

# Nebraska State Insurance Program NOTICE OF PRIVACY PRACTICES

**AS REQUIRED BY THE PRIVACY REGULATIONS ISSUED BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES PURSUANT TO THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA Privacy Regulation), THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN OBTAIN ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.**

In providing your group health/dental/vision/EAP and flexible spending account plans, we are committed to protecting the privacy of your protected health information. "Protected health information" (PHI) is your individually identifiable health information, including demographic information, collected from you or created or received by a health care provider, a health plan, your employer, or a health care clearinghouse and relates to: (1) your past, present, or future physical or mental health or condition; (2) the delivery of health care to you; or (3) the past, present, or future payment for the delivery of health care to you. This includes information such as your name, address, telephone number and Social Security Number.

This Notice of Privacy Practices describes how we may use and/or disclose your PHI pursuant to Federal regulations called the HIPAA Privacy Regulation. This Notice also describes various rights you may have regarding your PHI. Many of these uses and disclosures will be made directly by our health plan administrator or insurer, and many of your rights will be handled directly by this administrator/insurer. Administrators for our plan or plans as of the time of this notice are listed at the end of this notice. In this Notice, "you" refers to you, the employee, and your covered dependents.

We (and our administrators and insurers) are required by federal and state laws to maintain the privacy of your PHI. We are also required to provide you with this Notice about our privacy practices, our legal duties, and your rights concerning your PHI. We must follow the privacy practices described in this Notice, which will take effect April 14, 2003. These privacy practices will remain in effect until we replace or modify them.

We reserve the right to change our privacy practices and the terms of this Notice at any time, provided it is permitted by law. We reserve the right to make changes to our privacy practices for all PHI we maintain, including but not limited to PHI that we received or created before we made any such changes. Before we make a significant change in our privacy practices, we will revise this notice and send it to you.

You may have additional privacy rights under state law. State laws that provide greater privacy protection or broader privacy rights will continue to apply.

You may request an additional copy of our Notice of Privacy Practices at any time. For more information about our privacy practices, or for additional copies of this Notice, please contact us at the address or phone number listed at the end of this Notice.

## **I. Permitted and Required Uses and Disclosures of Protected Health Information**

### **Uses and/or Disclosures for Treatment, Payment and Health Care Operations**

In order to administer our health benefit programs effectively, we will collect, use and disclose PHI for certain types of activities, including payment and health care operations. Many of these activities are handled directly by other entities, such as the administrator(s) of our group health plan(s). The following is a description of how we (and our administrator/insurer) may use and/or disclose PHI about you for payment and health care operations:

- **Treatment:** We do not conduct treatment activities. However, we may disclose your PHI to healthcare providers who request it in connection with your treatment.
- **Payment:** We may use and disclose your PHI for all activities that are included within the definition of "payment" as set out in the HIPAA Privacy Regulation. For example, we may use and disclose your PHI to pay claims from doctors, hospitals, pharmacies and others for services delivered to you that are covered by your health plan, to determine your eligibility for benefits, to coordinate benefits, to examine medical necessity, to obtain premiums, to issue explanations of benefits to the

person who subscribes to the health plan in which you participate. We have not listed in this Notice all of the activities included within the definition of “payment,” so please refer to the HIPAA Privacy Regulation for a complete list.

- **Health Care Operations:** We may use and disclose your PHI for all activities that are included within the definition of “health care operations” as set out in the HIPAA Privacy Regulation. For example, we may use and disclose your PHI to rate our risk and determine the premium for your health plan, to conduct quality assessment and improvement activities, to credential health care providers, to engage in care coordination or case management, and/or to manage our business and the like. We have not listed in this Notice all of the activities included within the definition of “health care operations,” so please refer to the HIPAA Privacy Regulation for a complete list.

### **Uses and/or Disclosures of PHI To Other Entities**

We may use and/or disclose your PHI to other entities in the following situations (as permitted by the HIPAA Privacy Regulation):

- **Business Associates:** In connection with our payment and health care operations activities, we contract with individuals and entities (called “business associates”) to perform various functions on our behalf or to provide certain types of services (such as member service support, utilization management, subrogation, or pharmacy benefit management). To perform these functions or to provide the services, business associates will receive, create, maintain, use, or disclose PHI, but only after the business associates agree to appropriately safeguard your information. [Our contracted administrator is our business associates when they provide administrative services to our health plan.]
- **Providers and Other Covered Entities:** In addition, we may use or disclose your PHI to assist health care providers in connection with their treatment or payment activities, or to assist other covered entities in connection with their payment activities and certain other health care operations. For example, we may disclose your PHI to a health care provider when needed by the provider to render treatment to you, and we may disclose PHI to another covered entity to conduct health care operations in the areas of quality assurance and improvement activities, or accreditation, certification, licensing or credentialing.

### **Other Permitted Uses and/or Disclosures of Protected Health Information**

We may also use and/or disclose your PHI without your authorization in the following situations:

- **Others Involved in Your Health Care:** If you provide us with an oral agreement, we may disclose your PHI to a family member, another relative, a close friend or any other individual which you have identified as being involved in your health care. This oral agreement is valid for one encounter and is not intended as a substitute for written authorization. If you are not present or able to agree to these disclosures of your PHI due to a situation such as a medical emergency or disaster relief, then we may, using our professional judgment, determine whether the disclosure is in your best interest.
- **Required By Law:** We may use and/or disclose your PHI when required to do so by state or federal law.
- **Public Health Activities:** We may use or disclose your PHI for public health activities that are permitted or required by law. For example, we may use or disclose information for the purpose of preventing or controlling disease, injury, or disability.
- **Health Oversight Activities:** We may disclose your PHI to a health oversight agency for activities authorized by law, such as: audits; investigations; inspections; licensure or disciplinary actions; or civil, administrative, or criminal proceedings or actions. Oversight agencies seeking this information include government agencies that oversee: (1) the health care system; (2) government benefit programs; (3) other government regulatory programs; and (4) compliance with civil rights laws.
- **Abuse or Neglect:** We may disclose your PHI to a government authority that is authorized by law to receive reports of abuse, neglect, or domestic violence.
- **Public Health and Safety:** We may, when necessary, disclose your PHI to avert a serious or imminent threat to your health or safety or the health or safety of others.
- **Law Enforcement:** We may disclose limited information to a law enforcement official concerning the PHI of a suspect, fugitive, material witness, crime victim or missing person.

- **Legal Proceedings:** We may disclose your PHI in response to a court or administrative order, subpoena, discovery request, or other lawful process. Under limited circumstances (such as a court order, warrant or grand jury subpoena) we may also disclose your PHI to law enforcement officials.
- **Coroners, Medical Examiners, Funeral Directors, and Organ Donation:** We may disclose PHI to a coroner or medical examiner for purposes of identifying a deceased person, determining a cause of death, or for the coroner or medical examiner to perform other duties authorized by law. We also may disclose, as authorized by law, information to funeral directors so that they may carry out their duties. Further, we may disclose PHI to organizations that handle organ, eye, or tissue donation and transplantation.
- **Research:** We may disclose your PHI to researchers when an institutional review board or privacy board has: (1) reviewed the research proposal and established protocols to ensure the privacy of the information; and (2) approved the research.
- **Military and National Security:** We may disclose the PHI of armed forces personnel to military authorities under certain circumstances. We may disclose to authorized federal officials any PHI required for lawful intelligence, counterintelligence and other national security activities.
- **Inmates:** If you are an inmate of a correctional institution, we may disclose your PHI to the correctional institution or to a law enforcement official for: (1) the institution to provide health care to you; (2) your health and safety and the health and safety of others; or (3) the safety and security of the correctional institution.
- **Workers' Compensation:** We may disclose your PHI to comply with workers' compensation laws and other similar programs that provide benefits for work-related injuries or illnesses.
- **Plan Sponsors:** We may in certain situations disclose your PHI to the "Plan Sponsor" of your group health plan to allow the sponsor to perform plan administration functions. This "plan sponsor" generally is the employer that "sponsors" your group health plan. The federal privacy regulations require us to distinguish between the health plan itself, and the employer (or other entity) that "sponsors" the health plan. If your PHI is disclosed at all to the Plan Sponsor (other than to enroll you in the health plan), the Plan Sponsor is required to restrict how this information is used to "plan administration" functions. The Plan Sponsor is not allowed to use PHI received from the group health plan for any employment-related activities without your specific permission. Please see your plan documents for a full explanation of the limited uses and disclosures the sponsor may make of your PHI to administer your Group Health Plan.

### **Required Disclosures of Protected Health Information**

The following is a description of disclosures that we are required by law to make:

- **Disclosures to the Secretary of the U.S. Department of Health and Human Services:** We are required to disclose your PHI to the Secretary of the U.S. Department of Health and Human Services when the Secretary is investigating or determining our compliance with the HIPAA Privacy Rule.
- **Disclosures to You:** We are required to provide your PHI to you upon request, as described below in the "Individual Rights" section of this Notice. We are also required to provide you with the PHI of any individual on whose behalf you are acting as a personal representative.

### **Uses and Disclosures of PHI with an Authorization**

Your authorization is required to disclose your PHI in any situation not listed above. We may not use or disclose your PHI without your written authorization for any reason except those described in this Notice. You may give us a written authorization to use your PHI or to disclose it to anyone you specify. If you give us this authorization, you may revoke it in writing at any time, except to the extent that action has already been taken in reliance upon the authorization. You can obtain a copy of our authorization form by contacting us at the address or phone number listed at the end of this Notice.

## **II. Individual Rights**

The following is a brief statement of your rights with respect to your PHI. You may pursue these rights by contacting us directly (at the address indicated at the end of this Notice) or by contacting the administrator or insurer of your health plan. In many instances, our Administrator will handle these requests directly. Using the forms designated by the administrator generally will simplify the administration of your requests. For these forms, you may contact the administrator directly using the address at the end of this Notice.

- **Right to Request Restrictions:** You have the right to request that we place additional restrictions on our use and/or disclosure of your PHI for treatment, payment or health care operations. We are not required to agree to any additional restrictions; however, if we do, we will abide by those restrictions (except in emergency situations). All requests must be in writing. You must complete and sign the appropriate form before we can process your request. .

**Right to Receive Confidential Communications:** You have the right to request that we communicate with you confidentially about your PHI by alternative means and/or to an alternative location. Your request must provide the alternative means and/or location for communicating your PHI with you and clearly state that failure to do so could endanger your physical safety. All requests must be in writing.

- **Right to Inspect and Copy:** Subject to the following exceptions, you have the right to inspect and/or obtain copies of your PHI that we maintain in our Designated Record Set. **All requests must be in writing.** You are not entitled to inspect and/or copy:
  - any psychotherapy notes;
  - any information compiled in anticipation of or for use in any civil, criminal or administrative action or proceeding;
  - any information not subject to disclosure under the Clinical Laboratory Improvements Amendments of 1988 (42 U.S.C. § 263a); or
  - certain other records as specified in the HIPAA Privacy Regulation.

Your request to inspect and copy your PHI will be completed within 30 days of receipt of your completed form if the information is contained on site and was created within 2 years of the date of the request; otherwise your request will be completed within 60 days of receipt of your completed form. If we are unable to complete the request within the 30 or 60-day timeframe, we will notify you in writing that an extension of 30 days is needed. We may deny your request to inspect and copy your PHI in certain limited circumstances. If you are denied access to your information, you may request that the denial be reviewed. A licensed health care professional chosen by us will review your request and the denial. The person performing this review will not be the same one who denied your initial request. Under certain conditions, our denial will not be reviewable. In this event, we will inform you that the decision is not reviewable. We reserve the right to charge a reasonable copying fee for the cost of producing and mailing the documents. For more information on our fee structure (or any fees imposed by our administrator) and to obtain the designated form for your request, please contact us or the administrator/insurer at the address or phone number listed at the end of this Notice.

- **Right to Request Amendment of PHI:** You have the right to request that we amend your PHI. Your request must clearly state the information to be amended and the reasons for doing so. We may deny your request if:
  - we did not create the PHI;
  - we do not maintain the PHI in our Designated Record Set;
  - the PHI is not available for inspection; or
  - we believe the PHI is accurate and complete.

All denials to amend will be made in writing. You may respond to our denial by filing a written statement of disagreement. We then have the right to rebut that statement. If we approve your request to amend the information, we will make reasonable efforts to inform others of the amendment and to include the changes in any future disclosures. We will respond to your request within 60 days of receipt of your request. If we are unable to complete the request within the time required, we will notify you in writing that an extension of 30 days is needed. All requests must be in writing using the designated form. You must complete and sign the form before we can process your request. All request forms can be obtained by contacting us at the address or phone number listed at the end of this Notice.

- **Right to Receive an Accounting of Certain Disclosures:** You have the right to receive a summary of all instances in which we disclosed your PHI for purposes other than treatment, payment, health care operations and certain other activities. Effective April 14, 2003, we will begin maintaining disclosures for up to 6 years. Your accounting will be provided to you within 60 days of receipt of your request, unless we notify you in writing that a 30-day extension is needed. If you make a request more than once in a 12-month period, we may charge a reasonable, cost-based fee for additional copies. All requests must be in writing on the designated form. You must complete and sign the form before we can process your request. For more information on our fee structure and to obtain the proper form for your request, please contact us at the address or phone number listed at the end of this Notice.

- **Right to Receive a Paper Copy:** You are entitled to receive this Notice in paper form. To do so, please contact us at the address or phone number listed at the end of this Notice.

### III. Complaints

If you believe your privacy rights have been violated, you may file a written complaint with us or you may file a written complaint with the U.S. Department of Health and Human Services. We will not retaliate against you for filing a complaint.

You can receive a copy of our complaint form by notifying our Privacy Contact at the address or phone number listed at the end of this Notice. We will respond to your complaint within 60 days of receipt of the form. **All complaints must be in writing using the designated form.**

### IV. Contact Information

If you have any questions regarding this Notice or would like more information on how to exercise your rights, please contact us at:

**DAS – Risk Management**  
**Attention: HIPAA Privacy Officer**  
**521 So. 14<sup>th</sup> St., Suite 230**  
**Lincoln, NE 68508**  
**Telephone Number 402-471-4114**

Or you may contact the following administrators or insurers directly with respect to information maintained by them.

Medical Plan:  
**Blue Cross and Blue Shield of Nebraska**  
**Attention: Privacy Office**  
**P.O. Box 247040**  
**Omaha, NE 68124-7040**  
**Telephone Number: (402) 343-3521**  
**Toll Free Number: (877) 258-3999**