

# HIPAA and Plan Information

## HIPAA NOTICE OF PRIVACY PRACTICES

### Health Insurance Portability and Accountability Act (HIPAA)

The Plan is in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Certification of creditable coverage will be provided to plan participants pursuant to this act and to relevant administrative rules.

**THIS NOTICE DESCRIBES HOW YOUR MEDICAL INFORMATION MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY**

**Effective September 23, 2013**

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### INTRODUCTION

The Plan has a health care component (the “Health Plan”) subject to HIPAA. The Health Plan includes medical (including prescription coverage), dental, vision, and certain employee assistance programs. This Notice of Privacy Practices (“Notice”) is required by HIPAA.

If you are enrolled in any of the Health Plan’s insured coverage options, you may receive a separate privacy notice from your insurer or HMO. The privacy of your personal health information (“PHI”) that is created, used, or disclosed by the Health Plan is protected by HIPAA. By law, the Health Plan is required to:

- Maintain the privacy of your protected health information;
- Provide you with this Notice of the Health Plan’s legal duties and privacy practices with respect to your protected health information;
- Notify you if there is a breach of your unsecured protected health information; and
- Abide by the terms of this Notice

Protected health information is information that identifies you and either relates to your physical or mental health condition, the provisions of health care, or relates to the payment of your health care expenses health information and is created, received, or maintained by the Health Plan. However, protected health information does not include all health information that may be maintained by the City or its benefit plans. For example, protected health information does not include health information that is used or maintained by the City’s non-health benefit plans, such as life insurance. Protected health information also does not include any health information that was obtained by the City in its capacity as an employer (e.g., through an FMLA or leave of absence request). If health information is not protected health information, then the health information is not protected by HIPAA and is not covered by this Notice.

The City and the Health Plan understand that your protected health information is personal and private, and both are committed to maintaining the privacy of your protected health information. This Notice summarizes the Health Plan’s and City’s privacy practices and those of any third party that assists in the administration of the Health Plan. In particular, this notice describes how the Health Plan may use or disclose your protected health information. It also describes the Health Plan’s obligations to you and your individual rights regarding the use and disclosure of your protected health information. Please review it carefully.

The Health Plan reserves the right to change, at any time, its privacy practices and the terms of this notice and to make the new notice effective for all protected health information. Once revised, information about any material revision (or a revised copy of the Notice) will be delivered to you, within 60 days of the revision and the notice will be posted on the City's Web site at <http://www.portlandoregon.gov/bhr/26588>. You may also request the new notice be mailed to you.

#### HOW THE CITY USES OR SHARES INFORMATION

The City acquires limited protected health information about you in order to enroll, maintain, change and terminate your participation in the Plans. Those in the City performing these functions include City payroll employees in your bureau, employees in the Bureau of Technology Services (BTS), and employees assigned to the Health & Financial Benefits Office in the Bureau of Human Resources. They will obtain the following information from you to perform these functions: The names, dates of birth, addresses, phone numbers, social security numbers, and employment data with the City, enrollment in other medical benefit plans if any, of yourself and any dependents and/or domestic partners that participate in the Plans. Other authorized City employees may also use this information to conduct quality assessment and improvement activities, other activities relating to the creation, renewal or replacement of health benefits and budget creation and analysis.

The City may also acquire information from the Plans that has been de-identified—that is medical information that cannot be linked to any individual participant, for purposes of utilization review, cost studies, and review of appeals decisions made by the Health Plan with respect to any Plan benefit.

#### HOW THE HEALTH PLAN USES AND SHARES INFORMATION

The Health Plan use protected health information and may share it with others as part of your treatment, payment for treatment, and Plan operations. The following are ways the Health Plan may use or share information about you:

- The Health Plan will use the information to administer your plan benefits and help pay your medical bills that have been submitted to the Health Plan by doctors and hospitals for payment
- The Health Plan may share your information with your doctors or hospitals to help them provide medical care to you. For example, if you are in the hospital, the Health Plan may provide access to any medical records sent to the Health Plan by your doctor.
- The Health Plan may use or share your information with others to help manage your health care. For example, the Health Plan might talk to your doctor to suggest a disease management or wellness program that could help improve your health.
- The Health Plan may share your information with individuals who perform business functions for the City. The City will only share your information if there is a business need to do so and if our business partner agrees to protect the information, in accordance with this privacy notice.
- The Health Plan may give you information about treatments and programs or about health related products and services that may be to your benefit. For example, the Health Plan sometimes send out letters to notify you about chronic conditions, tobacco cessation or nutrition programs.
- The Health Plan may use and disclose your protected health information for administration and operations, including quality assessment and quality improvement activities; underwriting (excluding any protected health information that is genetic information), premium rating and other activities relating to the creation, renewal or replacement of a health insurance or health benefits contract or a stop-loss or excess-loss insurance contract; conducting or arranging for medical assessments, legal services and auditing functions (including fraud and abuse detection and compliance programs), and other general administrative activities such as customer service and HIPAA compliance. For example, the Health Plan may disclose your health information to potential health insurance carriers in order to obtain a premium bid from the carrier.

There are other situations in which the Health Plan may disclose your protected health information without your authorization.

- The Health Plan may disclose your protected health information to you or your personal representative
- The Health Plan may disclose protected health information to a close friend or family member involved in or who helps pay for your health care. The Health Plan may also advise a family member or close friend about your condition, your location (for example, that you are in the hospital), or death, unless other laws would prohibit such disclosures. If you are present or otherwise available before the use or disclosure, the Health Plan may make the use or disclosure if the Health Plan obtains your agreement; provides you with an opportunity to object and you do not object; or reasonably infers from the circumstances, through the exercise of professional judgment, that you do not object. If you are not present or the opportunity to agree or object to the use or disclosure of your protected health information is not practical due to your incapacity or an emergency situation, the Health Plan may, through the exercise of professional judgment, determine whether the disclosure is in your best interest. Any disclosure made under these circumstances will be limited to the protected health information which is directly related to the person's involvement with your care or payment for your health care or need for notification.
- The Health Plan, or an insurer of benefits provided under the Health Plan, may disclose your protected health information without your written authorization to designated personnel at your employer for plan administration purposes. The employer agrees not to use or disclose your health information other than as permitted or required by the plan document(s) for the Health Plan and by applicable law. In particular, your health information that is protected health information will not be used for employment decisions.
- Certain services are provided to the Health Plan by third-party administrators known as "business associates." For example, the Health Plan may place information about your health care treatment into an electronic claims processing system maintained by a business associate so that your claim may be paid. In so doing, the Health Plan will disclose your protected health information to its business associates so that the business associates can perform their claims payment functions. However, the Health Plan will require its business associates, through written agreements, to appropriately safeguard your health information.

There are also state and federal laws that may require the Health Plan to release your health information to others. The Health Plan may be required by law to provide information to others for the following reasons:

- The Health Plan may have to give information to law enforcement agencies. For example, the Health Plan is required to report when child abuse or neglect or domestic violence is reasonably believed to have occurred.
- The Health Plan may be required by a court or administrative agency to provide information because of a search warrant or subpoena
- The Health Plan may report health information to public health agencies to report births or deaths or if the Health Plan believes there is a serious health or safety threat
- The Health Plan may report health information on job-related injuries because of requirements of state or other workers' compensation laws
- The Health Plan may report information to the Food and Drug Administration. This agency is responsible for investigating or tracking prescription medication and medical device problems.

- The Health Plan may have to report information to state and federal agencies that regulate the City, such as the U.S. Department of Health and Human Services to enable the Secretary to investigate and determine the Health Plan's compliance with HIPAA.
- The Health Plan may disclose your protected health information to a coroner or medical examiner for identification purposes, for determining cause of death or for the coroner or medical examiner to perform other duties authorized by law. The Health Plan may also disclose protected health information to a funeral director, as necessary to allow the funeral director to carry out their duties.
- If you are an organ donor, the Health Plan may disclose your protected health information as necessary to facilitate organ or tissue donation, including transplantation
- The Health Plan may disclose your protected health information to researchers without your authorization if their research has been approved by an institutional review board or privacy board that has reviewed the research proposal and established protocols to ensure the privacy of your protected health information and the researchers have provided certain necessary representations regarding the research.
- When the appropriate conditions apply and if you are a member of the Armed Forces, the Health Plan may disclose your protected health information (1) for activities deemed necessary by appropriate military command authorities, (2) for the purpose of a determination by the Department of Veterans Affairs of your eligibility for benefits, or (3) to a foreign military authority if you are a member of that foreign military service. The Health Plan may also disclose your protected health information to authorized federal officials for conducting national security and intelligence activities for the conduct of lawful intelligence, counter-intelligence and national security activities. The Health Plan may also disclose protected health information to authorized federal officials for the provision of protective services to the President or others that are authorized by law.
- If you are an inmate of a correctional institution or in the custody of a law enforcement official, the Health Plan may disclose your protected health information to the institution or official if the information is necessary for (1) the provision of health care to you, (2) your health and safety or the health and safety of other inmates, the officers, employees, or others at the correctional institution, (3) law enforcement on the premises of the correctional institution, or (4) the safety and security of the correctional institution.
- The Health Plan may disclose your protected health information, in certain situations, to law enforcement officials, including: (1) when directed by a court order, subpoena, warrant, summons or similar process; (2) if necessary to identify or locate a suspect, fugitive, material witness or missing person; and (3) if necessary to report information about the victim of a crime in limited circumstances where the victim is unable to provide consent.
- The Health Plan will disclose your protected health information where required to do so by federal, state or local law

If the Health Plan uses or discloses your information for any reasons **other than the above**, your written authorization will be obtained first. The Health Plan is required to obtain your written authorization as a condition for:

- Any use or disclosure of your protected health information for marketing purposes, except if the communication is in the form of face-to-face communications with you or a promotional gift of nominal value;
- Any use or disclosure of your protected health information that is in the form of a sale of protected health information; or
- Any use or disclosure of psychotherapy notes, except to carry out certain treatment, payment or health care operations, or as otherwise required by law

If you give the Health Plan written permission and change your mind, you may revoke your written authorization at any time. The Health Plan will honor the revocation except to the extent that the Health Plan has already relied on your authorization.

**Note:** If the Health Plan discloses information as a result of your written authorization, it may be re-disclosed by the receiving party and may no longer be protected by state and federal privacy rules. However, federal or state law may restrict re-disclosure of additional information such as HIV/AIDS information, mental health information, genetic information and drug/alcohol diagnosis, treatment, or referral information.

### *What Are Your Rights*

You have certain rights with respect to your protected health information. These include:

- **You have the right to ask the Health Plan to restrict** how your information is used or disclosed for treatment, payment, or health care operations. You also have the right to ask the Health Plan to restrict information provided to persons involved in your care. While the Health Plan may honor your request for restrictions, *they are not required to agree* to these restrictions.
- **You have the right to submit special instructions** to the Health Plan regarding how information is sent to you that contains protected health information. For example, you may request that your information be sent by a specific means (for example, U.S. mail only) or to a specific address. The Health Plan will accommodate reasonable requests by you as explained above. The Health Plan may require that you make your request in writing.
- **You have the right to inspect and obtain a copy** of information that the Health Plan maintain about you in a designated record set. *However*, you may not be permitted to inspect or obtain a copy of information that is:
  - Contained in psychotherapy notes;
  - Compiled in reasonable anticipation of, or for use in a civil, criminal, or administrative action or proceeding; and
  - Subject to the Clinical Laboratory Improvements Amendments of 1988, 42 U.S.C. 263a, to the extent the provisions of access to the individual would be prohibited by law or exempt from the Clinical Laboratory Improvements Amendments of 1988, pursuant to 42 CFR 493.3(a)(2)
- **You also have the right to request that a copy of your protected health information that the Health Plan maintains electronically be provided to you** in a specified electronic form and format. If the requested electronic form and format is not readily producible, the Health Plan will provide the copy in a readable electronic form and format to which you agree. You may request an electronic copy of your health information if it is maintained in an electronic health record. You may also request that such electronic health information be sent to another entity or person, so long as that request is clear, conspicuous and specific. Any charge that is assessed to you for these copies, if any must be reasonable and based on the Health Plan's cost.

Additionally, in certain situations the Health Plan may deny your request to inspect or obtain a copy of your information. If the Health Plan denies your request, the Health Plan will notify you in writing. Any denial will explain your right to have the denial reviewed.

The Health Plan may require that your request be made in writing. The Health Plan will respond to your request no later than 30 days after it is received. If the information you request is not maintained or accessible to the Health Plan on-site, the Health Plans will respond to your request no later than 60 days

after it is received. If additional time is needed, the Health Plan will inform you of the reasons for the delay and the date that the Health Plan's action on your request will be completed.

If you request a copy, a reasonable fee based on copying and postage costs will be required. You may request a copy of the portion of your enrollment and claim record related to an appeal free of charge.

- ***You have the right to ask the Health Plan to amend*** information maintained about you in a designated record set. The Health Plan will require that your request be in writing and that you provide a reason for your request. The Health Plan will respond to your request no later than 60 days after it is received. If a response cannot be made within 60 days, the time may be extended by no more than an additional 30 days. If additional time is needed you will be notified of the delay and the date by which action on your request will be completed.

If an amendment is made you will be notified that it was made, and the Health Plan will obtain your authorization to notify the relevant persons you have identified with whom the amendment needs to be shared. The Health Plan will notify these persons, including their business associates, if any, of the amendment.

If your request to amend is denied, you will be notified in writing of the reasons for the denial. The denial will explain your right to file a written statement of disagreement. The Health Plan has a right to rebut your statement. However, you have the right to request that your written request, the Health Plan's written denial, and your statement of disagreement be included with your information for any future disclosures.

- ***You have the right to receive an accounting*** of certain disclosures of your information made by the Health Plan during the six years prior to your request. The accounting may not include certain disclosures, including:
  - For treatment, payment, and health care operations purposes;
  - Made for you;
  - Made in connection with a use or disclosure otherwise permitted;
  - Made pursuant to your authorization;
  - For a facility's directory or to persons involved in your care or other notification purposes;
  - For national security or intelligence purposes;
  - To correctional institutions, law enforcement officials; or
  - Made as part of a limited data set for research, public health, or health care operations purposes

Additionally, if the Health Plan discloses your information for research purposes pursuant to an authorization, the Health Plan may not account for each disclosure of your information. Instead, the Health Plan will provide for you: (1) the name of the research protocol or activity; (2) a description of the research protocol or activity including the purpose for the research and the criteria for selecting particular records; (3) a description of the type of Protected Health Information that was disclosed; (4) the date or period of time when such disclosure occurred; and (5) the name, address, and telephone number of the entity that sponsored the research and researcher to whom the information was disclosed.

The Health Plan will act on your request for an accounting within 60 days. Additional time may be needed to act on your request, and may therefore take up to an additional 30 days. Your first accounting will be free, and you will be entitled to one free accounting upon request every 12 months. However, if you request an additional accounting within 12 months of receiving a free accounting, you

will be charged a fee. You will be informed of the fee in advance and you will be provided with an opportunity to withdraw or modify your request.

### *Exercising Your Rights*

**You have a right to receive a paper copy of this notice upon request at any time.** You can also view a copy of the notice on our Web site at <http://www.portlandoregon.gov/bhr/26588>.

If you have any questions about this notice or privacy practices of the City or the Health Plan, please contact the HIPAA Officer at **503-823-3506**. Our office is open Monday through Friday from 8 a.m. to 5 p.m.

If you believe your privacy rights have been violated by the Health Plan you may file a complaint with the City by writing the City at the address as follows:

**Anna Kanwit**  
**City of Portland Privacy Officer**  
Bureau of Human Resources  
City of Portland, Oregon  
1120 SW 5<sup>th</sup> Avenue, Room 404  
Portland, Oregon 97204  
Phone: **503-823-3506**  
Fax: 503-823-3522  
Email: [Anna.Kanwit@portlandoregon.gov](mailto:Anna.Kanwit@portlandoregon.gov)

You may also notify the Office of Civil Rights, U.S. Department of Health and Human Services of your complaint. The City cannot and will not take any action against you for filing a complaint. You may contact the Office of Civil Rights at:

**Office for Civil Rights**  
U.S. Department of Health and Human Services  
Room 509F, HHH Building  
200 Independence Avenue, S.W.  
Washington, DC 20201  
OCR Hotlines-Voice: **1-800-368-1019**  
[Ocrmail@hhs.gov](mailto:Ocrmail@hhs.gov)

The complaint should generally be filed within 180 days of when the act or omission complained of occurred.