



Particle Information Blocking Claim

Claim ID: IB-2881 Submitted on July 30, 2024

- Submitted on [ONC Information Blocking Portal](#)
- Submitted by: Jason Prestinario, CEO of Particle Health
- Email address: jason.prestinario@particlehealth.com
- Contact: Elyse Marr, Chief of Staff to the CEO at elyse.marr@particlehealth.com

Description

Particle Health is reporting information blocking committed by Epic in the course of data exchange via Carequality. Beginning on March 21, 2024, and continuing through the present date (July 30, 2024), Epic has been blocking its health care provider customers from accessing Particle Health customer patient data and we have reason to believe Epic knows that such practice is likely to interfere with access, exchange, and use of electronic health information. Particle Health customers currently represent nearly 2 million Americans on the Carequality network.

As a result, Epic is currently preventing the delivery of electronic health information to their 18,536 health care provider customers for as many as 2 million patients and ~1.6M documents to-date (~100,000 documents per week, see attached “Particle clinical documents shared by Epic customers”).

Epic knows that its actions have prevented its health care provider customers from accessing records about their own patients. Epic has acknowledged this fact and has not taken steps to correct the issue. As discussed below, none of the exceptions in 42 C.F.R. Part 171, Subpart B apply to excuse the information blocking.

Provider and Patient Impact

- **Impacted health care providers** (*i.e.*, entities requesting access exchange, or use of electronic health information (EHI)): This blockage impacts the 18,536

health care provider organizations who access data exchanged on Carequality via Epic in all 50 states. See **Attachment 1** for the list of organizations managed by Epic on Carequality that are impacted by this blockage.*

- **Impacted patients:** Up to ~ 2 million patients represented by Particle Health customers in all 50 states.*
- **Impacted timeframe** (*i.e.*, request and denial timeframe): March 21, 2024 - present date (July 30, 2024)
- **Type of EHI requested:** Patient medical history
- **Volume of data impacted:** Estimated ~100k clinical documents per week, from March 21, 2024 through present date, or ~1.6M clinical documents.*
 - See **Attachment 2** for graph of historical trends in clinical documents shared by Particle Health customers with Epic healthcare providers per week in 2024, which highlights the dropoff in documents shared with Epic customers in Mar/Apr 2024*.*
 - See **Attachment 3** for a report of total volume of requests (ITI-55 Requests) placed to Particle Health customers by Epic healthcare providers per month, which highlights the dropoff in requests Epic was facilitating from its customers to Particle Health customers from Feb-Apr 2024.
- **Type/purpose of request:** Health care provider request to export patient records from a different health care provider for the purposes of treating the patient
- **Health IT being used by the requester:** All impacted health care providers leverage Epic to exchange electronic health information via Carequality.
- **Person or entity that denied/did not fulfill the request to access, exchange, or use EHI:** Epic, health IT developer of certified IT
- **Reason for request denial:** Epic pointed to an active dispute underway with Particle Health as the rationale for suppressing requests. However, Epic is currently solely blocking their own health systems from accessing Particle Health data. The dispute has no mention of any privacy or security concerns (or any other reason for information blocking exception) involving Epic's own health care provider customers. Particle Health customers continue to have access to Epic's health care provider customers' data without any issue or denial.
- **Date and time the reason/response for denial was provided to Particle Health:** See **Attachment 4** for email thread referencing with denial response.
- **Date and time the reason/response for denial was provided to the requestor:** From Particle Health's conversations with Epic customers, they are not aware that their requests for data about their patients will not result in records from Particle customers.
- **Additional information:**

- See **Attachment 5** for Report from Omada Health / Stanford Health of blocked data access
- See **Attachment 6** for Particle's Information Blocking Risk Notice, which was sent on June 14 to all 113 Health Systems impacted by this issue for whom we had contact information.

**These numbers reflect the total number of healthcare provider organizations and patients impacted by Epic's blockage, and the estimated associated document volume based on historical trends. As Epic is blocking the data requests from being delivered to Particle Health customers, Particle Health does not have insight into the specific, individual data requests that are actively being blocked by Epic.*

Background

Particle Health participates in the Carequality network as a Carequality Implementer - *i.e.*, an organization that provides connectivity to Health Care Providers, and Business Associates of Health Care Providers, to exchange patient data via the Carequality network. As a Carequality Implementer, Particle facilitates requests for records via Carequality on behalf of our customers, who are Health Care Providers, and Business Associates of Health Care Providers, for Treatment purposes, as "Treatment" is defined by HIPAA. Epic also participates as a Carequality Implementer for its own health care provider customers.

Discovery of the Issue

On March 21, 2024, Particle Health received a report that health care providers were having issues accessing patient data from Particle Health customers. Specifically, our customer Omada Health, a virtual chronic care provider, informed Particle Health that one of their health care provider partners, Stanford Health, had attempted and was unable to access patient data from Omada Health.

In investigating this report, Particle Health discovered that this data access issue was due to the fact that Epic, who manages data exchange on behalf of Stanford Health, had not placed any requests for data to Particle Health customers. Moreover, Particle Health discovered that, beginning on March 21, 2024, Epic appeared to have stopped placing data requests on behalf of *any* of their health care provider customers to the Particle Health Gateway. Specifically, whenever one of the 18,536 health care provider organizations that Epic manages on the Carequality network places a request via Epic for medical records for the purpose of treating a patient, Epic has begun blocking these requests from being delivered to Particle Health customers. As a result, Particle Health

is not made aware of the request, and is unable to provide the requested medical records to these organizations.

This blockage has precipitated a massive dropoff in records delivered to Epic customers. The attached graph (**Attachment 2**), illustrates the volume of Particle clinical documents shared with Epic customers by week since the start of the year. Prior to Epic blockage on March 21, 2024, ~100K clinical documents per week were posted for retrieval by Epic's customers for patient treatment. After March 21, 2024, there is a >99% reduction in documents due to Epic's blockage.

Particle Efforts to Resolve

Believing this to be an inadvertent technical issue on Epic's end, Particle Health reached out to the Epic technical contacts to report the issue and attempt to resolve. Epic informed Particle Health that this blockage was intentional, as Epic had decided to block any requests on behalf of Epic's health care provider customers to Particle Health customers while Epic was engaged in a dispute with Particle Health on Carequality.

It is important to note that the dispute has no mention of any privacy or security concerns (or any other reason for information blocking exception) involving Epic's own health care provider customers. Particle Health customers continue to have access to Epic's health care provider customers' data without any issue or denial. *Epic is solely blocking its own health care provider customers from accessing electronic health information from Particle Health customers. From Particle Health's conversations with Epic customers, they are not aware that their requests for data about their patients will not result in records from Particle customers.*

Particle Health has attempted to resolve this issue with Epic unsuccessfully (**Attachment 4**). As a result, Particle Health is now pursuing resolution via the ONC Information Blocking Process.

Info-Blocking Exceptions Do Not Apply

Epic has not explained its reasoning for this behavior. We have to imagine that Epic would point to a privacy concern as its justification. As explained below, none of the privacy exceptions to information blocking apply here.

As has been widely reported, Epic has accused Particle Health of allowing some of Particle Health's customers to query data for purposes other than treatment in violation of the CareQuality rules. That dispute is ongoing. But, in the meantime, the majority of Particle Health's customers, which are not the subject of the dispute, are

able to query data from Epic customers without issue as the dispute continues. Epic continues to inexplicably block its own health care provider customers from querying and receiving records about their patients from Particle Health's customers. Any privacy concern that has been raised by Epic to date has been with respect to data flowing in the other direction (from Epic customers to Particle customers and not the reverse). What privacy concern would prevent Epic's own customers from accessing patient data from Particle customers through the Particle Health Gateway, especially since Epic has not stopped Particle customers from accessing patient data from Epic customers through the Particle Health Gateway?

Accordingly, Epic's actions do not fall within any privacy exception in 45 C.F.R. 171.202. There is no precondition to providing exchange here that would trigger the exception in Section 171.202(b). Further, this is not a case where access is being denied on an individual patient basis consistent with 45 CFR 164.524(a)(1) and (2) of the HIPAA Privacy Rule. And this is not a case where the individuals have requested that their information not be shared. Epic's actions are not tailored to any specific privacy risk or interest being addressed, as Epic has simply blocked all its customers from accessing data from Particle customers.

Request created
30/Jul/24 6:18 PM