

## HIPAA Notice of Privacy Practices and Requirements

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### DISTRICT COUNCIL 1707, LOCAL 95 HEAD START EMPLOYEES WELFARE FUND

#### NOTICE OF PRIVACY PRACTICES FOR PROTECTED HEALTH INFORMATION Updated February 17, 2010

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.

#### 1. PURPOSE

The District Council 1707, Local 95 Head Start Employees Welfare Fund is required by law to take reasonable steps to insure the privacy of Protected Health Information (“PHI”). This notice describes how the District Council 1707, Local 95 Head Start Employees Welfare Fund and the self-insured health plans sponsored by the Fund through HealthPlex, Comprehensive Professional Vision Services, General Vision Services, and other business associates, (referred to collectively herein as the “Fund”) may use and disclose health information about you. This notice also describes your rights and the Fund’s duties with respect to your PHI. You will receive a separate notice of privacy practices from the insurer for insured group health benefits that are provided through the Fund (e.g., from Empire Blue Cross Blue Shield for Hospital Benefits and Retiree Health Benefits coverage).

#### 2. PROTECTED HEALTH INFORMATION

PHI is “individually identifiable health information” in any form that relates to: (i) the past, present, or future physical or mental health or condition of an individual; (ii) the provision of health care to an individual; (iii) or the past, present, or future payment for the provision of health care to an individual. Individually identifiable health information is health information that identifies the individual to whom it relates, or for which there is a reasonable basis to believe that it can be used to identify the individual to whom it relates.

#### 3. USE AND DISCLOSURE OF PHI

Under the law, the Fund may disclose your PHI without your authorization when the use and/or disclosure is for the purposes of: (i) treatment, (ii) payment, or (iii) health care operations, as described below. The Fund’s disclosure of PHI also will be limited as required by New York State law or regulations.

- **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 Fund may disclose to your treating orthodontist the name of your treating dentist so that the orthodontist may ask for your dental x-rays from the treating dentist.)
- **Payment** includes but is not limited to actions to make coverage determinations and payment (including billing, claims management, subrogation, Fund reimbursement reviews for medical necessity and appropriateness of care and utilization review and preauthorizations). (For example, the Fund may tell a doctor whether you are eligible for coverage or what percentage of a bill will be paid by the Fund. Additionally,

where the Fund contracts with third parties (i.e., “business associates”) to help with payment operations, such as a physician that reviews medical claims, the Fund may also disclose information to them. The Fund may also disclose enrollment information to contributing employers.)

- **Health care operations** include but are not limited to quality assessment and improvement, review of 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 Fund may use information about your claims for your referral into a disease management program, to project future benefit costs or audit the accuracy of its claims processing functions.)

Disclosure for the purposes of treatment, payment and healthcare operations, may include disclosure of PHI to members of the Board of Trustees of the Fund. For example, the Fund’s Trustees may be involved in the review and/or resolution of a claim appeal.

In addition, the Fund is required to disclose your PHI:

- **To you;** and
- **As required by the Secretary of the Department of Health and Human Services** to investigate or determine the Fund’s compliance with the privacy regulations.

Further, the Fund is allowed under federal law to use and disclose your PHI without your consent or authorization under the following circumstances:

- **Where Required by Law or for Public Health Activities:** When required by federal, state or local law. (For example, the Fund may be required to notify state or local health authorities regarding particular communicable diseases, or provide PHI to a governmental or regulatory agency with health care oversight responsibilities.) The Fund may also release PHI to a coroner or medical examiner to assist in identifying a deceased individual or to determine the cause of death.
- **To Avert a Serious Threat to Health or Safety:** To avert a serious threat to someone’s health or safety. The Fund may also disclose PHI to federal, state or local agencies engaged in disaster relief as well as to private disaster relief or disaster assistance agencies to allow such entities to carry out their responsibilities in specific disaster situations.
- **For Health-Related Benefits or Services:** To provide you with information about benefits available to you under your current coverage or policy and, in limited situations, about health-related products or services that may be of interest to you.
- **For Law Enforcement or Specific Government Functions:** In response to a request by a law enforcement official made through a court order, subpoena, warrant, summons or similar process. The Fund may disclose PHI about you to federal officials for intelligence, counterintelligence and other national security activities authorized by law.
- **Workers’ Compensation Programs:** When authorized by and to the extent necessary to comply with workers’ compensation or other similar programs established by law.

- **When Requested as Part of a Regulatory or Legal Proceeding:** If you or your estate are involved in a lawsuit or a dispute, we may disclose PHI about you in response to a court or administrative order. The Fund may also disclose PHI about you in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute but only if efforts have been made to tell you about the request or to obtain an order protecting the PHI requested. We may disclose PHI to any governmental or regulatory agency with whom you have filed a complaint or as part of a regulatory agency examination.

Disclosure of your PHI to family members, other relatives, your close personal friends and any other person you choose is allowed under federal law 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.

Other uses and disclosures of PHI permitted by the laws that apply to the Fund will be made only with your written authorization.

If the Fund is authorized to use or disclose PHI about you, you or your legally authorized representative may revoke that authorization, in writing, at any time, except to the extent that we have taken action relying on the authorization. You should understand that we will not be able to take back any disclosures we have already made with authorization.

## **YOUR INDIVIDUAL PRIVACY RIGHTS**

### **A. You May Request Restrictions**

You may request restrictions on uses and disclosures of your PHI, other than PHI the Fund must disclose as provided above. You may ask the Fund to restrict the uses and disclosures of your PHI to carry out treatment, payment or health care operations, or restrict uses and disclosures to family members, relatives, friends or other persons identified by you who are involved in your care.

You will be required to complete a form to request restrictions on uses and disclosures of your PHI. You may obtain the necessary forms from the Fund Administrator. The Fund, however, is not required to agree to your request, unless the requested restriction relates to disclosures to a health plan and the PHI relates to a health care service or item which you have paid for in full and out-of-pocket.

### **B. Request Confidential Communications**

The Fund will accommodate your reasonable request to receive communications of PHI by alternative means or at alternative locations where the request includes a statement that disclosure in another manner could endanger you. Direct any such requests to the Fund Administrator

### **C. Inspect and Copy Your PHI**

You have a right to inspect and obtain a copy of your PHI contained in a "designated record set," for as long as the Fund maintains the PHI. The Fund must provide the requested information within 30 days if the information is maintained on site or within 60 days if the information is maintained off site. A single 30-day extension is allowed if the Fund is unable to comply with the deadline.

You will be required to complete a form to request access to the PHI in your designated record set. A reasonable fee may be charged by the Fund. Any request for access to PHI should be made to the Fund Administrator. If access is denied, you will be provided with a written denial setting forth the basis for the

denial, a description of how you may exercise your review rights and a description of how you may complain to Fund and the Department of Health and Human Services.

- **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 the Fund 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.

#### **D. Amending Your PHI**

You have the right to request that the Fund 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 subject to certain exceptions.

The Fund has 60 days after receiving your request to act on it. The Fund is allowed a single 30-day extension if the Fund is unable comply with the 60-day deadline. If the Fund denies your request in whole or part, the Fund 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 that PHI.

You will be required to complete a form to request amendment of the PHI. You should make your request to amend PHI to the Fund Administrator.

#### **E. You have the Right to Receive an Accounting of the Fund's PHI Disclosures**

At your request, the Fund will also provide you with all accounting of certain disclosures by the Fund of your PHI. We do not have to provide you with an accounting of disclosures related to treatment, payment or health care operations, unless such disclosures were made through electronic medical records that the Fund uses or maintains.

The Fund has 60 days to provide the accounting. The Fund is allowed an additional 30 days if the Fund 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 Fund will charge a reasonable, cost-based fee for each subsequent accounting.

#### **F. Your Personal Representative**

You may exercise your rights, as set forth in this notice, 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 will be a completed, signed and approved Appointment of Personal Representative form. You may obtain this form by calling the Fund Administrator.

The Fund 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.

The Fund will recognize certain individuals as personal representatives without you having to complete an Appointment of Personal Representative form. For example, the Fund will automatically consider a spouse to be the personal representative of an individual covered by the Fund. In addition, the Fund will consider a parent or guardian as the personal representative of an unemancipated minor unless applicable law requires otherwise. A spouse or a parent may act on an individual's behalf, including requesting access to their PHI. Spouses and unemancipated minors may, however, request that the Fund

restrict information that goes to family members as described above under “You May Request Restrictions”.

## **THE FUND’S DUTIES**

### **A. Maintaining Your Privacy**

The Fund 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.

### **B. Changes to Privacy Practice**

The Fund is required to comply with the terms of this notice. However, the Fund reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by the Fund prior to the date the practice is changed. If a privacy practice is changed, a revised version of this notice will be sent to you and to all past and present participants and beneficiaries for whom the Fund still maintains PHI via first class mail.

Any revised version of this notice will be sent within 60 days of the effective date of any material change to:

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

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

When using or disclosing PHI or when requesting PHI from another covered entity, the Fund 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.

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 United States Department of Health and Human Services pursuant to its enforcement activities under HIPAA,
- Uses or disclosures required by law, and
- Uses or disclosures required for the Fund’s compliance with the HIPAA privacy regulations.

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

- Does not identify you;

- With respect to which there is no reasonable basis to believe that the information can be used to identify you.

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

#### **D. Maintaining Security of PHI**

Certain duties to maintain the security of PHI became effective April 20, 2005 and apply to the Fund. To the extent the Fund has PHI, it agrees to do the following:

- Implement administrative, physical, and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI that it creates, receives, maintains or transmits on behalf of the Fund;
- Ensure that any agents (including subcontractors) to whom it provides electronic PHI received from, or created or received by the Fund, agree to implement reasonable and appropriate safeguards to protect the Fund’s electronic PHI;
- Report to the Fund any security incidents of which it becomes aware. For this purpose, a security incident means the attempted or successful unauthorized access, use, disclosure, modification, destruction of information or interference with system operations in an information system and such other incidents as may be identified from time to time; and
- Ensure that adequate separation between the Fund and the plan sponsor is supported by reasonable and appropriate security measures.

#### **BREACH OF YOUR UNSECURED PROTECTED HEALTH INFORMATION**

In the unlikely event that your health information is inadvertently acquired, accessed, used by or disclosed to an unauthorized person, the Fund will provide you with written notice of such breach. The notice will be sent without unreasonable delay and in no case later than 60 calendar days after discovery of a breach. The notice will be written in plain language and will contain the following information:

- A brief description of what happened, the date of the breach, if known, and the date of discovery;
- The type of PHI involved in the breach;
- Any precautionary steps you should take;
- A description of what we are doing to investigate and mitigate the breach and prevent further breaches; and
- How you may contact the Fund to discuss the breach.

The written notice of breach will be sent by regular mail or by email if you have indicated that you prefer to receive communications from the Fund by email. If the contact information we maintain for you is insufficient or out-of-date, we may attempt to provide notice to you by telephone or other permissible

alternative method. We will also report the breach to the U.S. Department of Health and Human Services.

**YOUR RIGHT TO FILE A COMPLAINT WITH THE FUND OR THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

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

District Council 1707 Local 95  
Head Start Employees Welfare Fund c/o  
Mr. Randy Paul  
Fund Administrator  
75 Varick Street, Suite 1500  
New York, NY 10011  
1-212-343-1660 (Phone)  
1-212-343-8803 (Fax)

You may also file a complaint with the Department of Health and Human Services (HHS):

Office for Civil Rights  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W., Room 509F  
Washington, D.C. 20201  
Or by calling: 1-800-368-1019  
Or by sending an email to: [OCRprivacy@hhs.gov](mailto:OCRprivacy@hhs.gov)

The Fund will not retaliate against you for filing a complaint. The Fund cannot, and will not, make you waive your right to file a complaint with HHS as a condition of receiving care from us, or penalize you for filing a complaint with HHS.

**IF YOU NEED MORE INFORMATION**

If you have any questions regarding this notice or the subjects addressed in it, you may contact the Fund Administrator.

**CONCLUSION**

PHI use and disclosure by the Fund 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. The regulations will supersede this notice if there is any discrepancy between the information in this notice and the regulations.

As stated above, the Fund reserves the right to change its privacy practices and to apply the changes PHI previously received by the Fund that is still being maintained by the Fund. Within 60 days of any material modification to this notice, a revised notice will be sent to you and to all past and present participants and beneficiaries of the Fund for whom the Fund still maintains PHI. You may request a copy of the current notice, at any time, by contacting the Fund Administrator.