

EMPLOYEE HEALTH BENEFIT PLAN: USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION POLICY

RESPONSIBILITY: Employee Benefits Manager, Plan Administrator, Privacy Official or Designee(s)

BACKGROUND:

Employers that offer health benefits to their employees are sponsoring a health plan, according to federal regulations. Federal privacy regulations treat the employer and its employee health benefit plan as if they were two separate legal entities. The employer is the plan sponsor. The employee health benefit plan is the group health plan. See DEFINITIONS.

In order for the group health plan to disclose protected health information (PHI) to the plan sponsor, the plan sponsor must agree to implement certain safeguards to protect the information. If the group health plan provides benefits under a health insurance contract, the plan sponsor must agree to the safeguards before the group health plan may allow the health insurance company or health maintenance organization to disclose PHI to the sponsor. This is true even though the group health plan and the plan sponsor are actually the same company in most instances.

This policy establishes the basic standards for achieving compliance with federal privacy regulations in the structure and governance of the group health plan.

Except as stated below, no protected health information may be disclosed by Behavioral Health and Health Facilities (BHHF's) group health plan, or any health insurance company or health maintenance organization with which the group health plan contracts to provide benefits to employees, to any member of BHHF's workforce without written authorization from the person to whom the PHI pertains.

Permitted disclosures:

1. Summary health information for the purpose of either:
 - 1.1. Obtaining premium bids from health plans for providing health insurance coverage under the group health plan; or
 - 1.2. Modifying, amending, or terminating the group health plan.
 - 1.3. Summary health information is the same as de-identified health information in all but one respect: data may be aggregated at the level of a

five-digit zip code instead of only the first three zip code digits. See the DE-IDENTIFIED INFORMATION policy.

2. Information on whether an individual is participating in the group health plan, or is enrolled in or has disenrolled from a health insurance issuer or HMO offered by the plan to the plan sponsor.

POLICY:

1. **Disclosure Policy.** Protected health information may be disclosed from the group health plan to members of the BHHF workforce, as necessary, for the members of the workforce to carry out the plan administration functions which BHHF, as plan sponsor, provides to its group health plan. The disclosure may be made without the authorization of the individual to whom the information pertains if the plan documents meet the requirements of this policy and the STANDARDS FOR EMPLOYEE WELFARE BENEFIT PLAN DOCUMENTS: PRIVACY OF PROTECTED HEALTH INFORMATION policy.
 - 1.1. The following disclosures are NOT permitted without the individual's authorization:
 - 1.1.1. Disclosures by a health insurance company or health maintenance organization that provides benefits to BHHF employees and retirees through its group health plan, if the disclosures do not comply with the provisions of the plan documents;
 - 1.1.2. Disclosures to the plan sponsor for purposes of employment-related actions, or for decisions in connection with any other benefit or employee benefit plan offered by BHHF.
2. **Applicability to insurance contracts.** In the event that certain health benefits are provided under the terms of an insurance contract, between BHHF's group health plan and a health insurance company or health maintenance organization (HMO), the provisions of this policy apply equally to disclosures of PHI by the group health plan and by the insurance company or HMO.
3. **Plan Documents.** Plan documents that establish and govern any group health plan established or maintained by BHHF will contain all of the provisions set forth in the STANDARDS FOR EMPLOYEE WELFARE BENEFIT PLAN DOCUMENTS: PRIVACY OF PROTECTED HEALTH INFORMATION policy.
4. **Group health plan governance.** BHHF will develop and maintain policies, procedures, training materials, and sanction procedures, and other documents and practices that govern the operations of the plan sponsor and the group health plan, to reflect and enforce all of the requirements of the plan documents, as set forth in the STANDARDS FOR EMPLOYEE WELFARE BENEFIT PLAN DOCUMENTS: PRIVACY OF

PROTECTED HEALTH INFORMATION policy. Group health plan policies will also be implemented to comply with the requirements of federal and state laws and regulations as they apply to the privacy of protected health information in the custody of the group health plan. See the EMPLOYEE HEALTH BENEFIT PLAN: APPLICABILITY OF FEDERAL PRIVACY REGULATIONS policy.

5. **Designation of personnel.** Members of the plan sponsor's workforce who are authorized to have access to protected health information that is in the custody of the group health plan shall be so designated, in writing. The designation may state the names of employees, their job titles, or general job classifications. Authorized personnel shall be designated in two categories:
 - 5.1. All members of the workforce who are assigned to the administration of the group health plan. This includes claim processing, maintenance of enrollment and eligibility records, analysis of payment and utilization data, and other matters pertaining to the ordinary course of business of the group health plan.
 - 5.2. Any other members of the workforce who are authorized to have access to PHI on behalf of BHHF in its role as the plan sponsor.
6. **Training.** Members of the workforce who are designated to receive PHI from the group health plan will be trained in the provisions of the plan documents, and in the group health plan's policies and procedures, regarding the protection of PHI. In particular, this training will stress that they may use PHI only for purposes of performing administrative functions for the group health plan.
7. **Safeguards.** The access to PHI allowed to members of the workforce will be restricted to the plan administration functions they perform on behalf of the group health plan.
8. **Notice of privacy practices.** The notice of privacy practices that is distributed to participants in the group health plan shall contain a statement that the group health plan, or a health insurance company or health maintenance organization with which BHHF contracts for health benefits, may disclose protected health information to BHHF, as sponsor of the health plan.

Effective Date: 4/14/03

Revised Dates:



Jerome E. Lovrien, Commissioner, Bureau for Behavioral Health and Health Facilities