

## Report on Patient Privacy Volume 22, Number 10. October 06, 2022 OCR Announces Trio of Access Cases; Already Stung, One Dental Chain Eliminates All Fees

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How about free?

Patients daily face the machinations of getting records from their providers, and health care practices, hospitals and even dentists struggle with confusing fee schedules, murky payment limits, and what is really meant by the “reasonable cost-based fee” they’re allowed to charge.

And they’ve also got to be quick about it, so they don’t blow the timeframes for access, thus giving patients another reason beyond fees to complain to the HHS Office for Civil Rights (OCR).

The danger that providers will get it wrong and face enforcement action by OCR is real. Last month OCR announced three new settlement agreements against providers—all dentists—who were either late, charged too much or didn’t provide full records.<sup>[1]</sup> They bring to 41 the number of covered entities (CEs) that paid fines and, generally agreed to corrective action plans (CAPs) that are themselves costly to implement.

Among the new cases is Great Expressions Dental Center of Georgia, which paid \$80,000 and agreed to a two-year CAP. OCR accused the practice of being both tardy and charging an excessive fee. In response—or what Great Expressions’ general counsel called evidence of a “silver lining”—the chain of 300 independently owned practices with 500 dentists among them did away with all records fees previously charged to patients, *RPP* has learned.

New OCR Director Melanie Fontes Rainer announced the trio of settlements on Sept. 20, just a week after she was sworn into the position permanently; she was named acting director in July (see story, p. 1).<sup>[2]</sup>

Then-OCR Director Roger Severino began the Right of Access initiative in 2019. OCR’s volume of access cases increased from just two that year but remained fairly constant. In 2020 it had 11 such cases and 12 last year. So far this year, however, it has issued 16 such enforcement actions, including the three recent cases.

The 41 cases have collectively brought OCR approximately \$2.83 million in fines and penalties. On occasion, fines have appeared higher than others when OCR has received more than one complaint about the same CE, but that was not the case with any of the three new settlements.

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