

Office of the Secretary, Commerce

§ 4.27

records, the review procedures in § 4.25(g)(3)(ii) shall apply; or,

(B) If the individual challenges the validity of the exemption itself, the individual must file a petition for the issuance, amendment, or repeal of a rule under 5 U.S.C. 553(e). If the exemption was determined by the Department, such petition shall be filed with the Assistant Secretary for Administration. If the exemption was determined by another agency (as described in § 4.23(f)), the Department will provide the individual with the name and address of the other agency and any relief sought by the individual shall be that provided by the regulations of the other agency. Within the Department, no such denial is administratively final until such a petition has been filed by the individual and disposed of on the merits by the Assistant Secretary for Administration.

(ii) As to denial under paragraphs (g)(1)(ii) of this section, (g)(1)(iv) of this section or (to the limited extent provided in paragraph (g)(3)(i)(A) of this section) paragraph (g)(1)(i) of this section, the individual may file for review with the Assistant General Counsel for Administration, as indicated in the Privacy Officer's initial denial notification. The individual and the Department shall follow the procedures in § 4.28 to the maximum extent practicable.

(iii) As to denial under paragraph (g)(1)(iii) of this section, no further administrative consideration within the Department is available because the denial is not administratively final until expiration of the time period indicated in § 4.26(a).

(h) If a request is partially granted and partially denied, the Privacy Officer shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

§ 4.26 Special procedures: Medical records.

(a) No response to any request for access to medical records from an individual will be issued by the Privacy Officer for a period of seven working days (i.e., excluding Saturdays, Sundays and legal public holidays) from the date of receipt.

(b) For every request from an individual for access to medical records, the Privacy Officer shall:

(1) Inform the individual of the waiting period prescribed in paragraph (a) of this section;

(2) Seek from the individual the name and address of the individual's physician and/or psychologist;

(3) Seek from the individual written consent for the Department to consult the individual's physician and/or psychologist, if the Department believes such consultation is advisable;

(4) Seek written consent from the individual for the Department to provide the medical records to the individual's physician or psychologist, if the Department believes access to the record by the individual is best effected under the guidance of the individual's physician or psychologist; and,

(5) Forward the individual's medical record to the Department's medical officer for review and a determination on whether consultation with or transmittal of the medical records to the individual's physician or psychologist is warranted. If consultation with or transmittal of such records to the individual's physician or psychologist is determined to be warranted, the Department's medical officer shall so consult or transmit. Whether or not such a consultation or transmittal occurs, the Department's medical officer shall provide instruction to the Privacy Officer regarding the conditions of access by the individual to his or her medical records.

(c) If an individual refuses in writing to give the names and consents set forth in paragraphs (c)(2) through (c)(4) of this section, the Department shall give the individual access to said records by means of a copy, provided without cost to the requester, sent registered mail, return receipt requested.

§ 4.27 Procedures for making requests for correction or amendment.

(a) Any individual, regardless of age, who is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States may submit a request for correction or amendment to the Department. The request should be made either in person