

CITY OF NEW YORK HCFSA NOTICE OF PRIVACY PRACTICES

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

This notice applies to the Health Care Flexible Spending Account Program (the "Plan") of the City of New York, which acts as the plan sponsor of the Plan.

INTRODUCTION

During the course of providing you with health coverage, the Plan will have access to information about you that has been deemed to be "protected health information" by the Health Insurance Portability and Accountability Act of 1996, commonly known as "HIPAA." This Notice describes the medical information privacy practices of the Plan, and explains the Plan's obligations and your rights regarding the use and disclosure of your protected health information. Your personal physician or health care provider, and also HMOs and health insurers, may have different policies or notices regarding their use and disclosure of your protected health information.

If you have any questions about this Notice, please contact the Plan's Privacy Officer, at the address and phone number listed at the end of this Notice.

OUR PLEDGE REGARDING HEALTH INFORMATION

The Plan understands that medical information about you and your health is personal information. The Plan is committed to protecting your medical information. Under HIPAA, your protected health information ("Health Information") includes any individually identifiable information (including your name, address, date of birth, employee ID number, and Social Security number) that is linked to your past, present or future physical or mental health, the health care that you have received or payment for your health care. This Notice covers any such Health Information that is maintained by or on behalf of the Plan.

The Plan is required by law to:

- Make sure that your Health Information is kept private;
- Provide you with this Notice of the Plan's legal duties and privacy practices with respect to your Health Information;
- Notify affected individuals following a breach of unsecured Health Information; and
- Follow the terms of this Notice (as currently in effect or subsequently amended).

HOW THE PLAN MAY USE AND DISCLOSE YOUR HEALTH INFORMATION:

1. Uses and Disclosures for Treatment, Payment and Health Care Operations

The Plan may use or disclose your Health Information, in connection with your receiving treatment from a health care provider, the Plan's payment for such treatment and for Plan health care operations.

For Treatment: Although the Plan does not provide treatment, the Plan may use or disclose your Health Information to support the provision, coordination or management of your health care treatment. For example, a doctor may send the Plan information about your diagnosis and treatment plan so that the Plan may review services for coverage.

For Payment: The Plan may use or disclose your Health Information for the Plan's payment activities. "Payment" may include one or more of the following activities in connection with processing claims for your health care (including eligibility and adjudication of claims, claims management, coordination of benefits, and reviews of medical necessity).

For Health Care Operations: The Plan may use or disclose your Health Information as part of the general administrative or business functions of the Plan that the Plan must perform in order to function as a health plan, and for certain health care operations of other health plans or providers. Additionally, the Plan may use your Health Information in connection with conducting quality assessment and improvement activities and other activities relating to Plan coverage or audit services.

2. Disclosures to the Plan Sponsor and to Your Representatives

Disclosure to the Plan Sponsor: The Plan may disclose your Health Information to the plan sponsor of the Plan, including the designated City of New York personnel that perform plan sponsor functions, for purposes related to payment of benefits, Plan operations, and other matters pertaining to Plan administration that involve the plan sponsor. When disclosing Health Information to the plan sponsor, the Plan will make reasonable efforts not to disclose more than the minimum necessary amount of Health Information to achieve the particular purpose of the disclosure. In accordance with the plan documents, the plan sponsor has agreed not to use or disclose your Health Information: (1) other than as permitted in this Notice or as required by law, (2) with respect to any employment-related actions or decisions, or (3) with respect to any other benefit plan sponsored by or maintained by the plan sponsor.

In addition, the Plan may disclose "summary health information" to the plan sponsor for obtaining premium bids or modifying, amending or terminating the benefits provided under the Plan. Summary health information summarizes the claims history, claims expenses or type of claims experienced by individuals for whom the plan sponsor has provided health benefits under a group health plan. Identifying information will be deleted from summary health information, in accordance with federal privacy rules.

Disclosure to Your Personal Representatives: The Plan may disclose your Health Information to your personal representative in accordance with applicable state law and HIPAA (e.g., to parents if you are an unemancipated child under 18, to those with unlimited powers of attorney, etc.). In addition, you may authorize a personal representative to receive your Health Information and act on your behalf. Contact the Privacy Officer to obtain a copy of the appropriate form to authorize the people who may receive this information.

Individuals Involved in Your Care or Payment For Your Care: Unless you object in writing, the Plan may disclose Health Information to a close friend or family member involved in or who helps pay for your health care, but only to the extent relevant to that friend or family member's involvement in your care or payment for your care. For example, if a family member or a caregiver calls the Plan with prior knowledge of a claim, the Plan may confirm whether or not the claim has been received and paid. The Plan may also disclose your Health Information to any authorized public or private entities assisting in disaster relief efforts.

3. Other Permitted Uses and Disclosures of Your Health Information

The Plan may also use or disclose your Health Information for any of the following purposes:

Required By Law: The Plan may use or disclose your Health Information to the extent that the Plan is required to do so by applicable law. You will be notified, if required by law, of any such uses or disclosures.

Public Health: The Plan may disclose your Health Information for public health and safety purposes to a public health authority that is permitted by law to collect or receive the information. Your Health Information may be used or disclosed for the purpose of preventing or controlling disease (including communicable diseases), injury or disability. If directed by the public health authority, the Plan may also disclose your Health Information to a foreign government agency that is collaborating with the public health authority.

Health Oversight: The Plan may disclose your Health Information to a health oversight agency for activities authorized by law, such as audits, investigations, inspections and legal actions. Oversight agencies seeking this information include government agencies that oversee the health care system, government benefit programs, other government regulatory programs and civil rights laws.

Abuse or Neglect: The Plan may disclose your Health Information to any public health authority authorized by law to receive information about abuse, neglect or domestic violence if the Plan reasonably believes that you have been a victim of abuse, neglect or domestic violence. In this case, the Plan will inform you that such a disclosure has been or will be made unless that notice will cause a risk of serious harm.

To Avert a Serious Threat to Health or Safety: The Plan may use or disclose your Health Information 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 reasonably able to help prevent or lessen the threat.

Legal Proceedings: The Plan may disclose your Health Information in the course of any judicial or administrative proceeding, in response to an order of a court or administrative tribunal. In addition, the Plan may disclose your Health Information under certain conditions in response to a subpoena, court-ordered discovery request or other lawful process, in which case reasonable efforts must be undertaken by the party seeking the Health Information to notify you and give you an opportunity to object to the disclosure.

Law Enforcement: The Plan may disclose your Health Information if requested by a law enforcement official as part of certain law enforcement activities.

Coroners, Funeral Directors, and Organ Donation: The Plan may disclose your Health Information to a coroner or medical examiner for identification purposes, or other duties authorized by law. The Plan may also disclose your Health Information to a funeral director, as authorized by law, in order to permit the funeral director to carry out his/her duties. The Plan may disclose such information in reasonable anticipation of death. The Plan may also disclose Health Information for cadaveric organ, eye or tissue donation purposes.

Research: The Plan is permitted to disclose your Health Information to researchers when their research has been approved by an institutional review board or privacy board that has established protocols to ensure the privacy of your Health Information.

Military Activity and National Security: When the appropriate conditions apply, the Plan may use or disclose Health Information of individuals who are Armed Forces personnel: (1) for activities deemed necessary by military command authorities; or (2) to a foreign military authority if you are a member of that foreign military service. The Plan may also disclose your Health Information to authorized federal officials conducting national security and intelligence activities.

Workers' Compensation: The Plan may disclose your Health Information to comply with workers' compensation laws and other similar legally established programs.

Inmates: If you are an inmate of a correctional institution or under the custody of a law enforcement official, the Plan may disclose your Health Information to the institution or official if the Health Information is necessary for the institution to provide you with health care; to protect the health and safety of you or others; or for the security of the correctional institution.

Required Uses and Disclosures: The Plan must make disclosures of Health Information to the Secretary of the U.S. Department of Health and Human Services ("HHS") to investigate or determine the Plan's compliance with the federal regulations regarding privacy.

USES AND DISCLOSURES OF YOUR HEALTH INFORMATION THAT REQUIRE YOUR WRITTEN AUTHORIZATION

The Plan will not use or disclose your Health Information for the following purposes without your prior written authorization:

Psychotherapy Notes: Except for certain narrow exceptions permitted by law (such as legal defense in a proceeding you bring against the Plan), the Plan will not use or disclose any mental health professional's psychotherapy notes (discrete notes that document the contents of conversations during counseling sessions) without your prior written authorization.

Marketing or Sales: The HCFSA program never markets or sells Health Information.

Other Uses and Disclosures of Health Information: Other uses and disclosures of your Health Information not described in this Notice will only be made with your prior written authorization. For example, a written authorization from you would be necessary to disclose your Health Information to a disability insurance company for purposes of obtaining disability benefits, or to a law firm in connection with litigation, unless otherwise permitted or required as outlined above. If you provide the Plan with written authorization to use or disclose your Health Information for purposes other than those set forth in this Notice, you may revoke that authorization in writing at any time. If you revoke your authorization, the Plan will no longer use or disclose your Health Information for the reasons covered by your written authorization. However, you understand that the Plan is unable to take back any disclosures the Plan has already made with your authorization, and that the Plan is required to retain records of the services the Plan provided to you.

No Use or Disclosure of Genetic Information for Underwriting: The Plan is prohibited by law from using or disclosing Health Information that is genetic information of an individual for underwriting purposes. Generally, genetic information involves information about differences in a person's DNA that could increase or decrease his or her chance of getting a disease (for example, diabetes, heart disease, cancer or Alzheimer's disease). The HCFSA Plan is not underwritten.

ADDITIONAL SPECIAL PROTECTIONS

Additional special privacy protections, under federal or state law, may apply to certain sensitive information, such as genetic information, HIV-related information, alcohol and substance abuse treatment information, and mental health information. If you have questions, please contact the Privacy Officer at the address on the bottom of page 3.

YOUR RIGHTS WITH RESPECT TO YOUR HEALTH INFORMATION

You have the following rights regarding the Health Information that the Plan maintains:

Right to Request a Restriction on the Use and Disclosure of Your Health Information: You may ask the Plan to restrict the uses and disclosures of your Health Information to carry out treatment, payment or health care operations. You may also request that the Plan restrict uses and disclosures of your Health Information to family members, relatives, friends or other persons identified by you who are involved in your care. However, the Plan is not required to agree to a

restriction that you request. If the Plan does agree to the request, the Plan will not use or disclose your Health Information in violation of that restriction unless it is needed to provide emergency treatment or the Plan terminates the restriction with or without your agreement. If you do not agree to the termination, the restriction will continue to apply to Health Information created or received prior to the Plan's notice to you of the Plan's termination of the restriction. To request a restriction, you must write to the Privacy Officer at the address on page 11 indicating (1) what information you want to restrict, (2) whether you want to restrict use, disclosure or both, and (3) to whom you want the restriction to apply.

Right to Request to Receive Confidential Communications by Alternative Means or at an Alternative Location: The Plan will accommodate your reasonable request to receive communications of PHI from the Plan by alternative means or at alternative locations if the request includes a statement that disclosure using the Plan's regular communications procedures could endanger you. Please direct your written request to the Privacy Officer at the address on the bottom of this page.

Right to Inspect and Copy: As long as the Plan maintains it, you may inspect and obtain a copy of your Health Information that is contained in a "designated record set" – which are records used in making enrollment, payment, claims adjudication, medical management and other decisions. To request access to inspect and/or obtain a copy of any of your Health Information, you must submit your request in writing to the Privacy Officer at the address on page 11 indicating the specific information requested, and you may also direct the Plan to transmit the copy of Health Information directly to another person that you designate in writing. If you request a copy of Health Information, please indicate in which form you want to receive it (i.e., paper or electronic). The Plan may impose a fee to cover the costs of producing, copying and mailing the requested Health Information. The Plan may deny your request to inspect and copy your Health Information in certain limited circumstances. For example, under federal law, you may not inspect or copy psychotherapy notes or information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding. If access is denied, you or your personal representative will be provided with a written denial setting forth the basis for the denial, a description of how you may exercise your review rights and a description of how you may complain to the Plan and to HHS.

Right to Amend Your Health Information: If you believe that Health Information that the Plan has about you is incorrect or incomplete, you may request that it be amended. Your request must be made in writing and submitted to the Privacy Officer. 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 the Plan to amend information that did not originate with the Plan (unless the person or entity that originated the Health Information is no longer available to make the amendment), is not contained in the records maintained by the Plan, is not part of the information that you would legally be permitted to inspect and copy, or is not accurate and complete.

Right to an Accounting of Disclosures: You have the right to request an accounting (i.e., a list) of certain non-routine disclosures of your Health Information. In general, the list will not include disclosures that were made: in connection with your receiving treatment, payment for such treatment and for certain health care operations; to you regarding your own Health Information; pursuant to your written authorization; to a person involved in your care or for other permitted notification purposes; for national security or intelligence purposes; or to correctional institutions or law enforcement officials. To request a list of disclosures, contact the Privacy Officer at the address below. You have the right to receive an accounting of disclosures of Health Information made within six years (or less) of the date on which the accounting is requested. Your request should indicate the form in which you want the list (e.g., paper or electronic). The first accounting you request within a 12-month period will be free of charge. For additional requests within the 12-month period, the Plan will charge you for the costs of providing the accounting. The Plan will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any cost is incurred.

Right to Obtain a Paper Copy of this Notice: You may request a paper copy of this Privacy Notice at any time, even if you have previously agreed to accept the Notice electronically. Requests should be made to the Privacy Officer at the address below.

COMPLAINTS

If you believe that your privacy rights have been violated, you may file a written complaint with the Plan at the address below or with the Secretary of the U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201. The Plan will not retaliate against you for filing a complaint.

CHANGES TO THIS NOTICE

The Plan reserves the right to change the terms of this or any subsequent Notice at any time. If the Plan elects to make a change, the revised Notice will be effective for all Health Information that the Plan maintains at that time. If the Plan makes a material change to this Notice, and if the Plan posts this Notice on its web site, the Plan will post the revised Notice by the effective date of the material change and also provide the revised Notice by mail. If the Plan does not post this Notice on its website, within 60 days of any material change of this Notice the Plan will provide the revised Notice to participants.

FOR QUESTIONS OR REQUESTS: If you have any questions regarding this Notice or the subjects addressed in it, or would like to submit a request as described above, please contact:

HCFSA Privacy Officer
City of New York Office of Labor Relations
22 Cortlandt Street, 28th Floor
New York, NY 10007
(212) 306-7760

This Notice is effective as revised September 23, 2013