

## HIPAA NOTICE OF PRIVACY PRACTICES

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**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.**

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### The Legal Duty of the REHP

The Retired Employees Health Program (REHP) is required by applicable federal and state laws to maintain the privacy of your personal health information, otherwise known as "Protected Health Information" ("PHI"), and to notify you in the event of a breach of unsecured PHI. The REHP is also required to give you this notice about our privacy practices, our legal duties with regard to PHI, and your rights and the rights of your dependents concerning PHI. You, and each of your covered dependents, are also sometimes referred to herein as a "Member." We must follow the privacy practices that are described in this notice once it is in effect, beginning September 23, 2013. It revises and replaces the notice of our privacy practices that was in effect prior to that date.

The REHP reserves the right to change its privacy practices and the terms of this notice at any time, in accordance with applicable law. Before we make a material change in our privacy practices, we will change this notice and provide the new notice (or notice of the changes) to you. You will receive the new notice or notice of changes if you are enrolled in our health plans at the time of the change. You may request a copy of this notice at any time. For more information about our privacy practices, or to request an additional copy of this notice, please contact the REHP by using the information listed at the end of this notice. This notice is also available at [www.pebtf.org](http://www.pebtf.org).

### PHI

Protected Health Information (PHI) is a special term defined by government regulation to include any information, including genetic information, that: (i) is created or maintained by a health plan or certain other entities; (ii) relates to the past, present or future physical or mental health or condition of an individual or the provision of and/or payment for the provision of health care to an individual; and (iii) identifies the individual or provides a reasonable basis to believe that the individual could be identified. PHI may be received or maintained in any form, including oral statements. Examples of PHI are a diagnosis or procedure code combined with your name, address, Social Security number, birth date, date of service, telephone number, or fax number.

The REHP may receive PHI about you and your covered dependents from enrollment forms, which includes name, address, Social Security number, birth date, telephone number, health care provider, and other health insurance coverage. We may also receive PHI about you from other sources, such as employers, health care providers, federal and state agencies, or third-party vendors.

Except as described below, the REHP will provide access to your PHI only to you, your authorized representative, and those persons who need the information to aid the REHP in the conduct of its business ("our Business Associates") or to those you specifically authorize us in accordance with specified procedures. You have the right to revoke an Authorization, and we describe how to do so in this notice. These formal "Authorization" rules are described in this notice.

When using or disclosing PHI, the REHP will make reasonable efforts to limit the use and disclosure of that information to the amount necessary to accomplish the intended purpose. The REHP maintains physical, technical and procedural safeguards to protect PHI and our vendors who obtain or create PHI in providing health plan services (our "Business Associates") are limited by contract and by law to using or disclosing PHI only for those purposes that it was obtained or created.

## **Our Uses and Disclosures of PHI**

The REHP is permitted to use and to disclose PHI in order to aid in your treatment, make payment for health care services provided to you and conduct our own "health care operations." Under limited circumstances, we may be able to provide PHI for the health care operation of other providers and health plans. We may use your PHI for purposes of treatment, payment and health care operations without your Authorization. Our Business Associates will assist us in these functions, for example, by processing your claims for benefits. At times our Business Associates, including prescription drug and behavioral health vendors may handle PHI to assist us with our health care operations. Specific examples of the ways in which PHI may be used and disclosed are provided below. This list is representative only and does not include every use and disclosure in a category.

**Treatment:** Although the REHP does not engage in treatment activities, we may disclose your PHI to any treatment provider which asks us for this information to assist in your treatment.

**Payment:** The REHP may use and disclose your PHI for a variety of permitted payment activities that include, but are not limited to paying claims from doctors, hospitals and other providers for services delivered to you that are covered by your health plan.

- Eligibility, Enrollment and Contributions: The State Employees' Retirement System (SERS), or other State agencies, which are Business Associates of the REHP, will forward your eligibility and enrollment information to the PEBTF, also a Business Associate of the REHP, including your name, address, Social Security number and birth date. This "enrollment information" is used by the PEBTF to provide coverage for health care benefits and for eligibility determinations. The REHP may share enrollment information with the "plan sponsor" of the REHP (the Commonwealth of Pennsylvania) as permitted by law.
- Benefits and Claims: The REHP will use and disclose PHI to process claims and appeals and pay benefits. In doing so, we may request PHI from or disclose PHI to your health care provider or share PHI with an independent medical reviewer to obtain its clinical view as to the medical necessity or experimental nature of a medical treatment. We will send Explanation of Benefits (EOB) containing PHI to notify Members who subscribe for coverage about claim determinations. We may also use and disclose PHI for precertification and medical necessity reviews, claims management, and billing and collection activities. For example, we may provide information to the billing agent of a health care provider.
- Coordination of Benefits, Adjudication, Subrogation: The REHP and other health plans use and disclose PHI to coordinate the payment of benefits with other health plans (e.g., Medicare or a spouse's health insurance plan). It may be necessary for the REHP to disclose PHI to the other plan to determine which plan should pay first and how much the secondary plan should pay. The REHP may also share information with an automobile insurance carrier, or other relevant person to assess whether another party

should be liable for your medical expenses. This may be called third-party reimbursement or subrogation.

**Health Care Operations:** The REHP may use and disclose your PHI for health care operations. Our health care operations encompass a broad range of activities. For example, we may use and disclose PHI to determine our premiums for your health plan, to conduct quality assessment and improvement activities, to engage in care coordination or case management, and to properly conduct our business.

- **Complaints:** The REHP may use and disclose PHI to investigate a complaint or respond to an inquiry by a Member. In order to do so, it may be necessary for us to gather information or documents, including medical records held both internally or externally by the REHP or others.
- **Customer Service:** We may provide PHI to a provider, a health care facility, or another health plan that contacts us with questions regarding your health care coverage, including questions concerning eligibility, claim status, effective dates of coverage, or other issues.
- **Audits:** We may obtain, use, and disclose PHI to audit our Business Associates, such as our managed care plans and prescription vendors, to confirm that they are paying claims accurately and otherwise performing services correctly under their contracts with us.
- **Fraud and Abuse Detection and Compliance Programs:** We may use and disclose PHI for fraud and abuse detection and in activities required by our compliance programs. We may also share this information with outside Health Oversight Agencies or other appropriate entities as required or allowed by law.
- **Health Promotion and Disease Prevention:** The REHP may use and disclose PHI for certain activities relating to improving health or reducing health care costs. For example, you may be contacted regarding participation in a disease management program or to recommend case management or certain preferred durable medical equipment vendors.
- **Legal Matters:** In the event that the REHP is evaluating compliance with certain laws, including privacy laws, or is involved in a lawsuit or other judicial or administrative proceeding, the REHP may use and disclose PHI. It may be necessary to disclose PHI to our attorneys and to others involved in the evaluations and legal proceedings. For example, we may be required to disclose PHI in response to a subpoena, warrant, or other legal process.
- **Quality Improvement:** The REHP may use or disclose PHI to help evaluate the performance of our health plan. For example, we may disclose names and addresses of our Members to a mailing house for use in mailing customer satisfaction surveys.
- **Underwriting:** The REHP may use and disclose PHI for premium rating, the creation, renewal or replacement of contracts for health insurance, or any underwriting activities; except that we may not use genetic information for underwriting purposes.

#### **Other Uses and Disclosures of PHI**

There are other situations in which your PHI may be used or disclosed. In some instances, different state and federal laws will apply. In certain situations, the use or disclosure may

be subject to certain restrictions or procedures. It is not possible to include all of the examples or all of the rules applicable to the categories of permissible uses and disclosures described, below.

**You and with Your Authorization:** The REHP must disclose PHI to you, as described below in the Member's Rights section of this notice. You may, subject to the REHP's policy for Authorizations, give us written Authorization to use or to disclose your PHI to anyone for any purpose. In this case, the REHP will be permitted (but not required) to use or disclose PHI, as stated in the Authorization. The REHP may prescribe an Authorization form for you to use for this purpose. You may revoke an Authorization in writing at any time; however, such revocation will not affect any uses or disclosures that were made under the Authorization while it was in effect. For additional information regarding revocation, use the contact information found at the end of this notice.

**Personal Representatives:** The REHP will treat your personal representative as if he/she were you for purposes of disclosing PHI. A "personal representative", for purposes of disclosure of PHI, is a parent of an unemancipated child, or a person who, as evidenced by a legal document valid under applicable law, is designated to make health care related decisions on behalf of an individual. Personal representatives include court-appointed guardians; persons appointed in "living wills" or medical directives; persons with powers of attorney that include the authority to make medical decisions; and executors/administrators of decedents' estates.

**Parents and Minors:** As a general rule, parents or other legal guardians (persons acting in loco parentis) have the right to access the PHI of an otherwise unemancipated minor child (defined by Pennsylvania law as a person under the age of twenty-one). However, Pennsylvania law allows a minor to obtain contraception, pregnancy testing and treatment, prenatal care, and testing and treatment for certain reportable diseases, sexually transmitted diseases, and HIV/AIDS without parental consent. Pennsylvania law also gives a minor the authority to control parental or other access to the PHI pertaining to such health care services, and to certain mental health care services. Therefore, a parent may need to obtain Authorization from the minor before the REHP will release this type of information.

**Health Oversight Activities:** The REHP may share PHI as provided by law with Health Oversight Agencies regulatory authorities or their appointed designees and reporting agencies. Examples of such "Health Oversight Agencies" include, but are not limited to, Centers for Medicare and Medicaid Services, the Pennsylvania Department of Health, Insurance Department, Attorney General, and Auditor General.

**Business Associates:** The REHP works with many entities that perform a wide variety of services on its behalf. For example, we work with auditors, attorneys, actuaries, consultants, and other health care plans who act as third-party administrators for the REHP. We will ensure that appropriate agreements are in place to govern the permitted and required uses and disclosures of Member information by our Business Associates, to require our Business Associates' compliance with applicable privacy laws, and to require our Business Associates to apply reasonable safeguards to the PHI they obtain or create in the services that they provide with regard to the REHP.

**Individuals Involved in Your Care:** We generally will not disclose PHI to others without your written Authorization. However, under certain circumstances, the REHP may disclose PHI to such persons. For example, if you appear at the offices of the PEBTF with your spouse/domestic partner/family Member and ask for PHI, you may be asked if your PHI may

be disclosed in front of your spouse/domestic partner/family Member or your Authorization may be inferred because your spouse/domestic partner/family Member is present. However, this non-written Authorization only applies to that particular disclosure. Future disclosures of PHI to spouses/domestic partners/family Members and others will require a new Authorization (written or otherwise).

We may also disclose PHI to your family Members, close friends or others in cases of a medical emergency, when you are unable to provide Authorization. In such cases, the REHP will disclose PHI to another person if we determine, using our professional judgment, that the disclosure would be in your best interest. In such cases, we will disclose only the PHI that is relevant to that person's involvement with your health care.

**Disaster Relief:** In the event of a disaster, the REHP may use or disclose your name, location and general condition or death to a public or private organization authorized by law or by its charter to assist in disaster relief efforts, such as the American Red Cross.

**Plan Sponsor:** The REHP may disclose eligibility, enrollment, and limited disenrollment information to our plan sponsors to permit them to perform their plan administrative functions on behalf of the REHP. We may provide our plan sponsor with information of your enrollment or disenrollment for coverage. We may also disclose summary health information about you and the participants in your group health plan to our plan sponsor for the plan sponsor to use to obtain premium bids for the health insurance coverage offered through your group health plan and/or to decide whether to modify, amend or terminate your group health plan. This summary health information may include claims history, claims expenses, or types of claims experienced by the participants in the REHP. The summary information will be stripped of demographic information (e.g., name and address) other than your zip code information. In order to obtain any of the above information, the plan sponsor will be required to certify to us that the plan has been amended to provide that the confidentiality of the information will be protected and that the information will not be used in any employment related decisions. No other information will be shared with the plan sponsor without an Authorization executed according to the REHP's Authorization policy.

**Public Health and Communicable Disease Reporting:** The REHP may disclose your PHI to a public health authority that is permitted by law to collect or receive the information. Such disclosure may be made in order to prevent or control disease, injury or disability, report child abuse or neglect, notify a person who may have been exposed to a disease or may be at risk for contracting a disease or condition or notifying the appropriate government authority if we believe a Member has been the victim of abuse, neglect or domestic violence. The REHP may use or disclose PHI to assist in certain other public health activities as permitted or required by law.

**Research, Death, Organ Donation:** The REHP may use or disclose your PHI for research purposes, in limited circumstances and with certain safeguards. The PHI of a deceased person may be disclosed to a coroner, medical examiner, funeral director, or organ procurement organization for certain purposes.

**Required by Law:** The REHP may use or disclose your PHI when we are required to do so by law. For example, we are required by federal law to disclose PHI to the U.S. Department of Health and Human Services if it asks to see it for purposes of determining whether we are in compliance with federal privacy laws. We may also disclose your PHI when authorized by Workers' Compensation or similar laws.

**Law Enforcement and for Public Safety:** Under certain circumstances, the REHP may disclose your PHI for law enforcement purposes. Examples of such situations include responding to court orders, warrants, or grand jury subpoenas; providing limited PHI in response to requests by law enforcement officials for identification and/or location of a suspect, witness, or certain other individuals; responding to inquiries by law enforcement relating to victims of crime; and providing information to law enforcement with respect to crimes occurring on the PEBTF's premises. In addition, under some circumstances, the REHP may disclose your PHI in order to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. Examples include providing information to law enforcement authorities in their effort to apprehend a suspect or fugitive or advising an individual about threats made against them. Finally, the REHP may disclose your PHI if you are an inmate or a person in lawful custody and a request for your PHI is made by an appropriate law enforcement official or correctional institution.

**Military and National Security:** Under certain circumstances, the REHP may disclose the PHI of armed forces personnel to military authorities. The REHP may also disclose your PHI to authorized federal officials for lawful intelligence, counterintelligence, and other national security activities.

**Member Rights:** As a Member of the REHP, you have the following rights regarding your PHI:

- **Right to Inspect and Copy:** With limited exceptions, you have the right to inspect and/or obtain a copy of your PHI that the REHP maintains in a designated record set. A "designated record set" consists of all records used by the REHP to make health plan decisions about you, including documentation relating to your enrollment, payment, claims adjudication, and case or medical management (e.g., disease management). You may request that the REHP provide copies of your PHI to you in paper or electronic format. If we can readily produce the PHI in that format, we will do so. You may also designate another person to receive this PHI and request that we send the PHI to that person directly by properly completing and submitting an Authorization to us. You may obtain an Authorization form to make these requests by using the contact information found at the end of this notice.

If the Designated Record Set is located on-site, the REHP will act upon your written request within 30 days after receipt of the request. If the PHI is not maintained by, or accessible to, the REHP on-site then it will respond to you no later than 60 days after receipt of the request. If these time frames cannot be met, the REHP is entitled to a 30 day extension. We will provide you with a notice of the reasons for the delay and the length of the extension. The REHP may charge you a reasonable cost-based fee to process and fulfill your request. If you prefer, you may request that the REHP prepare a summary or an explanation of your PHI; the REHP may also charge a fee to process and fulfill this request. Contact the REHP using the information listed at the end of this notice for a full explanation of its fee structure. If your request for access is denied, the REHP will provide a written explanation of the denial and your rights regarding the denial.

To obtain information about your treatment, you may wish to contact your treating physician, facility, or other provider that creates and/or maintains the records.

- **Right to Amend:** You have the right to request the REHP amend the PHI that we have created and that is maintained in the Designated Record Set. Your request must be in writing, and it must explain why the information should be amended. You may obtain a

form to request an amendment by using the contact information found at the end of this notice.

The REHP cannot amend demographic information, treatment records or any other information created by others. If you would like to amend any of this information, please contact the State Employees' Retirement System (SERS) or, to amend your treatment records, you must contact the treating physician, facility or other provider that created these records.

The REHP will act on a request for an amendment within 60 days of receipt, or provide a written statement of the reason why it cannot do so and the date by which it will complete action on the request. If we accept the amendment, we will advise you and make reasonable efforts to inform others who have the relevant record, including people you authorize, of the amendment and to include the changes in any future disclosures of that information.

The REHP may deny your request if: 1) the REHP did not create the information you want amended; 2) the information is not part of the designated record set maintained by the REHP; 3) you do not have access rights to the information; or 4) the REHP believes the information is accurate and complete. If the REHP denies your request, you will be provided a written explanation for the denial and your rights regarding the denial.

- **Right to an Accounting of Disclosures:** You have the right to receive an accounting of certain specific instances in which the REHP or its Business Associates have disclosed your PHI. The accounting will review disclosures made over the past six years. The REHP will provide you with the date of a disclosure, the name of the person or entity to whom your PHI was disclosed (unless this information is PHI of another Member), a description of the information disclosed, the reason for the disclosure, and certain other information. Certain disclosures, including the most routine disclosures (e.g., those made for treatment, payment or health care operations or made in accordance with an Authorization) are not subject to this requirement and will not appear in the accounting.

Your request for an accounting must be made in writing. You may obtain a form to request an accounting by using the contact information found at the end of this notice. The REHP will act on your request within 30 days of receipt, or you will be provided with a written statement of the reasons for the delay and the date by which the accounting will be provided.

If you request an accounting more than once in a 12 month period, the REHP may charge you a reasonable, cost-based fee for responding to these additional requests. You will have the opportunity, in writing, to withdraw or modify your request for any subsequent accounting in order to avoid or reduce the fee. You may contact us using the information listed at the end of this notice for a full explanation of the REHP's fee structure.

- **Right to Request Restrictions:** You have the right to request that the REHP place additional restrictions on the use or disclosure of your PHI for treatment, payment, health care operations purposes, and for disclosures made to persons involved in your care. The REHP is not required to agree, and for administrative and other reasons, we generally will not agree to these additional restrictions. However, if the REHP does agree, we will abide by our agreement (except in an emergency). If the REHP does agree to a restriction, our agreement will always be in writing and signed by the REHP's

Privacy Officer. If we agree to a restriction, we reserve the right to terminate that agreement by providing you with written notice of that termination.

Your request for restrictions must be in writing. You may obtain a form to request such restrictions, or additional information about your rights to request restrictions, by using the contact information found at the end of this notice.

**Right to Request Confidential Communications:** You have the right to request that we communicate with you in confidence about your PHI by using “alternative means” or an “alternative location” if the disclosure of all or part of that information to another person could endanger you. We will accommodate such a request where you clearly advise us in your request that the usual means of communication could endanger you and if your request for an alternative is reasonable. Your request must, among other things, continue to permit the REHP to collect premiums and pay claims under the health plan.

To request confidential communication changes, you must make your request in writing, and you must specify the alternative means or location for communication, and you must clearly state that the information could endanger you if it is not communicated in confidence as you request. To obtain a form to request confidential communications, use the contact information found at the end of this notice.

### **Right to Receive a Paper Copy of the Notice**

If you receive this notice on our web site or by electronic mail (e-mail), you are entitled to receive this notice in written form. Please contact the REHP using the information listed at the end of this notice to obtain this notice in written form.

### **Questions and Complaints**

If you want more information about the REHP privacy practices or have questions or concerns, please contact the REHP using the information listed at the end of this notice.

If you are concerned that the REHP may have violated your privacy rights, or you disagree with a decision the REHP made about access to your PHI or in response to a request you made to amend or restrict the use of disclosure of your information or to have the REHP communicate with you in confidence by alternative means or at an alternative location, you must submit your complaint in writing. To obtain a form for submitting your complaint, use the contact information found at the end of this notice. You also may submit a written complaint to the U.S. Department of Health and Human Services (HHS). The REHP will provide you with the address to file your complaint with the HHS upon request.

The REHP supports your right to protect the privacy of your PHI. The Commonwealth will not retaliate in any way if you choose to file a complaint with it or with the U.S. Department of Health and Human Services.

Contact Office:           Group Insurance Division

Address:                    Bureau of Employee Benefits and Services  
                                  Office of Administration  
                                  Room 513, Finance Building  
                                  Harrisburg, PA 17120

Telephone:                (717) 787-9872

Fax: (717) 787-7763

E-mail: [ra-benhelp@pa.gov](mailto:ra-benhelp@pa.gov)