.

(iii) A copy of the request, the notification of denial and any other related correspondence.

(b) *Final decisions.* The Chairman shall make his final decision not later than thirty (30) working days from the date of the request, unless he extends the time for good cause to be shown by him but not to exceed ninety (90) days from the date of the request. Any record found on appeal to be incomplete, inaccurate, irrelevant, or untimely, shall within thirty (30) working days of the date of such findings be appropriately amended.

(c) *Decision requirements.* The decision of the Chairman constitutes the final decision of OSHRC on the right of the requester to inspect, copy, change or