

42 CFR Part 2 Final Rule

SUMMARY AND FAQ

For healthcare providers

Overview

A part 2 program 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 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 substance use disorder (SUD) diagnosis, treatment or referral for treatment and are identified as such providers 42 code of federal regulations (CFR) 2.11 (“program”). If you are billing for substance use disorder, please 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 the information identifies patients receiving diagnosis, treatment, or referral SUD treatment for and 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 the consent to make one or more initial disclosures of part 2 records only for TPO, as those terms are defined in Health Insurance Portability and Accountability Act privacy rule 42 CFR § 2.33(a)(2).

How does this affect me?	A part 2 program provider must include a copy of the patient's consent or a clear explanation of the scope of the consent provided 42 CFR § 2.32(b) when submitting a claim or prior authorization request.
What's required in the TPO consent?	Consent must describe the recipients who may receive the records, the purposes for the proposed uses and disclosures of part 2 records, and certain potential effects of signing the consent. Although other types of part 2 consent 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).
Can I submit a SUD claim or prior authorization without TPO consent?	No. Premera Blue Cross and other health plans will deny a SUD or prior authorization request that does not indicate the part 2 program provider has obtained TPO consent.
What if a claim is rejected?	A part 2 provider must obtain a compliant TPO consent from the patient and resubmit the claim along with the consent or a clear explanation of the scope of the consent provided.
Does Premera 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 had been treated for SUD by a part 2 program to contact the patient to get any such consent. The part 2 rule forbids that 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.
What are the final rule requirements for part 2 providers providing TPO consent?	When a part 2 program or other lawful holder discloses part 2 records with the patient's consent, the disclosure must be accompanied by a written statement indicating that the final rule applies to the records disclosed 42 CFR § 2.32(a). The person making the disclosure may use either of two statements provided in the final rule but must use the exact language provided. The short version states: "42 CFR Part 2 prohibits unauthorized use or disclosure of these records" 42 CFR § 2.32(a)(2). You can find the full version in 42 CFR § 2.32(a)(1).
Where can I learn more about 42 CFR Part 2 Final Rule?	Visit the Health and Human Services (HHS) site for guidance and resources.