

# WESTERN PENNSYLVANIA TEAMSTERS AND EMPLOYERS WELFARE FUND

## 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.**

**Amended and Restated as of September 23, 2013**

The privacy of your health information has always been important to us. The Welfare Fund does not sell information to telemarketers, lenders, or financial institutions, and your health information is not made available to your employer. Federal privacy rules first became effective under the Health Insurance Portability and Accountability Act ("HIPAA") as of April 14, 2003. The Western Pennsylvania Teamsters and Employers Welfare Fund (the "Welfare Fund" or "Plan") is providing you with an outline of its Amended and Restated Privacy Policy, updated to comply with final 2013 regulations of the U.S. Department of Health and Human Services, modifying existing privacy, security, enforcement and breach notification regulations. The Amended and Restated Policy reflects changes required under the Health Information Technology for Economic and Clinical Health Act ("HI-Tech Act") and the Genetic Information Nondiscrimination Act ("GINA").

However, due to new federal privacy rules that are part of the Health Insurance Portability and Accountability Act ("HIPAA"), we now operate under some very strict and detailed legal requirements affecting how health insurers, benefit plans and health care providers handle medical information.

The Welfare Fund contracts with several health service organizations, which it supervises, for administrative services, such as Highmark Blue Cross Blue Shield, United Concordia and others. These business associates will be your initial contact on matters involving the processing of claims. We urge you to contact those entities directly with you questions concerning the status of claims.

The Welfare Fund has taken steps to ensure that those associated groups are in compliance with the new federal privacy rules. Some of these entities may confirm their compliance with the new federal privacy rules by sending you privacy notices similar to this notice. If you have not already received Privacy Notices from these organizations, you may receive their notices in the near future. These associated entities and the Welfare Fund are governed by the same federal regulations which require issuance of this type of privacy notice. The federal regulations which protect your right to privacy first became effective April 14, 2003. Through this Privacy Notice, the Welfare Fund hereby acknowledges the modifications and additions to its Privacy Policies which become effective September 23, 2013 concerning modification regarding security of information, including

electronic records, and procedures required when electronic PHI security has been breached.

The Welfare Fund is required by law to take reasonable steps to ensure the privacy and security of health information transmitted, created or maintained in its records which personally identifies you. This information is called "**Protected Health Information**" or "**PHI**". In some instances, communications containing PHI will require that you sign authorization forms so that information may be provided to your personal representative.

The purpose of this notice is to inform you about:

- the Welfare Fund's uses and disclosures of PHI;
- your privacy rights with respect to your PHI;
- the Welfare Fund's duties with respect to your PHI;
- your right to file a complaint with the Plan and to the Secretary of the U.S. Department of Health and Human Services; and
- the person or office to contact for further information about the Plan's privacy practices.

The term "Protected Health Information" (PHI) includes all individually identifiable health information transmitted or maintained by the Plan, regardless of form (oral, written, electronic).

### **Section 1. Notice Of PHI Uses And Disclosures For Treatment, Payment And Health Care Operations**

The Plan and its business associates will continue to use PHI without asking you to sign consent and authorization forms but such use of PHI will be solely for purposes of treatment, payment and health care operations. The Trustees of Welfare Fund have amended the Agreement and Declaration of Trust to protect your PHI as required by federal law.

*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 may disclose 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** includes but is not limited to actions to make coverage determinations and payment (including billing, claims management, subrogation, plan reimbursement, reviews for medical necessity and appropriateness of care and utilization review and preauthorizations).

For example, the Plan may tell a doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Plan.

**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. However, no genetic information can be used or disclosed for underwriting purposes.

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

*Uses and disclosures which require that you be given an opportunity to agree or disagree prior to the use or release*

Unless you object, the Plan may provide relevant portions of your protected health information to a family member, friend or other person you indicate is involved in your health care or in helping you receive payment for your health care. Also, if you are not capable of agreeing or objecting to these disclosures because of, for instance, an emergency situation, the Plan will disclose protected health information (as the Plan determines) in your best interest. After the emergency, the Plan will give you the opportunity to object to future disclosures to family and friends.

*Uses and disclosures for which consent, authorization or opportunity to object is not required*

Use and disclosure of your PHI is allowed without your consent, authorization or request under the following circumstances:

- (1) For treatment, payment and health care operations.
- (2) Enrollment information can be provided to the Trustees.

(3) Summary health information can be provided to the Trustees for the purposes designated above.

(4) When required by law.

(5) When permitted for purposes of public health activities, including when necessary to report product defects, to permit product recalls and to conduct 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.

(6) When authorized by law to report information about abuse, neglect or domestic violence to public authorities if there exists a reasonable belief 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.

(7) The Plan may disclose your PHI to a public health oversight agency for oversight activities authorized by law. This includes uses or disclosures in 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).

(8) The Plan may disclose your PHI when required for judicial or administrative proceedings. For example, your PHI may be disclosed in response to a subpoena or discovery request.

(9) When required for law enforcement purposes (for example, to report certain types of wounds).

(10) For law enforcement purposes, including for the purpose of identifying or locating a suspect, fugitive, material witness or missing person. Also, when 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. Furthermore, the law enforcement official must represent that the information is not intended to be used against the individual, the immediate law enforcement activity would be materially and adversely affected by writing to obtain the individual's agreement and disclosure

is in the best interest of the individual as determined by the exercise of the Plan's best judgment.

(11) When required to be given 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. Also, disclosure is permitted to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent.

(12) The Plan may use or disclose PHI for research, subject to conditions.

(13) When consistent with applicable law and standards of ethical conduct if 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 th threat, including the target of the threat.

(14) When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.

*Uses and disclosures that require your written authorization*

Other uses or disclosures of your protected health information not described above will only be made with your written authorization. For example, in general and subject to specific conditions, the Plan will not use or disclose your psychiatric notes; the Plan will not use or disclose your protected health information for marketing; and the Plan will not sell your protected health information, unless you provide a written authorization to do so. You may revoke written authorizations at any time, so long as the revocation is in writing. Once the Plan receives your written revocation, it will only be effective for future uses and disclosures. It will not be effective for any information that may have been used or disclosed in reliance upon the written authorization and prior to receiving your written revocation.

**Section 2. Rights Of Individuals**

*Uses and disclosures that require your written authorization*

Your written authorization generally will be obtained before the Plan will use or disclose psychotherapy notes about you from your psychotherapist. 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 may use and disclose such notes when needed by the Plan to defend against litigation filed by you.

*Uses and disclosures that require that you be given an opportunity to agree or disagree prior to the use or release*

Disclosure of your PHI to family members and other relatives may be 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.

In light of the fact that the Welfare Fund contracts with a number of organizations who are involved in the processing of information, it is likely that some may impose limitations which you do not want to have be imposed. For instance, some may insist that all communications must be had with only the person receiving medical services and, therefore, refuse to communicate with your spouse. Generally, we will assume that a spouse or parent is authorized to request an individual's PHI. However, if you are asked to provide a written authorization, this federal regulation is the reason. Some will want to prohibit the Welfare Fund from disclosing PHI to a spouse and should submit a form to document this wish.

*Right to Request Restrictions on PHI Uses and Disclosures*

You may request the Plan to restrict uses and disclosures of your PHI to carry out treatment, payment or health care operations, or to restrict uses and disclosures to family members, relatives, friends or other persons identified by you who are involved in your care or payment for your care. The Welfare Fund will attempt to honor your request; however, if the request cannot be honored, please note that the Welfare Fund is under no legal obligation to do so.

*Right to Request Confidential Communications*

The Plan will accommodate reasonable requests to receive communications of PHI by alternative means or at alternative locations if necessary to prevent a disclosure that could endanger you.

You or your personal representative will be required to submit a written request to exercise this right.

Such requests should be made to the Plan's Privacy Official.

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

### *Right to Inspect and Copy 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 Plan maintains the PHI. If the information you request is in an electronic designated record set, you may request that these records be transmitted electronically (flash drive, disk or e-mail) to yourself or a designated individual in non-encrypted form.

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

"Designated Record Set" includes the medical records and billing records about individuals maintained by or for a covered health care provider; 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 individuals. Information used for quality control or peer review analyses and not used to make decisions about individuals is not in the designated record set.

The requested information will be provided 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 Plan is unable to comply with the deadline.

You or your personal representative will be required to complete the Plan's "Form for Access to PHI" to request access to the PHI in your designated record set according to the Plan's Access Policy. A reasonable, cost-based fee for copying or transferring records to electronic media may be charged.

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.

### *Right to Amend PHI*

You have the right to request the Plan to 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.

The Plan has 60 days after the request is made to act on the request. A single 30-day extension is allowed if the Plan is unable to comply with the deadline. If the request is denied in whole or part, the Plan must provide you with a written denial that explains the basis for the denial. 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 or your personal representative will be required to complete a form to request amendment of the PHI in your designated record set. The form will ask you to provide a reason to support a requested amendment.

### *The Right to Receive an Accounting of 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 prior to the date of your request. However, such accounting need not include PHI disclosures made: (1) to carry out treatment, payment or health care operations; (2) pursuant to your authorizations; (3) where otherwise permissible under the law and the Plan's privacy practices. In addition, the Plan need not account for certain incidental disclosures.

If the accounting cannot be provided within 60 days, an additional 30 days is allowed if the individual is given 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.

### *The Right to Receive a Paper Copy of This Notice Upon Request*

This Notice of Privacy Practices is being provided to all participants on paper, but it is also available on the Welfare Fund's Web site: [www.wpawelfarefund.com](http://www.wpawelfarefund.com).

### *A Note About Personal Representatives*

You may exercise your rights through a personal representative. Your personal representative will be required to produce evidence of his/her authority to act on your behalf before that person will be given access to your PHI or 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; or
- an individual who is the parent of a minor child.

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.

### Section 3. The Plan's Duties

The Plan is required by law to maintain the privacy of PHI and to provide individuals (participants and beneficiaries) with notice of its legal duties and privacy practices.

This Notice is effective September 23, 2013, and the Plan is required to comply with the terms of this Notice. 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 in publications, or by mail.

Any revised version of this notice will be distributed within 60 days of the effective date of any material change to the uses or disclosures, the individual's rights, the duties of the Plan or other privacy practices stated in this notice.

#### *Minimum Necessary Standard*

When using or disclosing PHI or when requesting PHI from another covered entity, the Plan will make reasonable efforts not to use, disclosure 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. When required by law, the Plan will restrict disclosures to the limited data set, or otherwise as necessary, to the minimum necessary information to accomplish the intended purpose.

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 the individual
- disclosures made to the Secretary of the U.S. Department of Health and Human Services;
- uses or disclosures that are required by law; and
- uses or disclosures that are required for the Plan's compliance with legal regulations.

#### *De-Identified Information*

This notice does not apply to information that has been de-identified. De-identified information is information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

#### *Summary Health Information*

The Plan may use or disclosure "summary health information" to the plan sponsor for obtaining premium bids or modifying, amending or terminating the group health plan.

"Summary Health Information" is that which 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 and from which identifying information has been deleted in accordance with HIPAA.

#### *Notification of Breach*

The Plan is required by law to maintain the privacy of participants' PHI and to provide individuals with notice of its legal duties and privacy practices. In the event of a breach of unsecured PHI, the Plan will notify affected individuals of the breach.

### Section 4. Complaint Procedure

If you believe that your privacy rights have been violated, you may complain to the Plan in care of the following representative who has been designated as the Plan's Privacy Officer:

**William L. Parry, Jr., Director**  
**Western Pennsylvania Teamsters and**  
**Employers Welfare Fund**  
**215 S Euclid Avenue**  
**Pittsburgh, Pa. 15206**  
**412-363-2700**

Alternatively, you may file a complaint with the Secretary of the U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201.

The Plan will not retaliate against you for filing a complaint.

### Section 5. Additional Information

If you have any questions regarding this notice, any of the forms mentioned, or the subjects addressed in it, you may contact the Welfare Fund's Privacy Officer identified in Section 4.

### Conclusion

PHI use and disclosure by the Plan is regulated by a federal law known as HIPAA (the Health Insurance Portability and Accountability Act). This Privacy Notice acknowledges that the Plan is complying with the law. You may find the federal regulations at 45 *Code of Federal Regulations* Parts 160 and 164. This notice attempts to summarize the regulations. The regulations will supersede any discrepancy between the information in this Notice and the regulations.

*Amendment and Restatement of Privacy Notice.wpd*