



# Compliance Alert

November 27, 2006

***Compliance Alert, provided by Group Benefit Services, gives you the most up to date information regarding industry news as well as legislation and regulatory activities affecting your health plan.***

Topic: HIPAA Notice of Privacy Practices

**A requirement of the HIPAA Privacy regulation is that the Group Health Plan (GHP), as a covered entity, must provide the plan participants with a Notice of Privacy Practices every three years.**

***For your convenience, attached is a sample that you can use. It is the same sample GBS sent to you in preparation for HIPAA Privacy.***

The Health Insurance Portability and Accountability Act of 1996, or HIPAA, requires the Group Health Plan to provide this Notice to the plan participants to inform them of how the plan, as well as subcontractors and other vendors, will protect their medical information. The Notice also describes the plan participant's rights under the Privacy regulation.

Although the requirement is for distribution of the Notice every three years unless there has been a change to the Group Health Plan's procedures, GBS recommends that the Notice be distributed annually to ensure that all participants are in receipt.

***If you have any questions regarding this information, please contact your Group Benefits Account Manager at 1.800.638.6085.***

***This communication is not intended to be legal advice and should not be construed as legal advice. If you have any legal questions or concerns about your plan, GBS recommends seeking counsel from an ERISA attorney.***

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***Keeping you informed. Just one more reason to choose GBS.***

# 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 CONSTITUTES A SUMMARY OF MATERIAL MODIFICATION (SMM) AND AMENDS YOUR SUMMARY PLAN DESCRIPTION (SPD) - EFFECTIVE APRIL 14, 2003**

During the course of providing you with health coverage, the Plan will have access to information about you that is deemed to be "Protected Health Information", or PHI, by the Health Insurance Portability and Accountability Act of 1996, or HIPAA. The procedures outlined in this section have been added to the Plan to ensure that your PHI is treated with the level of protection required by HIPAA. This notice describes the medical information practices of our group health plan (the "Plan") and that of any third party that assists in the administration of Plan claims.

*If you have any questions or want additional information about the Notice or the policies and procedures described in the Notice, please contact your HIPAA Privacy Official identified on the last page of this Notice.*

## **OUR PLEDGE REGARDING MEDICAL INFORMATION:**

We understand that medical information about you and your health is personal. We are committed to protecting medical information about you. We create a record of the health care claims reimbursed under the plan for Plan administration purposes. This notice applies to all of the medical records we maintain. Your personal doctor or health care provider may have different policies or notices regarding the doctor's use and disclosure of your medical information created in the doctor's office.

This notice will tell you about the ways in which we may use and disclose medical information about you. We also describe your rights and certain obligations we have regarding the use and disclosure of medical information.

We are required by law to:

- make sure that medical information that identifies you is kept private;
- give you this notice of our legal duties and privacy practices with respect to medical information about you; and
- follow the terms of the notice that is currently in effect.

Your PHI will be disclosed to certain employees of Employer. These employees may only use your PHI for Plan administration functions including those described below, provided they do not violate the provisions set forth herein. Any employee of the Employer who violates the rules for handling PHI established herein will be subject to adverse disciplinary action.

By adoption of this SMM, the Employer has certified that it will comply with the privacy procedures set forth herein. Employer may not use or disclose your PHI other than as provided herein or as required by law. Any

agents or subcontractors who are provided your PHI must agree to be bound by the restrictions and conditions concerning your PHI found herein. Your PHI may not be used by Employer for any employment-related actions or decisions or in connection with any other benefit or employee benefit plan of Employer. Employer must report to the Plan any uses or disclosures of your PHI of which the Employer becomes aware that are inconsistent with the provisions set forth herein.

### **HOW WE MAY USE AND DISCLOSE MEDICAL INFORMATION ABOUT YOU:**

The following categories describe different ways that we use and disclose medical information for purposes of health plan administration. For each category of uses or disclosures we will explain what we mean and try to give some examples. Not every use or disclosure in a category will be listed. However, all of the ways we are permitted to use and disclose information will fall within one of these categories.

#### ***For Treatment (as described in applicable regulations):***

We may use medical information about you to facilitate medical treatment or services. We may disclose medical information about you to doctors, nurses, technicians, medical students, or other hospital personnel who are involved in the delivery of your medical treatment or taking care of you.

#### ***For Payment (as described in applicable regulations):***

Our Third Party Administrator may use and disclose medical information about you to determine eligibility for Plan benefits, to facilitate payment for the treatment and services you receive from health care providers, to determine benefit responsibility under the Plan, or to coordinate Plan coverage. For example, we may tell your health care provider about your medical history to determine whether a particular treatment is experimental, investigational, or medically necessary or to determine whether the Plan will cover the treatment. We may also share medical information with a utilization review or precertification provider. Likewise, we may share medical information with another entity to assist with the adjudication or subrogation of health claims or to another health plan to coordinate benefit payments.

#### ***For Health Care Operations (as described in applicable regulations):***

Our Third Party Administrator may use and disclose medical information about you for other Plan operations. These uses and disclosures are necessary to run the Plan. For example, we may use medical information in connection with: conducting quality assessment and improvement activities; underwriting and soliciting bids from potential carriers, premium rating and setting employee contributions, and other activities relating to Plan coverage; submitting claims for stop-loss (or excess loss) coverage; conducting or arranging for medical review, legal services, audit services, and fraud and abuse detection programs; business planning and development such as cost management; and business management and general Plan administrative activities.

#### ***As Required by Law:***

We will disclose medical information about you when required to do so by Federal, State or local law.

#### ***To Avert a Serious Threat to Health or Safety:***

We may use and disclose medical information about you 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 able to prevent the threat.

## **OTHER POSSIBLE USES AND DISCLOSURES OF MEDICAL INFORMATION:**

The following is a description of other possible ways in which we may (and are permitted to) use and/or disclose your medical information.

### ***Business Associates:***

We contract with individuals and entities (Business Associates) to perform various functions on our behalf or to provide certain types of services. To perform these functions or to provide the services, our Business Associates will receive, create, maintain, use, or disclose medical information, but only after we require the Business Associates to agree in writing to contract terms designed to appropriately safeguard your information. For example, we may disclose your medical information to a Business Associate to administer claims or to provide service support, utilization management, subrogation, or pharmacy benefit management. An example of our Business Associates would be our Third Party Administrator, Group Benefit Services, Inc., who will be handling many of the functions in connection with the operation of our Group Health Plan.

### ***Public Health Activities:***

We may use or disclose your medical information 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, or we may disclose such information to a public health authority authorized to receive reports of child abuse or neglect. We also may disclose medical information, if directed by a public health authority, to a foreign government agency that is collaborating with the public health authority.

### ***Health Oversight Activities:***

We may disclose your medical information 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: (i) the health care system; (ii) government benefit programs; (iii) other government regulatory programs; and (iv) compliance with civil rights laws.

### ***Abuse or Neglect:***

We may disclose your medical information to a government authority that is authorized by law to receive reports of abuse, neglect, or domestic violence. Additionally, as required by law, we may disclose to a governmental entity authorized to receive such information your information if we believe that you have been a victim of abuse, neglect, or domestic violence.

### ***Legal Proceedings:***

We may disclose your medical information: (1) in the course of any judicial or administrative proceedings; (2) in response to an order of a court or administrative tribunal (to the extent such disclosure is expressly authorized); and (3) in response to a subpoena, a discovery request, or other lawful process, once we have met all administrative requirements of the HIPAA Privacy Rule. For example, we may disclose your medical information in response to a subpoena for such information, but only after we first meet certain conditions required by the HIPAA Privacy Rule.

### ***Law Enforcement:***

Under certain conditions, we also may disclose your medical information to law enforcement officials. For example, some of the reasons for such a disclosure may include, but not limited to: (1) it is required by law or

some other legal process; (2) it is necessary to locate or identify a suspect, fugitive, material witness, or missing person; and (3) it is necessary to provide evidence of a crime that occurred on our premises.

***Coroners, Medical Examiners, Funeral Directors, and Organ Donation:***

We may disclose protected health information 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 protected health information to organizations that handle organ, eye, or tissue donation and transplantation.

***Military Activity and National Security, Protective Services:***

Under certain conditions, we may disclose your medical information if you are, or were, Armed Forces personnel for activities deemed necessary by appropriate military command authorities. If you are a member of foreign military service, we may disclose, in certain circumstances, your information to the foreign military authority. We also may disclose your medical information to authorized federal officials for conducting national security and intelligence activities, and for the protection of the President, other authorized persons, or heads of state.

***Inmates:***

If you are an inmate of a correctional institution, we may disclose your medical information 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; (3) the safety and security of the correctional institution.

***Workers' Compensation:***

We may disclose your medical information to comply with workers' compensation laws and other similar programs that provide benefits for work-related injuries or illnesses.

***Others Involved in Your Health Care:***

Using our best judgment, we may make your medical information known to a family member, other relative, close personal friend or other personal representative that you identify. Such a use will be based on how involved the person is in your care, or payment that relates to your care. We may release information to parents or guardians, if allowed by law.

We may also disclose your information to an entity assisting in a disaster relief effort so that your family can be notified about your condition, status, and location.

If you are not present or able to agree to these disclosures of your medical information, then, using our professional judgment, we may determine whether the disclosure is in your best interest.

**OTHER REQUIRED DISCLOSURES OF YOUR MEDICAL INFORMATION:**

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

***Disclosures to the Secretary of the U.S. Department of Health and Human Services:***

We are required to disclose your medical information 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, upon your request, an accounting of most disclosures of your medical information that are for reasons other than *treatment, payment and health care operations* and are not disclosed through a signed authorization.

We will disclose your medical information to an individual who has been designated by you as your personal representative and who has qualified for such designation in accordance with relevant state law. However, before we will disclose medical information to such a person, you must submit a written notice of his/her designation, along with the documentation that supports his/her qualification (such as Power of Attorney).

Even if you designate a personal representative, the HIPAA Privacy Rule permits us to elect not to treat the person as your personal representative if we have a reasonable belief that: (i) you have been, or may be, subjected to domestic violence, abuse, or neglect by such person; (ii) treating such person as your personal representative could endanger you; or (iii) we determine, in the exercise of our professional judgment, that it is not in your best interest to treat the person as your personal representative.

***Other Uses and Disclosures of Your Medical Information:***

Other uses and disclosures of your medical information that are not described above will be made only with your written authorization. If you provide us with such an authorization, you may revoke the authorization in writing, and this revocation will be effective for future uses and disclosure of medical information. However, the revocation will not be effective for information that we already have used or disclosed, relying on the authorization.

***Potential Impact of State Law:***

The HIPAA Privacy Regulations generally do not “preempt” (or take precedence over) State privacy or other applicable laws that provide individuals greater privacy protections. As a result, to the extent State law applies, the privacy laws of a particular state, or other Federal laws, rather than the HIPAA Privacy Regulations, might impose a privacy standard under which we will be required to operate. For example, where such laws have been enacted, we will follow more stringent State privacy laws that relate to uses and disclosures of medical information concerning HIV or AIDS, mental health, substance abuse/chemical dependency, genetic testing, reproductive rights, etc.

**YOUR RIGHTS REGARDING MEDICAL INFORMATION ABOUT YOU:**

You have the following rights regarding medical information we maintain about you:

***Right to Inspect and Copy:***

You have the right to inspect and copy medical information that may be used to make decisions about your Plan benefits. To inspect and copy medical information that may be used to make decisions about you, you must submit your request in writing to the Privacy Official identified on the last page of this Notice. If you request a copy of the information, we may charge a fee for the costs of copying, mailing or other supplies associated with your request.

We may deny your request to inspect and copy in certain limited circumstances. HIPAA provides several important exceptions to your right to access your PHI. For example, you will not be permitted to access psychotherapy notes or information compiled in anticipation of, or for use in, a civil, criminal or administrative action or proceeding. Employer will not allow you to access your PHI if these or any of the exceptions permitted under HIPAA apply. If you are denied access to medical information, you may request that the denial be reviewed.

***Right to Amend:***

If you feel that medical information we have about you is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as the information is kept by or for the Plan.

To request an amendment, your request must be made in writing and submitted to our Privacy Official listed on the last page of this Notice. In addition, you must provide a reason that supports your request.

We 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, we may deny your request if you ask us to amend information that:

- is not part of the medical information kept by or for the Plan;
- was not created by us, unless the person or entity that created the information is no longer available to make the amendment;
- is not part of the information which you would be permitted to inspect and copy; or
- is accurate and complete.

Employer must act on your request for an amendment of your PHI no later than 60 days after receipt of your request. Employer may extend the time for making a decision for no more than 30 days, but it must provide you with a written explanation for the delay. If Employer denies your request, it must provide you a written explanation for the denial and an explanation of your right to submit a written statement disagreeing with the denial.

***Right to an Accounting of Disclosures:***

You have the right to request an “accounting of disclosures” (other than disclosures you authorized in writing) where such disclosure was made for any purpose other than *treatment, payment, or health care operations*.

To request this list or accounting of disclosures, you must submit your request in writing to our Privacy Official listed on the last page of this Notice. Your request must state a time period, which may not be longer than six years and may not include dates before April 2003. The first list you request within a 12-month period will be free. For additional lists, we may charge you for the costs of providing the list. We will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

Note that HIPAA provides several important exceptions to your right to an accounting of the disclosures of your PHI. For example, Employer does not have to account for disclosure of your PHI (i) to carry out *treatment, payment or healthcare operations*, (ii) to correctional institution or law enforcement officials, or (iii) for national security or intelligence purposes. Employer will not include in your accounting any of the disclosures for which there is an exception under HIPAA. Employer must act on your request for an accounting of the disclosures of your PHI no later than 60 days after receipt of the request. Employer may extend the time for providing you an accounting by no more than 30 days, but it must provide you a written explanation for the delay. You may request one accounting in any 12-month period free of charge. Employer will impose a fee for each subsequent request within the 12-month period.

***Right to Request Confidential Communications:***

If you believe that a disclosure of all or part of your medical information may endanger you, you may request that we communicate with you regarding your information in an alternative manner or at an alternative location. For example, you may ask that we only contact you at your work address or via your work e-mail.

You may request confidential communications by calling or writing us at the location identified on the last page of this Notice. It is important that you direct your request for confidential communications to this representative so that we can begin to process your request. Requests sent to persons or offices other than the one identified may delay processing your request.

We will want to receive this information in writing and will instruct you where to send your written request when you call. In your request, please tell us: (1) that you want us to communicate your medical information with you in an alternative manner or at an alternative location; and (2) that the disclosure of all or part of the medical information in a manner inconsistent with your instructions would put you in danger.

We will accommodate a request for confidential communications that is reasonable and that states that the disclosure of all or part of your medical information could endanger you. As permitted by the HIPAA Privacy Rule, "reasonableness" will (and is permitted to) include, when appropriate, making alternate arrangements regarding payment.

Accordingly, as a condition of granting your request, you will be required to provide us information concerning how payments should be handled. For example, if you submit a claim for payment, State or Federal law (or our own contractual obligations) may require that we disclose certain financial claim information to the plan participant (*example would be an Explanation of Benefits or "EOB"*). Unless you have made other payment arrangements, the EOB (in which your medical information might be included) will be released to the plan participant.

Once we receive all of the information for such a request (along with the instructions for handling future communications), the request will be processed usually within two business days.

Prior to receiving the information necessary for this request, or during the time it takes to process it, medical information may be disclosed (such as through an "EOB"). Therefore, it is extremely important that you contact us at the number listed on the last page of this Notice as soon as you determine that you need to restrict disclosures of your medical information.

If you terminate your request for confidential communications, the restriction will be removed for all your medical information that we hold, including medical information that was previously protected. Therefore, you should not terminate a request for confidential communications if you remain concerned that disclosure of your medical information will endanger you.

***Right to Request Restrictions:***

You have the right to request a restriction or limitation on the medical information we use or disclose about you for treatment, payment or health care operations. You also have the right to request a limit on the medical information we disclose about you to someone who is involved in your care or the payment for your care, like a family member or friend.

To request restrictions, you must make your request in writing to the HIPAA Privacy Official identified on the last page of this Notice. In your request, you must tell us (1) what information you want to limit; (2) whether you want to limit our use, disclosure or both; and (3) to whom you want the limits to apply, for example, disclosures to your spouse.

Please note, we are not required to agree to this type of request.

***Right to a Paper Copy of This Notice:***

You have the right to a paper copy of this Notice, even if you have agreed to accept this Notice electronically.

**CHANGES TO THIS NOTICE:**

We reserve the right to change this notice. We reserve the right to make the revised or changed notice effective for medical information we already have about you as well as any information we receive in the future. If the Notice is changed, we will distribute it to you prior to the effective date of the revised Notice.

**COMPLAINTS:**

If you believe your privacy rights have been violated, you may file a complaint with the Plan or with the Secretary of the Department of Health and Human Services. To file a complaint with the Plan, contact our HIPAA Privacy Official listed below. All complaints must be submitted in writing.

You will not be penalized or any other way retaliated against for filing a complaint with the Secretary or with us.

**WHO TO CONTACT WITH QUESTIONS OR CONCERNS:**

**GROUP HEALTH PLAN:**

[Insert name of GHP HIPAA Privacy Official]  
[Insert Title of GHP Privacy Official]  
[Insert the Name of the Group Health Plan]  
[Insert the Address of the Group Health Plan}  
[Insert the Phone No. of the GHP Privacy Official]

**THIRD PARTY ADMINISTRATOR:**

Kathleen Thompson  
HIPAA Compliance Representative  
Group Benefit Services, Inc.  
Suite 310, 6 North Park Drive  
(410) 832-1300 ext. 3307