

Effective Date: September 23, 2020

**County of Los Angeles Health Care Spending Account Plans
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.

WHICH PLANS ARE COVERED BY THIS NOTICE?

This Notice applies to the Los Angeles County Health Care Spending Account Plans made available under the Flex Plan and MegaFlex Plan, the Choices Health Care Spending Account Plan, and the Options Health Care Spending Account Plan (together, the “Plans,” and each, a “Plan”). This Notice summarizes the rules concerning use and disclosure of your protected health information (also known as “PHI”). Details of the rules summarized in this Notice are contained in the Plans’ policies and procedures and the applicable “HIPAA privacy rules” contained in the Code of Federal Regulations at 45 C.F.R. Parts 160 and 164 and issued under the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”).

This Notice describes how your protected personal health information may be used or disclosed by the Plans to carry out payment or healthcare operations and for other purposes that are permitted or required by law. It also describes your rights to access and control of your protected health information. This Notice has been drafted and provided to you in accordance with the HIPAA privacy rules.

If you participate in a major medical plan sponsored by the County or your union, you will also receive a separate HIPAA Privacy Notice from that plan.

The County, as plan sponsor, has elected to restrict its access to your protected health information in order to help protect your privacy. Only those County employees who assist with the Plans’ administration (“Administrative Personnel”) will have access to your protected health information. Moreover, Administrative Personnel will have limited access to your health information under the Plans because most of the Plans’ administration will be handled by third-party business associates who have agreed to comply with the HIPAA privacy rules. Therefore, requests regarding your personal health information may be forwarded to those business associates.

If you have any questions or want additional information about the Notice or the policies or procedures described in the Notice, please contact the Plans using the Contact Information at the end of this Notice.

THE PLANS’ PLEDGE REGARDING YOUR MEDICAL INFORMATION

The Plans understand that medical information about you and your health is personal. They are committed to protecting medical information about you. They create a record of the health care claims reimbursed under the Plans for administration purposes. They need this record to provide you with quality service and to comply with certain legal requirements. This Notice applies to all of the medical expense records maintained by the Plans. As required and when appropriate, the Plans will ensure that the minimum necessary information is released.

THE PLANS HAVE A LEGAL DUTY TO PROTECT YOUR HEALTH INFORMATION

The Plans are required by law to: (1) keep your medical information, also known as “protected health information” or “PHI,” private; (2) give you this Notice of the Plans’ legal duties and privacy practices with respect to your PHI; (3) notify affected individuals after a breach of unsecured PHI; (4) follow the terms of the Notice that is currently in effect; and (5) communicate to you any future changes to this Notice.

USES AND DISCLOSURES OF YOUR PROTECTED HEALTH INFORMATION THAT DO NOT REQUIRE YOUR AUTHORIZATION

The following categories describe different ways that the Plans may use and disclose PHI. Not every use or disclosure in a category will be listed. However, all of the ways the Plans are permitted to use and disclose PHI will fall within one of the categories.

Payment Activities

The Plans may use or disclose your PHI for the purposes of obtaining premium payments or to determine what benefits are owed to you under the plan. These “payment activities” include, but are not limited to: coverage and eligibility determinations, claims review, assisting you with inquiries or disputes, collecting premiums, and undertaking utilization review activities. For example, a Plan may use information that you submit with your claim to determine whether you are entitled to reimbursement for a particular medical procedure or service. Your PHI also may be disclosed to insurance providers or third-party administrators to coordinate benefits with respect to a particular claim.

Healthcare Operations

The Plans may use or disclose your PHI to support the Plans’ management and administrative functions. These functions include, but are not limited to: processing transactions, auditing functions, assisting affiliates and business associates with management/administration on behalf of the Plans, complying with the HIPAA privacy rules, and providing a participant or beneficiary treatment alternative information or other health-related benefits and services. For example, the Plans may use or disclose your PHI: (i) to provide you with information about a disease management program; (ii) to respond to a customer service inquiry from you; (iii) in connection with fraud and abuse detection and compliance programs; or (iv) to survey you concerning how effectively the Plans are providing services, among other issues.

Treatment

The Plans do not provide medical treatment directly but may use or disclose your PHI to provide, coordinate, or manage your health care and related services. This includes the coordination or management of your health care with a third party. The Plans may disclose your PHI, as necessary, to a health care provider (such as a specialist, pharmacist, or laboratory) who is involved in your care. For example, the Plans may disclose information on drugs that you have been prescribed to a pharmacist to identify potential interactions.

Business Associates

The Plans may use or disclose your PHI when they contract with service providers – called “business associates” – to perform various functions on behalf of the Plans. For example, the Plans may contract with a third-party administrator to perform the administrative functions necessary to pay your

medical claims. To perform these functions or to provide the services, business associates may receive, create, maintain, use, and disclose PHI, but only after the Plans and their respective business associate(s) agree in writing to contract terms requiring the business associate(s) to appropriately safeguard your information.

Organized Health Care Arrangement

The Plans, other group health plans sponsored by the County of Los Angeles, and each of the insurance companies and HMOs that those group health plans may contract with, are part of an “organized health care arrangement” or “OHCA.” Members of an OHCA may share your PHI with each other to carry out payment activities or health care operations described above.

Other Covered Entities

The Plans may use or disclose your PHI to other health plans, health care providers, and health care clearinghouses that are covered by the HIPAA privacy rules (called “covered entities”) for certain treatment activities, payment activities or health care operations. For example, the Plans may disclose your protected health information to a health care provider when needed by the provider to render treatment to you, and the Plans may disclose PHI to another covered entity for payment activities or to conduct health care operations in the areas of quality assessment and improvement activities, population-based activities relating to improving health or reducing health care costs, case management, conducting training programs, accreditation, certification, licensing or credentialing, or health care fraud and abuse detection or compliance. This also means that the Plans may disclose or share your PHI with other health care programs or insurance carriers in order to coordinate benefits if you or your family members have other health insurance or coverage (such as coverage under Medicare, other County-sponsored plans, or plans sponsored by another employer).

Plan Sponsor

The Plans may disclose your PHI to the plan sponsor (the County) when it is performing administration functions for the Plans, including to assist you with appeals. As indicated above, only Administrative Personnel will have access to your PHI.

Disclosures to You or Your Personal Representative

The Plans will disclose to you or your personal representative most of your PHI when you request access to this information. The Plans will disclose your PHI to an individual who has been designated by you as your personal representative or who has qualified for such designation in accordance with relevant law. Prior to such a disclosure, however, the Plans must be given written documentation that supports and establishes the basis for the personal representation. The Plans may elect not to treat the person as your personal representative if there is a reasonable belief that you have been, or may be, subjected to domestic violence, abuse, or neglect by such person or treating such person as your personal representative could endanger you, and the Plans’ administrator determines, in the exercise of its professional judgment, that it is not in your best interest to treat the person as your personal representative.

Individuals Involved in Your Care or Payment for Your Care

The Plans may disclose your PHI to a friend or family member who is involved in the payment or submission for claims reimbursement from the Plans, provided that you agree to this disclosure, or we give you an opportunity to object to this disclosure. The Plans also may 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. However, if you are not available or are unable to agree or object, the Plans' administrator will use its professional judgment to decide whether this disclosure is in your best interests.

As Required By Law

The Plans may use or disclose your PHI when required to do so by federal, state, or local law.

Lawsuits and Disputes

The Plans may disclose your PHI in the course of any judicial or administrative proceeding in response to a court or administrative order. The Plans may also disclose your PHI in response to a subpoena, discovery request, or other lawful process, but only if efforts have been made to tell you about the request (which may include written notice to you) or to obtain an order protecting the PHI requested.

Law Enforcement

The Plans may disclose PHI to government law enforcement agencies in the following circumstances: (1) as required by certain laws, such as those requiring the reporting of certain wounds and physical injuries; (2) in response to a court order, warrant, subpoena, summons, or similar process issued by a court; (3) to identify or locate a suspect, fugitive, material witness or missing person; (4) if you are a victim of a crime, under certain limited circumstances, and the Plans are unable to obtain your agreement; (5) about a death that may be the result of criminal conduct; and (6) in emergency circumstances to report a crime; the location of the crime or victims; or the identity, description, or location of the person who committed the crime.

Abuse, Neglect, or Domestic Violence

As required or authorized by law, if the Plans believe you have been a victim of abuse, neglect, or domestic violence, they may disclose your PHI to a governmental entity authorized to receive such information.

To Avert a Serious Threat to Health and Safety

The Plans may use or disclose your PHI 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 be to someone reasonably able to help prevent the threat.

Public Health Risks

The Plans may use or disclose your PHI for public health activities, such as those aimed at preventing or controlling disease, preventing injury or disability, and reporting the abuse or neglect of children.

Workers' Compensation

The Plans may disclose your PHI for workers' compensation or similar programs. These programs provide benefits for work-related injuries or illness.

Organ and Tissue Donation

The Plans may use or disclose your PHI to organizations that handle organ procurement or organ, eye, or tissue transplantation or to an organ donation bank, as necessary to facilitate organ or tissue

donation and transplantation.

Health Oversight Activities

The Plans may disclose your PHI to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, inspections, and licensure. These activities are necessary for the government to monitor the health care system, government programs, and compliance with civil rights laws.

Coroners, Medical Examiners, and Funeral Directors

The Plans may disclose PHI to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or determine the cause of death. We may also disclose PHI to funeral directors as necessary to carry out their duties.

Specific Government Functions

Military Personnel. If you are a member of the armed forces, the Plans may use or disclose your PHI as required by military command authorities. The Plans may also use or disclose PHI about foreign military personnel to the appropriate foreign military authority.

National Security and Intelligence. The Plans may disclose your PHI to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized by law. The Plans also may disclose your PHI to authorized federal officials so they may provide protection to the President, other authorized persons, or foreign heads of state or conduct special investigations.

Inmates. If you are an inmate or under the custody of a law enforcement official, the Plans may disclose your PHI to the correctional institution or law enforcement official. This disclosure would be necessary (1) for the institution to provide you with health care; (2) to protect your health and safety or the health and safety of others; or (3) for the safety and security of the correctional institution.

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

The Plans are required to disclose your PHI to the Secretary of the U.S. Department of Health and Human Services when the Secretary is investigating or determining the Plans' compliance with the HIPAA privacy rule.

USES AND DISCLOSURES OF YOUR PROTECTED HEALTH INFORMATION THAT REQUIRE YOUR AUTHORIZATION

The following categories describe uses and disclosures of your PHI that require your authorization.

Marketing

The Plans must obtain an authorization for the use or disclosure of PHI that is used for marketing purposes, unless the communication is face-to-face or is a small, promotional gift.

Sale of PHI

The Plans must obtain an authorization for any disclosure that is a sale of PHI.

Other Uses and Disclosures

Other uses and disclosures of your PHI not covered by this Notice or the laws that apply to the Plans will be made only with your written authorization. If you provide the Plans authorization to use or disclose your PHI, you may revoke that authorization, in writing, at any time. If you revoke your authorization, the Plans will no longer use or disclose your PHI for the reasons covered by the authorization. However, the revocation will not be effective for information that the Plans have used or disclosed in reliance on the authorization.

RIGHTS REGARDING YOUR PHI

You have the following rights regarding your PHI in the Plans' records:

Right to Inspect and Copy

With certain exceptions, you (or your personal representative) have the right to inspect and copy your PHI that may be used to make decisions about your Plan benefits.

To inspect and copy PHI that may be used to make decisions about you, you must submit your request in writing. Upon request to the Department of Human Resources (DHR), Employee Benefits Division (see Contact Information at the end of this Notice), a form will be provided to you for this request. If you request a copy of your PHI, the Plan may charge a fee for the costs of copying, mailing or other supplies associated with your request. If you are denied access, you will be told, in writing, the reason for the denial and, if applicable, how you may seek review. If DHR does not maintain the PHI you are requesting, they will notify you where to direct the request for access.

Right to an Accounting of Disclosures

You have the right to request an accounting of certain disclosures a Plan has made of your PHI. This list includes disclosures *other than* those made by the Plan in connection with treatment, payment activities, or health care operations and certain disclosures permitted or required under the HIPAA privacy regulations.

To request this accounting of disclosures, ask for a *Request for an Accounting of Disclosures* form, and complete and submit this form to the Plan contact listed at the end of this Notice. The completed form must include a time period for the disclosures that you are requesting, which may not be longer than six years prior to the date of your request. The first list you request within a 12-month period will be free. For additional lists, the Plan may charge you for the costs of providing the list. The Plan 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.

Right to Request Restrictions

You have the right to request that a Plan follow additional, special restrictions when using or disclosing your PHI for payment or health care operations, such as reimbursement of your claimed expenses. You also have the right to request that a Plan follow additional, special restrictions when using or disclosing your PHI to someone who is involved in your care or payment for your care, like a family member or friend. For example, you could ask that we not use or disclose information about a surgery that you had.

The Plans are not required to agree to your request. If the Plan agrees to the requested

restriction, it will comply with your request unless the information is needed to provide you emergency treatment.

To request restrictions, ask for a *Request for Additional Restrictions on Use or Disclosure of Protected Health Information* form, and complete and submit this form to the Plan contact listed at the end of this Notice. In your request, you must include: (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.

Right to Request Confidential Communications

You have the right to request that the Plan communicate with you about your Plan claims in a specific way or at a specific location. For example, you can ask that the Plan only contact you at work or by mail.

To request confidential communications, ask for a *Request to Receive Confidential Communications by Alternative Means or at Alternative Locations* form, and complete and submit this form to the Plan contact listed at the end of this Notice. Your request must specify how or where you wish to be contacted. It must also state that the disclosure of all or part of the PHI in a manner inconsistent with your request would put you in danger. **The Plan will accommodate a request for confidential communications that is reasonable and that states that the disclosure of all or part of your protected health information could endanger you.**

Right to Correct or Update Your Health Information

If you believe that there is a mistake in your information or that a piece of important information is missing, you have the right to request that the Plan correct the existing information or add the missing information. Your request and your reason for the request must be submitted in writing to the Plan contact listed at the end of this Notice.

Each request will be carefully considered. If your request is approved, the appropriate change will be made to your information, you will be told that it has been done, and all appropriate individuals who need the information will be informed. You also will be notified if your request is denied.

Right to Receive a Copy of this Notice

You may request a paper copy of this Notice from the Plans at any time, even if you previously agreed to receive it electronically.

CHANGES TO THIS NOTICE

The Plans reserve the right to change the terms of this Notice. The Plans reserve the right to make the revised or changed Notice effective for medical information the Plans already have about you as well as any information the Plans receive in the future. The Plans will post a copy of the current Notice on the DHR website, <http://employee.hr.lacounty.gov/benefits-2/>. The Notice will contain on the first page, in the top right-hand corner, the effective date. If there is a material revision to this notice, the Plans will post or distribute a copy to participants within 60 days after the revision is made. At least every year, DHR will notify current Plan participants of the availability of the Notice and how to obtain the Notice.

COMPLAINTS AND CONTACT INFORMATION

If you believe your privacy rights have been violated, you may file a complaint with the Plans or the Federal Government. All complaints must be submitted in writing. You will not be penalized or retaliated against for filing a complaint. You may file a complaint with the Plan using the Contact Information below.

Health Care Spending Account Plans
County of Los Angeles Department of Human Resources
Employee Benefits Division Privacy Officer
3333 Wilshire Boulevard, Suite 1000
Los Angeles, CA 90010
(213) 639-6354
Email: rurban@hr.lacounty.gov

or

County of Los Angeles Office of the Auditor-Controller
Chief Information Privacy Officer
500 West Temple Street, Suite 515
Los Angeles, CA 90012 (213) 974-2164
Email: HIPAA@auditor.lacounty.gov

To file a complaint with the Federal Government, contact:

Centralized Case Management Operations
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201
Customer Response Center: (800) 368-1019
TDD: (800) 537-7697
Fax: (202) 619-3818
Email: OCRComplaint@hhs.gov

For general questions on your Health Care or Dependent Care Spending Account, call HealthEquity, the spending account administrator, at (877) 924-3967.