

Notice of Privacy Practices

Section 125 Health Flexible Spending Account

This Notice is effective April 14, 2004

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.

You are a participant in the Section 125 Health Flexible Spending Account sponsored by <__EARLHAM COLLEGE____>. ("The Plan"). The Plan is subject to a Federal Law called The Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). HIPAA requires that The Plan take certain steps to maintain the privacy of certain information about you, called "protected health information" (PHI). PHI is health and plan related information that identifies you.

This notice describes how your PHI is used to administer the plan, and the rights you have under the law. The Plan may hire another organization, called a Business Associate, to provide administrative services to the plan. If this is the case, The Plan will require that organization to comply with an agreement that requires the business associate to also protect your PHI.

Uses and Disclosures of Your PHI

A. Uses and disclosures for Payment and Plan Operations

HIPAA allows for the use of your PHI for treatment, payment and health care operation purposes. The Plan does not provide treatment, but does use your information for a number of the allowed payment and operation purposes.

1. *Payment* includes activities such as actions to make coverage determinations and the payment of claims submitted by you. Other payment activities The Plan may engage in include, but are not limited to, billing, claims management and collection activities. *An example of a payment use would be when The Plan reviews medical information from a doctor to determine if a claim is for a covered service.*
2. *Health care operations* include, but are not limited to, underwriting, legal services, auditing functions including fraud and abuse compliance programs, and business planning and management. *For example, The Plan may use information about your claims to audit the accuracy of our claims processing functions.*

In addition, The Plan may use or disclose PHI to the employer that acts as the plan sponsor, for allowable plan administration functions.

B. Other uses and disclosures, which are allowed by HIPAA.

HIPAA allows The Plan to use and disclose your PHI for a number of other reasons. It is important that you are informed of other possible uses and disclosures, even though they may never apply to The Plan's use of your PHI.

1. When required by federal, state or local law, judicial proceedings, or by law enforcement. For example, your PHI may be disclosed in response to a court order.
2. When permitted for purposes of public health activities or when required for health oversight activities. For example, The Plan could provide information to assist a government investigation of a health care provider or organization.
3. For purposes of organ donation.

4. In some cases, The Plan may use or disclose PHI to prevent or lessen a threat to the health or safety of a person or the public, or for national security purposes.
5. To the extent necessary to comply with workers' compensation or other similar programs established by law.
6. Use and disclosure of your PHI may be required by the Secretary of Health and Human Services to determine The Plan's compliance with HIPAA.

C. Uses and disclosures that require your written authorization.

The Plan will not use or disclose PHI for reasons other than those defined in sections A and B unless the individual who is the subject of the information provides a valid written authorization to do so. Individuals have a right to revoke an authorization at any time by contacting the office listed at the end of this notice.

A written authorization generally will be obtained before The Plan will use or disclose psychotherapy notes. Psychotherapy notes are separately filed notes about your conversations with your mental health professional during a counseling session. They do not include summary information about your mental health treatment.

D. Uses and disclosures that require you to be given an opportunity to agree or disagree.

The Plan will disclose your PHI to family members, other relatives and friends when you are present and have either verbally agreed to the disclosure, or have been given an opportunity to object, and the information is directly relevant to the family or friend's involvement with your care or payment for that care.

Rights of Individuals

Right to Request Restrictions on PHI Uses and Disclosures

You may request that The Plan restrict certain uses and disclosures of your PHI. Restriction of the use of PHI could affect our ability to pay claims. The Plan will attempt to honor reasonable requests but HIPAA does not require us to agree to these restrictions.

Right to Request Confidential Communications

You may also request that The Plan send communications to you by alternative means or at alternative locations. For example, if you feel you would be harmed if we send information to your current mailing address, you could request that we send information to another address. You may be required to make certain requests in writing. Requests for restrictions or confidential communications should be made to The Plan contact listed at the end of this notice.

Rights to Inspect and Copy PHI

You have a right to inspect and obtain a copy of your PHI contained in what is called the "designated record set". "Designated Record Set" includes certain enrollment, payment, billing, claims medical management record systems maintained by The Plan, and other information used in whole or in part to make decisions about you. The Plan is allowed to charge a reasonable fee to supply this information. You must request access or copies of records in writing. Requests should be made to The Plan contact listed at the end of this notice.

The requested information will be provided within 30 days of your written request if the information is maintained on site or within 60 days if the information is maintained offsite. A single 30-day extension is allowed if The Plan is unable to comply with the deadline. In certain cases we are allowed to deny your request. If access is denied, you will be provided with a written denial setting forth the basis for the denial, and a description of how you may appeal the denial.

Right to Amend PHI

You have the right to request The Plan to amend your PHI or a record about you in a designated record set for as long as the PHI is maintained in the designated record set.

The Plan has 60 days after your written request to act on the request. A single 30-day extension is allowed if The Plan is unable to comply with the deadline. If the request is denied in whole or part, The Plan must provide you with a written denial that explains the basis for the denial.

Requests for amendment of PHI in a designated record set should be made to The Plan contact listed at the end of this notice.

The Right to Receive an Accounting of PHI Disclosures

At your request, The Plan will also provide you with an accounting of certain disclosures of your PHI by The Plan during the six years prior to the date of your request. Such accounting will not include PHI disclosures made: (1) to carry out treatment, payment or health care operations; (2) to individuals about their own PHI; (3) for reasons involving national security, to corrections or law enforcement personnel; (4) prior to the compliance date; or (5) disclosures made subject to a valid authorization provided by you.

If the accounting cannot be provided within 60 days, an additional 30 days is allowed if you are given a written statement of the reasons for the delay and the date by which the accounting will be provided. If you request more than one accounting within a 12-month period, The Plan will charge a reasonable, cost-based fee for each subsequent accounting.

Personal Representatives

You may exercise your rights through a personal representative. Your personal representative may be required to produce evidence of his/her authority to act on your behalf before that person will be given access to your PHI or allowed to take any action for you.

The Plan retains discretion to deny access to your PHI to a personal representative to provide protection to those vulnerable people who depend on others to exercise their rights under these rules and who may be subject to abuse or neglect. This also applies to personal representatives of minors.

The Plan's Duties

The Plan is required by law to maintain the privacy of PHI and to provide individuals (participants and beneficiaries) with notice of its legal duties and privacy practices. The Plan is also required to abide by the terms of this notice.

This notice is effective beginning April 14, 2004. If a Plan's privacy practice is changed, a revised version of this notice will be mailed to individuals for whom the Plan still maintains PHI within 60 days of the effective date of any material change to the uses and disclosures, the individual's rights, the duties of The Plan or other privacy practices stated in this notice.

Contact Information and Your Right to File a Complaint

If you believe that your privacy rights have been violated, you may complain to The Plan in care of the Plan contact listed below. The Plan will not retaliate against you for filing a complaint.

You may also file a complaint with the Secretary of the U.S. Department of Health and Human Services, at the regional office that handles your area. You can get information on DHHS regional offices and how to file a complaint at <http://www.hhs.gov/ocr/privacyhowtofile.htm> or by calling 1-800-368-1019.

We reserve the right to change the terms of this notice and our privacy policies at any time. For questions regarding this notice or to request a copy of this notice contact:

Plan Contact: Cherie B. Dolehanty

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