

Notice of Privacy Practices

For Your Protected Health Information

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!

Find out about the
following:

- Legal Requirements
- KEHP Responsibilities
- What is Protected Health Information?
- Permitted Uses and Disclosures
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- Required Uses and Disclosures
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Legal Requirements:

This Notice of Privacy Practices (the "Notice") describes the legal obligations of the Kentucky Employees' Health Plan ("KEHP" or "Plan") and your legal rights regarding your protected health information held by the Plan under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and subsequent regulations. This Notice describes how your protected health information may be used or disclosed to carry out treatment, payment, or health care operations, or for any other purposes that are permitted or required by law.

We are required to provide this Notice of Privacy Practices to you pursuant to HIPAA.

If you have any questions about this Notice or about our privacy practices, please contact: Christopher Chamness, Deputy Commissioner and Privacy Officer, Department of Employee Insurance, Personnel Cabinet, 501 High Street, 2nd Floor, Frankfort, Kentucky 40601; Phone: (502) 564-6815; Fax: (502) 564-7603; E-mail: Chris.Chamness@ky.gov.

KEHP Responsibilities

We are required by law to:

- Maintain the privacy of your protected health information;
- Provide you with a copy of this Notice of our legal duties and privacy practices with respect to your protected health information;
- Notify affected individuals following a breach of unsecured protected health information; and
- Abide by the terms of the Notice that is currently in effect.

We reserve the right to change the terms of this Notice and to make new notice provisions effective regarding your protected health information that we maintain, as allowed or required by law. If we make any material change to this Notice, we will post the change or the revised Notice on the Personnel Cabinet, Department of Employee Insurance website at kehp.ky.gov. In addition, notice regarding our privacy practices will be included in the annual open enrollment materials.

What is Protected Health Information?

The HIPAA Privacy Rule protects only certain medical information known as protected health information.

Protected Health Information or PHI is individually identifiable health information that is transmitted or maintained in electronic media or in any other form or medium. PHI does not include employment records held by an employer acting in their role of employer.

Individually identifiable health information is health information about you, including demographic information such as your name, address, telephone number, or Social Security number. It also includes information that is created or received by a health care provider, a health plan, and employer that relates to your physical or mental health or condition, the provision of health care to you, or the payment of your healthcare.

Permitted Uses and Disclosures:

Under the law, we may use or disclose your PHI under certain circumstances without your permission. The following categories describe the different ways that we may use and disclose your PHI. For each category of uses and disclosures, we will explain what we mean and provide 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 the listed categories.

We have the right to use and disclose your PHI:

- **To You or Your Personal Representative** including corresponding with you about your plan and benefits available to you;
- Pursuant to and in compliance with a **Valid Authorization** or an **Agreement** with you;
- **For Treatment**, including the provision, coordination, or management of health care and related services;
- **For Payment**, including activities to collect premiums, to fulfill responsibility for coverage and provide benefits under the health plan, to obtain or provide reimbursement for the provision of health care, to determine eligibility or coverage, to process claims, to adjudicate or subrogate claims, to pay for the treatment and services you receive from health care providers, to carry out collection activities, and to perform utilization review activities such as preauthorization;
- **For Health Care Operations** including conducting quality assessment and improvement, engaging in activities to improve health or reduce health care costs, conducting case management and care coordination, contacting doctors and patients with information about treatment alternatives, reviewing the competence or qualifications of and credentialing health care providers, enrollment activities, premium rating, arranging for medical review and auditing functions, arranging for legal review, fraud and abuse detection programs, resolving internal grievances, providing customer service, business planning and development, and for general Plan administration activities;
- **Incident** to a use or disclosure otherwise permitted by HIPAA;
- **To Business Associates** that create, receive, maintain, or transmit PHI on behalf of KEHP. A Business Associate may provide legal, actuarial, accounting, consulting, data aggregation, management, and administrative services for KEHP. A Business Associate may only disclose your information as permitted or required by its contract with KEHP or as required by law;
- **To Plan Sponsors** including employees who require PHI for the administration of the Plan. These employees will only use or disclose that information necessary to perform Plan administration functions, such as enrollment and termination, or as otherwise required by HIPAA, unless you have authorized further disclosures;
- **An Employer** about an individual who is a member of the workforce of the employer if the PHI that is disclosed consists of findings concerning a work-related illness or injury or a workplace-related medical surveillance; and
- **As Required by Federal, State, or Local Law** and the use or disclosure complies with and is limited to the relevant requirements of such law.

To the extent required and permitted by law, when using or disclosing PHI, KEHP will make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

Limited Uses and Disclosures:

We may, with certain limitations specified by HIPAA, use and disclose PHI about you:

- **To a Family Member, Relative, Close Personal Friend, Personal Representative or Any Other Person identified by you** provided the disclosure is directly relevant to such persons' involvement with your health care or payment related to your health care;
- **To Notify** or assist in the notification of a family member, your personal representative, or another person responsible for your care regarding your location, general condition, or death;
- **To a Public or Private Entity** authorized by law or by its charter to assist in disaster relief efforts;
- **As Required by Federal, State, or Local Law** and the use or disclosure complies with and is limited to the relevant requirements of such law;
- **For Public Health Activities** including disclosure to a public health authority that is authorized by law to collect or receive PHI for the purpose of preventing or controlling disease, injury, or disability which includes reporting of disease, injury, or vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; to report child abuse or neglect; to collect or report on the quality, safety, or effectiveness of products or activities; to enable product recalls, repairs, or replacements; to notify a person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition;
- **To your Employer** if you receive health care at the request of your employer for the evaluation relating to medical surveillance of the workplace or to evaluate whether you have had a work-related illness or injury;
- **To a School** if you are a student or a prospective student of the school and the PHI that is disclosed is limited to proof of immunization, the school is required to have such proof, and you or a personal representative agree to the disclosure;
- **To a Government Authority** if we reasonably believe that you are a victim of abuse, neglect, or domestic violence to the extent the disclosure is required by law, you agree to the disclosure, or the disclosure is expressly authorized by law and we believe the disclosure is necessary to prevent serious

harm to you or other potential victims, or you are unable to agree because of incapacity;

- **To a Health Oversight Agency** for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of the health care system, government benefit programs, government regulatory programs, and determining compliance with civil rights laws;
- **In the Course of any Judicial or Administrative Proceeding** and in response to an order of a court or administrative tribunal, a subpoena, a discovery request, or other lawful process;
- **To Law Enforcement** including instances where you are suspected to be a victim of a crime, or for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person;
- **To a Coroner or Medical Examiner** for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law;
- **To a Funeral Director** as necessary to carry out their duties with respect to the decedent;
- **To Organ Procurement Organizations** or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissue and for the purpose of facilitating organ, eye, or tissue donation or transplantation;
- **For Research Purposes** when the individual identifiers have been removed or an institutional review board or privacy board has reviewed the research proposal and established protocols to ensure the privacy of the requested information and approves the research;
- **To Avert a Serious Threat to Health or Safety** and the disclosure is to persons reasonably able to prevent or lessen the threat or is necessary for law enforcement authorities to identify or apprehend an individual;
- **For Military and Veterans Activities or to Federal Officials** for purposes including to assure the proper execution of a military mission, conducting lawful intelligence and counter-intelligence, conducting national security activities, and providing protective services to the President;
- **To Correctional Institutions and other Law Enforcement Custodians** about inmates;

➤ **To Government Agencies Administering a Government Program** providing public benefits if the sharing of eligibility or enrollment information among such government agencies or the maintenance of such information in a single or combined data system accessible to all such government agencies is required or expressly authorized by statute or regulation;

➤ **For Workers' Compensation** compliance purposes or other similar programs that provide benefits for work-related injuries or illness without regard to fault; and

➤ **To Raise Funds** provided the use or disclosure is to a Business Associate or an institutionally-related foundation and the information used or disclosed is limited to that permitted by HIPAA. You have a right to opt out of receiving fundraising communications. See, the "Your Rights Under HIPAA" section of this Notice.

Required Uses and Disclosures:

We are required to disclose your PHI:

➤ **To You** upon request;

➤ **To Your Personal Representative** unless we have a reasonable belief that you may be subjected to domestic violence, abuse, or neglect or treating such person as the personal representative could endanger you, or we decide that it is not in the best interest of the individual to treat the person as your personal representative. We will require written notice/authorization and supporting documentation proving that an individual has been designated as your personal representative; and

➤ **To the Secretary** of the U.S. Department of Health & Human Services as directed when required to investigate or determine the Plan's compliance with HIPAA.

Prohibited Uses and Disclosures:

We are prohibited from:

➤ Using or disclosing **Genetic Information** for underwriting purposes;

➤ Using or disclosing PHI in violation of a **Restriction** to which KEHP has agreed except where emergency treatment is needed;

➤ Except as indicated in the Permitted, Limited, and Required Uses and Disclosures sections of this Notice, using or disclosing PHI without a **Valid Authorization** including the use and disclosure of

psychotherapy notes, the use and disclosure of information for marketing purposes, and the sale of PHI; and

➤ Disclosing PHI to a Plan sponsor for the purpose of **Employment-Related Actions or Decisions** or in connection with any other benefit or employee benefit plan of the Plan sponsor.

Uses and Disclosures that Require Authorization:

Except as otherwise described in this Notice, we may not use or disclose PHI without a valid authorization.

A valid authorization is specifically required:

➤ For any use or disclosure of **Psychotherapy Notes**, except to carry out treatment, payment, or health care operations or to defend KEHP in a legal action or other proceeding brought by you;

➤ For any use or disclosure of PHI for **Marketing** except if the communication is in the form of a face-to-face communication with you or a promotional gift of nominal value is provided. "Marketing" does not include communications made to describe a health-related product or service that is provided by, or included in the plan of benefits of KEHP; and

➤ For any disclosure of protected health information which is a **Sale** of such information.

Uses and disclosures of PHI that are not described in this Notice will be made only with the individual's written valid authorization.

A valid authorization must be written in plain language and include specific information. For your convenience, and to ensure that your authorization is valid and contains all required information, you may submit your authorization on KEHP's "Authorization for Release of Your Protected Health Information" form. The form may be obtained by contacting the Privacy Officer or by accessing KEHP's Web site at kehp.ky.gov under Resources/Docs, Forms and Legal Notices.

You may revoke an authorization previously given at any time provided the revocation is in writing and:

- Except to the extent that KEHP has taken action in reliance on the authorization; or
- If the authorization was obtained as a condition of obtaining insurance coverage, other law provides the insurer with the right to contest a claim under the policy or the policy itself.

Your Rights Under HIPAA

You have the right to:

- **Request Restrictions** on certain uses and disclosures of PHI to carry out treatment, payment, or health care operations. You may also request restrictions on uses and disclosures of your PHI to family members, relatives, close personal friends, or other persons identified by you who are involved in your health care or payment for that care. We are not required to agree to your requested restriction except:
 - When the disclosure is for the purpose of carrying out payment or health care operations;
 - The disclosure is not otherwise required by law; and
 - The PHI pertains solely to a health care item or service for which the individual, or person other than the health plan on behalf of the individual, has paid in full.

Your request for a restriction must be made in writing and:

- Identify the information you want to restrict;
- State whether you want to limit our use, disclosure, or both; and
- Identify the persons to whom you want the restriction to apply (i.e. your spouse).

If we agree to a requested restriction on certain uses and disclosures, we will not use or disclose PHI in violation of such restriction, except where the restricted information is needed to provide emergency treatment.

For your convenience, and to ensure that your request contains all necessary information, you may submit your request on KEHP's "Request for Restriction on Use and Disclosure of Your Protected Health Information" form. The form may be obtained by contacting the Privacy Officer or by accessing KEHP's Web site at kehp.ky.gov;

- **Receive Confidential Communications.** You may request to receive communications of PHI by alternative means or at alternative locations (i.e. at home, at work). Your request must be made in writing.

We will accommodate all reasonable requests provided:

- You state that the disclosure of all or part of your PHI could endanger you;
- You specify how payment, if any, will be handled; and
- You provide an alternate address or other method of contact.

For your convenience, and to ensure that your request contains all necessary information, you may submit your request on KEHP's "Request for Alternative Communications Regarding Your Protected Health Information" form. The form may be obtained by contacting the Privacy Officer or by accessing KEHP's Web site at kehp.ky.gov;

- **Inspect and Copy** your PHI in a designated record set except for:
 - Psychotherapy notes;
 - Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding;
 - PHI that is subject to or exempt from the Clinical Laboratory Improvements Amendments of 1988;
 - PHI not maintained in a designated record set;
 - If access is temporarily suspended because research is in progress, provided you have agreed to the denial of access when consenting to participate in the research;
 - If denial of access under the Privacy Act would meet the requirements of that law; and
 - If your information was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

Your request for access to or a copy of your PHI must be made in writing and is subject to a reasonable, cost-based fee.

You have a right to a review of certain denials of access to your PHI by a licensed health care professional who was not directly involved in the denial.

For your convenience, and to ensure that your request contains all necessary information, you may submit your request on KEHP's "Request to Inspect or Copy Your Protected Health Information" form. The form may be obtained by contacting the Privacy Officer or by accessing KEHP's Web site at kehp.ky.gov;

- **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. We may deny your request for amendment if we determine that the PHI or record that is the subject of the request:
 - Was not created by us, unless you provide a reasonable basis to believe that the originator of the PHI is no longer available to act on the requested amendment;
 - Is not part of the information that you would be permitted to inspect and copy;
 - Would not be available for inspection due to an exception; or

- Is accurate and complete.

Your request for a restriction must be made in writing and include a reason to support the requested amendment.

You have a right to submit a written statement disagreeing with a denial to amend. If you do not submit a statement of disagreement, you may request that we provide your request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment.

For your convenience, and to ensure that your request contains all necessary information, you may submit your request on KEHP's "Request to Amend Your Protected Health Information" form. The form may be obtained by contacting the Privacy Officer or by accessing KEHP's Web site at kehp.ky.gov;

➤ **Receive an Accounting of Disclosures** of PHI made by us in the six years prior to the date on which the accounting is requested, except for uses and disclosures:

- To carry out treatment, payment, and health care operations;
- Made to you about your PHI;
- Incident to a use or disclosure otherwise permitted or required by HIPAA;
- Made pursuant to an authorization;
- To persons involved in your care or other permitted notifications;
- For national security or intelligence purposes;
- To correctional institutions or law enforcement officials; or
- Temporarily suspended by a health oversight agency or law enforcement official.

Your request for an accounting of disclosures must be made in writing and:

- State in what form you want the list (i.e. paper, electronic);
- State a time period of not longer than six years prior to the date of your request; and
- Is subject to a reasonable, cost-based fee.

For your convenience, and to ensure that your request contains all necessary information, you may submit your request on KEHP's "Request for Accounting of Disclosures of Your Protected Health Information" form. The form may be obtained by contacting the Privacy Officer or by accessing KEHP's Web site at kehp.ky.gov;

➤ **Receive a Paper Copy of this Notice** at any time upon request. Your request must be made in writing and submitted to the Privacy Officer. The Notice may be viewed at our Web site, kehp.ky.gov;

➤ **Be Notified of a Breach of Unsecured Protected Health Information.** Following the discovery of a breach of unsecured PHI we will notify you if your information has been or we reasonably believe your information has been accessed, acquired, used, or disclosed as a result of such breach; and

➤ **Complain** to us and to the Secretary of the U.S. Department of Health and Human Services ("HHS") if you believe your privacy rights have been violated. Your complaint must:

- Be in writing;
- Name the person that is the subject of the complaint;
- Describe the acts or omissions believed to be in violation of HIPAA; and
- Be filed within 180 days of when the complainant knew or should have known that the act or omission complained of occurred, unless this time limit is waived by the Secretary of HHS for good cause shown.

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

All written requests and complaints must be submitted to:

*ATTN: HIPAA Privacy Officer
Commonwealth of Kentucky
Personnel Cabinet
Department of Employee Insurance
502 High Street, 2nd Floor
Frankfort, KY 40601*

If you are submitting a complaint to the Secretary of HHS, you should follow the complaint filing instructions on the HHS website at hhs.gov www.hhs.gov.

NOTICE REGARDING KEAP:

The Kentucky Employee Assistance Program (KEAP) adheres to KEHP's privacy policies and procedures and this Notice of Privacy Practices applies to KEAP operations.