

# NOTICE OF PRIVACY PRACTICES

## PURPOSE OF THIS NOTICE AND EFFECTIVE DATE

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

**Effective date.** The effective date of this Notice is August 1, 2018.

**This Notice is Required by Law.** The Public School Employees Retirement System (PSERS) Health Options Program (HOP) (the "Plan") is required by law to take reasonable steps to ensure the privacy of your personally identifiable health information and to inform you about:

1. The Plan's uses and disclosures of Protected Health Information (PHI),
2. Your rights to privacy with respect to your PHI,
3. The Plan's duties with respect to your PHI,
4. Your right to file a complaint with the Plan and with the Secretary of the U.S. Department of Health and Human Services, and
5. The person or office you should contact for further information about the Plan's privacy practices.

## YOUR PROTECTED HEALTH INFORMATION

### **Protected Health Information (PHI) Defined**

The term "Protected Health Information" (PHI) includes all information related to your past or present health condition that individually identifies you or could reasonably be used to identify you and is transferred to another entity or maintained by the Plan in oral, written, electronic or any other form.

PHI refers to your health information held by the Plan.

## ***When the Plan May Disclose Your PHI***

The Plan Sponsor has amended its Plan Documents to protect your PHI as required by federal law. Under the law, the Plan may disclose your PHI without your consent in the following cases:

- ***At your request.*** If you request it, the Plan is required to give you access to certain PHI in order to inspect it and copy it.
- ***As required by an agency of the government.*** The Secretary of the Department of Health and Human Services may require the disclosure of your PHI to investigate or determine the Plan's compliance with the privacy regulations.
- ***For treatment, payment or health care operations.*** The Plan and its business associates will use PHI without your consent, authorization or opportunity to agree or object in order to carry out treatment, payment, or health care operations.

Except for uses and disclosures associated with treatment, payment, or health care operations, the Plan does not use or disclose PHI when specifically protected by more stringent state law. Examples of more stringent state laws include those protecting HIV status, results of genetic testing, and indications of domestic abuse. The Plan will follow state privacy laws that are more stringent than this federal law.

The Plan does not need your consent to release your PHI when:

- you request it,
- a government agency requires it, or
- the Plan uses it for treatment, payment or health care operations.

## ***Definitions of Treatment, Payment and Health Care Operations***

- ***Treatment.*** Treatment is the provision, coordination or management of health care and related services. It also includes but is not limited to consultations and referrals between one or more of your providers.

***For example:*** The Plan discloses to a treating orthodontist the name of your treating dentist so that the orthodontist may ask for your dental X-rays from the treating dentist.

- ***Payment.*** Payment includes but is not limited to making coverage determinations and payment. These actions include billing, claims management, subrogation, Plan reimbursement, reviews for medical necessity and appropriateness of care, utilization review and preauthorization.

***For example:*** The Plan tells your doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Plan.

- **Health care operations.** Health care operations include but are not limited to quality assessment and improvement, reviewing competence or qualifications of health care professionals, underwriting, premium rating and other insurance activities relating to creating or renewing insurance contracts. It also includes disease management, case management, conducting or arranging for medical review, legal services and auditing functions including fraud and abuse compliance programs, business planning and development, business management and general administrative activities.

**For example:** The Plan uses information about your medical claims to refer you to a disease management program, to project future benefit costs or to audit the accuracy of its claims processing functions.

### ***When the Disclosure of Your PHI Requires Your Written Authorization***

The Plan must generally obtain your written authorization before (each of the following uses or disclosures include defined exceptions under which the Plan may use or disclose your PHI for these purposes without your authorization):

- Using or disclosing psychotherapy notes about you from your psychotherapist.
- Using or disclosing your PHI for marketing purposes (a communication that encourages you to purchase or use a product or service) if the Plan receives direct or indirect financial remuneration (payment) from the entity whose product or service is being marketed.
- Receiving direct or indirect remuneration (payment or other benefit) in exchange for receipt of your PHI.

**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. The Plan is not likely to have access to or maintain these types of notes.

### ***Use or Disclosure of Your PHI That Requires You Be Given an Opportunity to Agree or Disagree Before the Use or Release***

Disclosure of your PHI to family members, other relatives and your close personal friends without your written consent or authorization is allowed if:

- The information is directly relevant to the family or friend's involvement with your care or payment for that care, and
- You have either agreed to the disclosure or have been given an opportunity to object and have not objected.

## ***Use or Disclosure of Your PHI for Which Consent, Authorization or Opportunity to Object Is Not Required***

The Plan is allowed to use and disclose your PHI without your consent, authorization or request under the following circumstances:

***In general***, the Plan does not need your consent to release your PHI if required by law or for public health and safety purposes.

1. ***When required by law.***
2. ***Public health purposes.*** When permitted for purposes of public health activities. This includes reporting product defects, permitting product recalls and conducting post-marketing surveillance. PHI may also be used or disclosed if you have been exposed to a communicable disease or are at risk of spreading a disease or condition, if authorized by law.
3. ***Domestic violence or abuse situations.*** When authorized by law to report information about abuse, neglect or domestic violence to public authorities if a reasonable belief exists that you may be a victim of abuse, neglect or domestic violence. In such case, the Plan will promptly inform you that such a disclosure has been, or will be, made unless that notice would cause a risk of serious harm. For the purpose of reporting child abuse or neglect, it is not necessary to inform the minor that such a disclosure has been, or will be, made. Disclosure may generally be made to the minor's parents or other representatives, although there may be circumstances under federal or state law when the parents or other representatives may not be given access to the minor's PHI.
4. ***Oversight activities.*** To a public health oversight agency for oversight activities authorized by law. These activities include civil, administrative or criminal investigations, inspections, licensure or disciplinary actions (for example, to investigate complaints against providers), and other activities necessary for appropriate oversight of government benefit programs (for example, to investigate Medicare or Medicaid fraud).
5. ***Court proceedings.*** When required for judicial or administrative proceedings. For example, your PHI may be disclosed in response to a subpoena or discovery request, provided certain conditions are met, including that:
  - a. the requesting party must give the Plan satisfactory assurances a good faith attempt has been made to provide you with written notice, and
  - b. the notice provided sufficient information about the proceeding to permit you to raise an objection, and
  - c. no objections were raised or were resolved in favor of disclosure by the court or tribunal.

6. **Law enforcement health purposes.** When required for law enforcement purposes (for example, to report certain types of wounds).
7. **Law enforcement emergency purposes.** For law enforcement purposes if the law enforcement official represents that the information is not intended to be used against the individual, the immediate law enforcement activity would be materially and adversely affected by waiting to obtain the individual's agreement and the Plan in its best judgment determines that disclosure is in the best interest of the individual. Law enforcement purposes include:
  - a. identifying or locating a suspect, fugitive, material witness or missing person, and
  - b. disclosing information about an individual who is or is suspected to be a victim of a crime, but only if the individual agrees to the disclosure or the covered entity is unable to obtain the individual's agreement because of emergency circumstances.
8. **Determining cause of death.** When required to be given to a coroner or medical examiner to identify a deceased person, determine a cause of death or other authorized duties.
9. **Funeral purposes.** When required to be given to funeral directors to carry out their duties with respect to the decedent.
10. **Research.** For research, subject to certain conditions.
11. **Health or safety threats.** When, consistent with applicable law and standards of ethical conduct, the Plan in good faith believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and the disclosure is to a person reasonably able to prevent or lessen the threat, including the target of the threat.
12. **Workers compensation programs.** When authorized by, and to, the extent necessary to comply with workers' compensation or other similar programs established by law.

Any other Plan uses and disclosures not described in this Section of the Notice will be made only if you provide the Plan with written authorization, subject to your right to revoke your authorization.

# YOUR INDIVIDUAL PRIVACY RIGHTS

## ***Breach Notification***

If a breach of your unsecured PHI occurs, the Plan will notify you.

## ***You May Request Restrictions on PHI Uses and Disclosures***

You may request the Plan to:

1. Restrict the uses and disclosures of your PHI to carry out treatment, payment or health care operations, or
2. Restrict uses and disclosures to family members, relatives, friends or other persons identified by you who are involved in your care.

The Plan, however, is not required to agree to your request.

The Plan will accommodate reasonable requests to receive communications of PHI by alternative means or at alternative locations.

You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI. Make such requests to:

Director, Health Insurance Office  
Public School Employees Retirement System  
5 North 5th Street  
Harrisburg, PA 17101-1905  
Toll-Free Phone Number: 1.888.773.7748  
Local Number: 1.717.787.8540

***Protected Health Information (PHI):***  
includes all individually identifiable health information transmitted or maintained by the Plan, regardless of the form of the PHI.

## ***You May Inspect and Copy PHI***

You have a right to inspect and obtain a copy of your PHI (in hardcopy or electronic form) contained in a "designated record set," for as long as the Plan maintains the PHI. You may request your hardcopy or electronic information in a format that is convenient for you, and the Plan will honor that request to the extent possible. You also may request a summary of your PHI.

The Plan must provide the requested information within 30 days. A single 30-day extension is allowed if the Plan is unable to comply with the deadline, and if the Plan provides you with a notice of the reason for the delay and the expected date by which the requested information will be provided.

You or your personal representative will be required to complete a form to request access to the PHI in your designated record set. You may be charged a reasonable, cost-based fee for creating or copying the PHI, or preparing a summary of your PHI. Requests for access to PHI should be made to the following officer:

Director, Health Insurance Office  
Public School Employees Retirement System  
5 North 5th Street  
Harrisburg, PA 17101-1905  
Toll-Free Phone Number: 1.888.773.7748  
Local Number: 1.717.787.8540

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 those review rights and a description of how you may complain to the Secretary of the U.S. Department of Health and Human Services.

## ***You Have the Right to Amend Your PHI***

You have the right to request that the Plan 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.

***Designated Record Set:*** includes your medical records and billing records that are maintained by, or for, a covered health care provider. Records include enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by, or for, a health plan or other information used in whole or in part by, or for, the covered entity to make decisions about you. Information used for quality control or peer review analyses and not used to make decisions about you is not included.

The Plan has 60 days after receiving your request to act on it. The Plan is allowed a single 30-day extension if the Plan is unable to comply with the 60-day deadline. If the Plan denied your request in whole or part, the Plan must provide you with a written denial that explains the basis for the decision. You, or your personal representative, may then submit a written statement disagreeing with the denial and have that statement included with any future disclosures of your PHI.

You should make your request to amend PHI to the following officer:

Director, Health Insurance Office  
Public School Employees Retirement System  
5 North 5th Street  
Harrisburg, PA 17101-1905  
Toll-Free Phone Number: 1.888.773.7748  
Local Number: 1.717.787.8540

You, or your personal representative, will be required to complete a form to request amendment of the PHI.

### ***You Have the Right to Receive an Accounting of the Plan's PHI Disclosures***

At your request, the Plan will also provide you with an accounting of disclosures by the Plan of your PHI during the six years before the date of your request. However, such accounting need not include PHI disclosures made:

- To carry out treatment, payment or health care operations,
- To you about your own PHI, or
- Before the privacy rule compliance date.

The Plan has 60 days to provide the accounting. The Plan is allowed an additional 30 days if the Plan gives you 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.

If you disagree with the record of your PHI, you may amend it.

If the Plan denies your request to amend your PHI, you still have the right to have your written statement disagreeing with that denial included in your PHI.

Forms are available for these purposes.

## ***You Have the Right to Receive a Paper Copy of This Notice Upon Request***

To obtain a paper copy of this Notice, contact the following officer:

Director, Health Insurance Office  
Public School Employees Retirement System  
5 North 5th Street  
Harrisburg, PA 17101-1905  
Toll-Free Phone Number: 1.888.773.7748  
Local Number: 1.717.787.8540

This right applies even if you have agreed to receive the Notice electronically.

## ***Your Personal Representative***

You may exercise your rights through a personal representative. Your personal representative will be required to produce evidence of authority to act on your behalf before the personal representative will be given access to your PHI or be allowed to take any action for you. Proof of such authority may take one of the following forms:

- A power of attorney for health care purposes, notarized by a notary public,
- A court order of appointment of the person as the conservator or guardian of the individual,
- An Appointment of Personal Representative form that is completed and signed by you, or
- The status of the personal representative as the parent of a minor child.

**You may designate a personal representative by completing a form that is available from the Health Insurance Office.**

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.

Unless specifically requested otherwise, the Plan will communicate PHI in connection with treatment, payment or health care operations, with any family member covered under your plan. Should any family member want a restriction on such disclosure of PHI, they must request such restriction in writing. Although the Plan is not required to agree to a requested restriction, it will consider all factors explained in the request.

## THE PLAN'S DUTIES

### ***Maintaining Your Privacy***

The Plan is required by law to maintain the privacy of your PHI and to provide you and your eligible dependents with notice of its legal duties and privacy practices. In addition, the Plan may not (and does not) use your genetic information that is PHI for underwriting purposes.

This notice is intended to inform you of the Plan's obligation to maintain the privacy of your PHI.

This notice is effective beginning on August 1, 2018, and the Plan is required to comply with the terms of this notice. However, the Plan reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by the Plan prior to that date. If a privacy practice is changed, a revised version of this notice will be provided to you and to all past and present participants and beneficiaries for whom the Plan still maintains PHI.

If material changes are made to this Notice, it will be posted on the Plan's website no later than the effective date of the revision and thereafter sent in the Plan's next annual mailing.

Material changes are changes to:

- The uses or disclosures of PHI,
- Your individual rights,
- The duties of the Plan, or
- Other privacy practices stated in this notice

### ***Disclosing Only the Minimum Necessary Protected Health Information***

When using or disclosing PHI or when requesting PHI from another covered entity, the Plan will make reasonable efforts not to use, disclose or request more than the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request, taking into consideration practical and technological limitations.

The Plan must limit its uses and disclosures of PHI, or requests for PHI, to the minimum necessary amount of PHI needed to accomplish the purpose(s).

However, the minimum necessary standard will not apply in the following situations:

- Disclosures to, or requests by, a health care provider for treatment,
- Uses or disclosures made to you,

- Disclosures made to the Secretary of the U.S. Department of Health and Human Services,
- Uses of disclosures required by law, and
- Uses of disclosures required for the Plan’s compliance with legal regulations.

This notice does not apply to information that has been de-identified. De-identified information is information that:

- Does not identify you, and
- With respect to which there is no reasonable basis to believe that the information can be used to identify you.

### ***Disclosures to the Plan Sponsor***

As described in the amended Plan document, the Plan may share PHI with the Plan Sponsor for limited administrative purposes, such as determining claims and appeals, performing quality assurance functions and auditing and monitoring the Plan. The Plan shares the minimum information necessary to accomplish these purposes.

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

## **YOUR RIGHT TO FILE A COMPLAINT WITH THE PLAN OR SECRETARY OF HHS**

If you believe that your privacy rights have been violated, you may file a complaint with the Plan in care of the following officer:

Director, Health Insurance Office  
 Public School Employees Retirement System  
 5 North 5th Street  
 Harrisburg, PA 17101-1905  
 Toll-Free Phone Number: 1.888.773.7748  
 Local Number: 1.717.787.8540

**You have the right to file a complaint if you feel your privacy rights have been violated.**

**The Plan may 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. Filing instructions are available at: <http://www.hhs.gov/ocr/privacy/hipaa/complaints/index.html>

The Plan is prohibited by law from retaliating against you for filing a complaint.

## **IF YOU NEED MORE INFORMATION**

If you have any questions regarding this notice or the subjects addressed in it, you may contact the following officer at the Health Insurance Office:

Director, Health Insurance Office  
Public School Employees Retirement System  
5 North 5th Street  
Harrisburg, PA 17101-1905  
Toll-Free Phone Number: 1.888.773.7748  
Local Number: 1.717.787.8540

## **CONCLUSION**

PHI use and disclosure by the Plan is regulated by the federal Health Insurance Portability and Accountability Act, known as HIPAA. You may find these rules at 45 *Code of Federal Regulations* Parts 160 and 164. This notice attempts to summarize the regulations. The regulations will supersede this notice if there is any discrepancy between the information in this notice and the regulations.