

42 CFR Part 2 Final Rule

Summary and FAQ

FOR HEALTHCARE PROVIDERS

Overview

A Part 2 Program provider cannot use or disclose Part 2 records without a patient’s consent unless another exception applies. Starting February 16, 2026, all claims for substance abuse disorder (SUD) treatment requires patient consent and prior authorization. This document is designed to help you learn more about what’s required.

What is a Part 2 Program?	A Part 2 Program is a healthcare provider that receives federal assistance and is a person, an identified unit within a general medical facility, or are medical personnel or other staff in a general medical facility whose primary function is the provision of SUD diagnosis, treatment or referral for treatment and are identified as such providers 42 Code of Federal Regulations (CFR) 2.11 (“program”). If you’re billing for SUD, consult with your compliance and legal teams to determine your applicability.
How do I know if I’m a Part 2 Program provider?	A healthcare plan may use the Substance Abuse and Mental Health Services Administration (SAMHSA) treatment locator as a first step in determining whether a provider is a Part 2 Program provider. The healthcare plan may also review claims for SUD-related treatment or diagnosis current procedural terminology (CPT) codes to identify Part 2 Program providers.
What are Part 2 records?	Information is subject to the Final Rule’s prohibitions on use or disclosure only if (1) information identifies patients receiving diagnosis treatment or referral treatment for SUD and, (2) created by a Part 2 Program 42 CFR § 2.12(e)(1).
What type of consent is required?	Treatment, payment, and operations (TPO) consent permits the person obtaining consent to make one or more initial disclosures of Part 2 records only for TPO, as those terms are defined in the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule. 42 C.F.R. § 2.33(a)(2).
How does this affect me?	A Part 2 Program provider is expected to collect the required TPO consent before submitting a claim or prior authorization request.

What's required in the TPO consent?	Consent must describe (1) the recipients who may receive the records; (2) the purposes for the proposed uses and disclosures of Part 2 records; and (3) certain potential effects of signing the consent. Although other types of Part 2 consents must include an expiration date or event, TPO consents may simply state that the consent has no expiration date 42 CFR § 2.31(a)(7).
Does LifeWise Health Plan of Washington obtain TPO consent from the patient?	The Final Rule generally forbids a healthcare plan from using or disclosing a patient's Part 2 records unless the patient has signed a consent permitting the use or disclosure. A health plan will need to use Part 2 records about the patient (for example, the patient has been treated for SUD by a Part 2 Program) to contact the patient to get any such consent. The Part 2 Rule forbids use or any disclosure of Part 2 records about the patient before the patient provides consent. Accordingly, the Final Rule effectively prohibits the health plan from getting consent directly from the patient.
Where can I learn more about 42 CFR Part 2 Final Rule?	Visit the Health and Human Services (HHS) site for clear guidance and resources (including the Federal Register).