

Employee Health Plan

HIPAA PRIVACY COMPLIANCE

IN GENERAL

Certain members of the Plan Sponsor's workforce have access to the individually identifiable health information of Plan Participants for administrative functions of the Plan. When this health information is provided from the Plan to the Plan Sponsor, it is Protected Health Information (PHI).

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations restrict the Plan Sponsor's ability to use and disclose PHI. The following HIPAA definition of PHI applies to this Plan.

Protected Health Information. Protected Health Information means information that is created or received by the Plan and relates to the past, present or future physical or mental health or condition of a participant; the provision of health care to a participant; or the past, present or future payment for the provision of health care to a participant; and that identifies the participant or for which there is a reasonable basis to believe the information can be used to identify the participant. Protected Health Information includes information of persons living or deceased.

The Plan Sponsor shall have access to PHI from the Plan only as permitted under this HIPAA Privacy Compliance section or as otherwise required or permitted by HIPAA.

PROVISION OF PROTECTED HEALTH INFORMATION TO PLAN SPONSOR

Permitted Disclosure of Enrollment/Disenrollment Information

The Plan may disclose to the Plan Sponsor information on whether the individual is participating in the Plan or is enrolled in or has disenrolled from the Plan.

Permitted Uses and Disclosure of Summary Health Information

The Plan may disclose Summary Health Information to the Plan Sponsor provided the Plan Sponsor requests the Summary Health Information for the purpose of (a) obtaining premium bids from health plans for providing health insurance coverage under the Plan; or (b) modifying, amending or terminating the Plan.

"Summary Health Information" means: information that (a) summarizes the claims history, claims expenses or type of claims experienced by individuals for whom a Plan Sponsor had provided health benefits under a health plan; and (b) from which the information described at 42 CFR § 164.514(b)(2)(i) has been deleted, except that geographic information described in 42 CFR § 164.514(b)(2)(i)(B) need only be aggregated to the level of a five-digit zip code.

Permitted and Required Uses and Disclosure of Protected Health Information for Plan Administrative Purposes

Unless otherwise permitted by law and subject to the conditions of disclosure described in the next section and obtaining written certification pursuant to the "Certification of Plan Sponsor" section, the Plan may disclose PHI to the Plan Sponsor provided the Plan Sponsor uses or discloses such PHI only for Plan Administration purposes. "Plan Administrative purposes" means administrative functions performed by the Plan Sponsor on behalf of the Plan, such as quality assurance, claims processing, auditing and monitoring as well as investigating the payment of claims on behalf of and at the request of a Member of the Plan. Plan administration functions do not include functions performed by the Plan Sponsor in connection with any other benefit or benefit plan of the Plan Sponsor, and they do not include any employment-related functions.

Notwithstanding the provisions of this Plan to the contrary, in no event shall the Plan Sponsor be permitted to use or disclose PHI in a manner that is inconsistent with 45 CFR §164.504(f).

Conditions of Disclosure for Plan Administrative Purposes

Plan Sponsor agrees that with respect to any PHI (other than enrollment/disenrollment information and Summary Health Information, which are not subject to these restrictions) disclosed to it by the Plan, Plan Sponsor shall:

- a. Not use or further disclose the PHI other than as permitted or required by the Plan or as required by law;
- b. Ensure that any agent, including a subcontractor, to whom it provides PHI received from the Plan agrees to the same restrictions and conditions that apply to the Plan Sponsor with respect to PHI;
- c. Not use or disclose the PHI for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Plan Sponsor;
- d. Report to the Plan any use or disclosure of the information of which it becomes aware that is inconsistent with the uses or disclosures that are permissible;
- e. Make available PHI to comply with HIPAA's right to access in accordance with 45 CFR § 164.524;
- f. Make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 CFR § 164.526;
- g. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
- h. Make its internal practices, books and records relating to the use and disclosure of PHI received from the Plan available to the Secretary of Health and Human Services for purposes of determining compliance by the Plan with HIPAA's privacy requirements;
- i. If feasible, return or destroy all PHI received from the Plan that the Plan Sponsor still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible;
- j. Ensure that the adequate separation between Plan and Plan Sponsor (i.e., the "firewall") required in 45 CFR § 504(f)(2)(iii) is satisfied.

Adequate Separation Between Plan and Plan Sponsor

The Plan Sponsor shall allow the Privacy Official and designated Persons in the Human Resources, Benefits and Accounting Departments and their supervisors access to the PHI. No other persons shall have access to PHI. These specified employees (or classes of employees) shall only have access to and use PHI to the extent necessary to perform the Plan administration functions that the Plan Sponsor performs for the Plan. In the event that any of these specified employees do not comply with the provisions of this section, that employee shall be subject to disciplinary action by the Plan Sponsor for non-compliance pursuant to the Plan Sponsor's employee discipline and termination procedures.

Certification of Plan Sponsor

The Plan shall disclose PHI to the Plan Sponsor only upon the receipt of a certification by the Plan Sponsor that the Plan has been amended to incorporate the provisions of 45 CFR § 164.504(f)(2)(ii), and that the Plan Sponsor agrees to the conditions of disclosure set forth in the above section "Conditions of Disclosure for Plan Administration Purposes."

APPENDIX 2 - PRIVACY PRACTICES

This Notice Describes How Medical Information About You May Be Used and Disclosed and How You May Get Access To This Information. This Notice is effective April 14, 2004. Please Review This Notice Carefully.

If you have any questions about this notice, please contact the Privacy Official at (828) 465-8019.

WHO WILL FOLLOW THIS NOTICE

During the course of providing you with health coverage, the Plan will have access to information about you that is deemed to be “protected health information,” or PHI, by the Health Insurance Portability and Accountability Act of 1996, or HIPAA. The procedures outlined in this section have been added to the Plan to ensure that your PHI is treated with the level of protection required by HIPAA. This notice describes the medical information practices of this Plan and that of any third party that assists in the administration of Plan claims.

The Plan’s Pledge Regarding Medical Information

This health plan understands that medical information about you and your health is personal. The Plan is committed to protecting medical information about you. The Plan creates a record of the health care claims reimbursed under the Plan for Plan administration purposes. This notice applies to all of the medical records that are maintained. Your personal doctor or health care provider may have different policies or notices regarding the doctor’s use and disclosure of your medical information created in the doctor’s office or clinic.

This notice will tell you about the ways in which the Plan may use and disclose medical information about you. It also describes the Plan’s obligations and your rights regarding the use and disclosure of medical information.

The Plan is required by law to:

- Make sure that medical information that identifies you is kept private;
- Give you this notice of the Plan’s legal duties and privacy practices with respect to medical information about you; and
- Follow the terms of the notice that is currently in effect.

HOW THE PLAN MAY USE AND DISCLOSE MEDICAL INFORMATION ABOUT YOU

The following categories describe different ways that the Plan uses and discloses medical information. An explanation and some examples are provided for each category of uses or disclosures. Not every use or disclosure in a category will be listed. However, all of the ways the Plan is permitted to use and disclose information will fall within one of the categories.

For Payment (as described in applicable regulations). The Plan may use medical information about you to determine eligibility for Plan benefits, to facilitate payment for the treatment and services you receive from health care providers, to determine benefit responsibility under the Plan, or to coordinate Plan coverage. For example, the Plan may tell your health care provider about your medical history to determine whether a particular treatment is experimental, investigational or medically necessary or to determine whether the Plan will cover the treatment. The Plan may also share medical information with a utilization review or precertification service provider. Likewise, the Plan may share medical information with another entity to assist with the adjudication or subrogation of health claims or to another health plan to coordinate benefit payments.

For Health Care Operations (as described in applicable regulations). The Plan may use and disclose medical information about you for other Plan operations. These uses and disclosures are necessary to run the Plan. For example, the Plan may use medical information in connection with: conducting quality assessment and improvement activities; underwriting, premium rating and other activities relating to Plan coverage; submitting claims for stop-loss (or excess loss) coverage; conducting or arranging for medical review, legal services, audit services and fraud and abuse detection programs; business planning and development such as cost management and business management and general Plan administrative activities.

As Required by Law. The Plan will disclose medical information about you when required to do so by federal, state or local law. For example, the Plan may disclose medical information when required by a court order in a litigation proceeding such as a malpractice action.

To Avert a Serious Threat to Health or Safety. The Plan may use and disclose medical information about you when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person. Any disclosure, however, would only be to someone able to help prevent the threat. For example, the Plan may disclose medical information about you in a proceeding regarding the licensure of a physician.

Business Associates. The Plan contracts with individuals and entities (Business Associates) to perform various functions on the Plan's behalf or to provide certain types of services. To perform these functions or to provide the services, the Plan's Business Associates will receive, create, maintain, use or disclose protected health information but only after the Plan requires the Business Associates to agree in writing to contract terms designed to appropriately safeguard your information. For example, the Plan may disclose your protected health information to a Business Associate to administer claims or to provide service support, utilization management, subrogation or pharmacy benefit management. An example of a Business Associate would be the Plan's Third Party Administrator, ACS Benefit Services, Inc., which will be handling many of the functions in connection with the operation of the Group Health Plan.

SPECIAL SITUATIONS

Disclosure to Health Plan Sponsor. Medical information may be disclosed to your employer, the Plan Sponsor, solely for purposes of administering benefits under the Plan. This would include providing information to the Plan Sponsor when the Plan Sponsor is helping you understand your claims or when the Plan Sponsor helps you to make a claim payable.

Organ and Tissue Donation. If you are an organ donor, the Plan may release medical information to organizations that handle organ procurement or organ, eye or tissue transplantation or to an organ donation bank, as necessary to facilitate organ or tissue donation and transplantation.

Military and Veterans. If you are a member of the armed forces, the Plan may release medical information about you as required by military command authorities. The Plan may also release medical information about foreign military personnel to the appropriate foreign military authority.

Workers' Compensation. The Plan may release medical information about you for workers' compensation or similar programs. These programs provide benefits for work-related injuries or illness.

Public Health Risks. The Plan may disclose medical information about you for public health activities. These activities generally include the following:

- to prevent or control disease, injury or disability;
- to report births and deaths;
- to report child abuse or neglect;
- to report reactions to medications or problems with products;
- to notify people of recalls of products they may be using;
- to notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition;
- to notify the appropriate government authority if the Plan believes a patient has been the victim of abuse, neglect or domestic violence. The Plan will only make this disclosure if you agree or when required or authorized by law.

Health Oversight Activities. The Plan may disclose medical information to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, inspections and licensure. These activities are necessary for the government to monitor the health care system, government programs and compliance with civil rights laws.

Lawsuits and Disputes. If you are involved in a lawsuit or dispute, the Plan may disclose medical information about you in response to a court or administrative order. The Plan may also disclose medical information about you in response to a subpoena, discovery request or other lawful process by someone else involved in the dispute, but only if efforts have been made to tell you about the request or to obtain an order protecting the information requested.

Law Enforcement. The Plan may release medical information if asked to do so by a law enforcement official:

- in response to a court order, subpoena, warrant, summons or similar process;
- to identify or locate a suspect, fugitive, material witness or missing person;
- about the victim of a crime if, under certain limited circumstances, the Plan is unable to obtain the person's agreement;
- about a death the Plan believes may be the result of criminal conduct; and
- in emergency circumstances to report a crime; the location of the crime or victims or the identity, description or location of the person who committed the crime.

Coroners, Medical Examiners and Funeral Directors. The Plan may release medical information to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or determine the cause of death. The Plan may also release medical information about Members to funeral directors as necessary to carry out their duties.

National Security and Intelligence Activities. The Plan may release medical information about you to authorized federal officials for intelligence, counterintelligence and other national security activities authorized by law.

Inmates. If you are an inmate of a correctional institution or under the custody of a law enforcement official, the Plan may release medical information about you to the correctional institution or law enforcement official. This release would be necessary (1) for the institution to provide you with health care; (2) to protect your health and safety or the health and safety of others or (3) for the safety and security of the correctional institution.

YOUR RIGHTS REGARDING MEDICAL INFORMATION ABOUT YOU

You have the following rights regarding medical information the Plan maintains about you:

Right to Inspect and Copy. You have the right to inspect and copy medical information that may be used to make decisions about your Plan benefits. To inspect and copy medical information that may be used to make decisions about you, you must submit your request in writing to the Privacy Official. A form for the request is available from the Privacy Official at the telephone number on the first page of this Notice. If you request a copy of the information, the Plan may charge a fee for the costs of copying, mailing or other supplies associated with your request.

The Plan may deny your request to inspect and copy in certain very limited circumstances. If you are denied access to medical information, you may request that the denial be reviewed.

Right to Amend. If you feel that medical information the Plan has about you is incorrect or incomplete, you may ask the Plan to amend the information. You have the right to request an amendment for as long as the information is kept by or for the Plan.

To request an amendment, your request must be made in writing and submitted to the Privacy Official. A form for the request is available from the Privacy Official. In addition you must provide a reason that supports your request.

The Plan may deny your request for an amendment if it is not in writing or does not include a reason to support the request. In addition, the Plan may deny your request if you ask to amend information that:

- Is not part of the medical information kept by or for the Plan;
- Was not created by the Plan, unless the person or entity that created the information is no longer available to make the amendment;
- Is not part of the information which you would be permitted to inspect and copy; or
- Is accurate and complete.

Right to an Accounting of Disclosures. You have the right to request an "accounting of disclosures" where such disclosure was made for any purpose other than treatment, payment or health care operations.

To request this list or accounting of disclosures, you must submit your request in writing to the Privacy Official at the telephone number on the first page of this Notice. Your request must state a time period which may not be longer than six (6) years and may not include dates before April 2004. A form for the request is available from the Privacy Official. Your request should indicate in what form you want the list (for example, on paper, electronic). The first list you request within a twelve (12) month period will be free. For additional lists, the Plan may charge you for the costs of providing the list. You will be notified of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

Right to Request Restrictions. You have the right to request a restriction or limitation on the medical information the Plan uses or discloses about you for treatment, payment or health care operations. You also have the right to request a limit on the medical information the Plan discloses about you to someone who is involved in your care or the payment for your care, like a family member or friend. For example, you could ask that the Plan not use or disclose information about a surgery you had. The Plan is not required to agree to your request.

To request restrictions, you must make your request in writing to the Privacy Official at the telephone number on the first page of this Notice. In your request, you must say (1) what information you want to limit; (2) whether you want to limit the use, disclosure or both and (3) to whom you want the limits to apply, for example, disclosure to your spouse. A form for the request is available from the Privacy Official.

Right to Request Confidential Communications. You have the right to request that the Plan communicate with you about medical matters in a certain way or at a certain location if you would be endangered if the Plan continued to send your medical correspondence to the subscriber. For example, you can ask that the Plan send your explanation of benefits to an alternate address.

To request confidential communications, you must make your request in writing to the Privacy Official at the telephone number on the first page of this Notice. No one will ask you the reason for your request.

Right to a Paper Copy of This Notice. You have the right to a paper copy of this notice. You may ask us for a copy of this notice at any time. Even if you have agreed to receive this notice electronically, you are still entitled to a paper copy of this notice.

To obtain a paper copy of this notice, please contact the Privacy Official at the telephone number on the first page of this Notice.

CHANGES TO THIS NOTICE

The Plan reserves the right to change this Notice. The Plan reserves the right to make the revised or changed notice effective for medical information the Plan already has about you as well as any information received in the future. The Plan will post a copy of the current notice on the Plan website if and when the Plan creates a website.

COMPLAINTS

If you believe your privacy rights have been violated, you may file a complaint with the Plan or with the Secretary of the Department of Health and Human Services. To file a complaint with the Plan, contact the Privacy Official at the telephone number on the first page of this Notice. All complaints must be submitted in writing.

You will not be penalized for filing a complaint.

OTHER USES OF MEDICAL INFORMATION

Other uses and disclosures of medical information not covered by this notice or the laws that apply to the Plan will be made only with your written permission. If you give permission to the Plan to use or disclose medical information about you, you may revoke that permission, in writing, at any time. If you revoke your permission, the Plan will no longer use or disclose medical information about you for the reasons covered by your written authorization. You understand that the Plan is unable to take back any disclosures already made with your permission, and that the Plan is required to retain records of the claims submitted on your behalf.