

HIPAA INTERNAL PRIVACY USE AND DISCLOSURE PROCEDURES

INTRODUCTION

The Waterloo Community School District sponsors a Group Health Plan that is subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Employees may have access to the individually-identifiable health information of Plan Participants, on behalf of the Plan itself, on behalf of the employer, or for administrative functions related to the Plan.

Protected health information included under the Act is defined as information that is created or received by the Plan and:

1. relates to the past, present, or future physical or mental health or condition of a participant;
2. relates to the provision of health care to a participant;
3. relates to the past, present or future payment for the provision of health care to a participant; or
4. identifies the participant and suggests a reasonable likelihood that the information might be used to identify the participant.

Protected health information includes information of persons living or deceased.

We at the Waterloo Community School District intend to fully comply with HIPAA's requirements. Those with access to PHI must comply with district policies and regulations. The district reserves the right to amend or change procedures at any time without notice. To the extent that this procedure establishes requirements and obligations above and beyond those required by HIPAA, the procedure shall not be binding upon the district. This procedure does not address requirements under other federal or state laws.

PROCEDURES FOR USE AND DISCLOSURE OF PHI

I. Use and Disclosure Defined

The Waterloo Community School District will use and disclose PHI only as permitted under HIPAA. Use means the sharing, employment, application, utilization, examination, or analysis of individually-identifiable health information by any person working for or with the district Benefits Department or by a Business Associate of the district. Disclosures of information that is PHI means any release, transfer, provision or access to, or divulging in any other manner any individually-identifiable health information to persons not employed by or working within the district's Benefits Department.

All employees of the district who have access to PHI must comply with these procedures.

Employees with access to PHI as identified by the district on the identifier worksheet, may use and disclose PHI for Plan administrative functions, and may disclose PHI to

other employees with access to this information for Plan administrative functions. Employees with access may disclose PHI to employees with access in accordance with these procedures only.

II. Procedures On the Use and Disclosure of PHI: Payment and Health Care Operations

Payment records include activities undertaken to obtain Plan contributions, to determine or fulfill the Plan's responsibility for provision of benefits under the Plan, or to obtain or provide reimbursement for health care. Payment also includes:

- a. eligibility and coverage determinations, including coordination of benefits and adjudication or subrogation of health benefit claims.
- b. risk adjusting based on enrollee status and demographic characteristics.
- c. billing, claim management, collection activities, obtaining payment under a contract for reinsurance, and related health care data processing.

Health care operations means any of the following activities to the extent that they are related to Plan administration.

- a. conducting quality assessment and improvement activities.
- b. reviewing health plan performance.
- c. underwriting and premium rating.
- d. conducting or arranging for medical review, legal services, and auditing functions.
- e. business planning and development.
- f. business management and general administrative activities.

Procedure –

An employee may use and disclose a Plan Participant's PHI to facilitate the Plan's own payment activities or health care operations.

- a. disclosures must comply with the minimum necessary standard.
- b. disclosures must be documented in accordance with the appropriate procedure.

An employee may disclose a Plan participant's PHI to another covered entity or health care provider so as to perform the other entity's payment activities. Disclosures may be made under the following circumstances:

- a. disclosures must comply with the minimum necessary standard.
- b. disclosures must be documented in accordance with the appropriate procedure.

An employee may disclose PHI for purposes of the other covered entity's quality assessment and improvement, for case management or health care fraud and abuse detection programs, and/or if the other covered entity has a relationship with the individual and the PHI requested pertains to that relationship.

Such disclosures are subject to the following:

- a. the district's Contact Person must approve the disclosure.
- b. disclosures must comply with the "minimum-necessary standard."
- c. disclosures must be documented in accordance with the appropriate procedure.

Unless an authorization from the individual has been received, an employee may not use a Participant's PHI for the payment or operation of the district's non-health benefits (disability, worker's compensation, and life insurance). If an employee requires Participant's PHI for payment or health care operations of non-plan benefits, the following steps should be used:

- a. obtain an authorization.
- b. have the disclosure approved by the district's Contact Person.
- c. ensure that the disclosure complies with the minimum-necessary standard.
- d. document the disclosure in accordance with the appropriate procedure.

III. PHI Disclosure to Individuals and the Department of Health and Human Services

Procedure –

A request from an individual must follow the procedure for "Disclosures to Individuals Under Right to Access Own PHI." Requests from the Department of Health and Human Services must follow the procedure set forth in "Verification of Identity of Those Requesting Protected Health Information." The disclosure must be documented in accordance with the appropriate procedure.

IV. Legal Disclosures of PHI

Procedure –

When an employee receives a request for disclosure of an individual's PHI and said request appears to fall within the aforementioned categories, the district's Contact Person must be contacted. The disclosure must be approved by the Contact Person and must comply with the minimum necessary standard. All disclosures must be documented in accordance with the appropriate procedure.

Disclosures about victims of abuse, neglect, or domestic violence can be met only if:

- a. the individual agrees with the disclosure;
- b. the disclosure is expressly authorized by statute or regulation (and the disclosure prevents harm to the individual); or
- c. the individual is incapacitated and unable to consent, the information will not be used against the individual, and the information is necessary for an imminent enforcement activity.

Disclosures for judicial and administrative proceedings are covered if they are in response to an order of a court or administrative tribunal, or are a subpoena, discovery request, or other lawful process not accompanied by a court order or administrative

tribunal. The individual must first have been given notice of the request, or the party seeking the information must have made reasonable efforts to receive a qualified protective order.

Disclosures to a law enforcement official for law enforcement purposes are permitted under the following conditions:

- a. Pursuant to a process and as otherwise required by law, but only if the information sought is relevant, the request is specific and limited to reasonable amounts, and it is not possible to use de-identified information.
- b. Information requested is limited information used to identify or locate a suspect, fugitive, material witness, or missing person.
- c. Information is about a suspected victim of a crime if the individual consents to the disclosure, or without the individual agreement, if the information is not to be used against the victim, if the need for the information is urgent, and if disclosure is in the individual's best interest.
- d. Information is about a deceased individual arising upon suspicion that the individual's death resulted from criminal conduct.
- e. Information sought constitutes evidence of criminal conduct that occurred on the district's premises.

Disclosures are allowed to the appropriate public health authorities, to a health oversight agency, to a coroner or medical examiner about decedents, for cadaveric organ, eye or tissue donation purposes, and for certain limited research purposes. Disclosures also may be made to avert a serious threat to health or safety, for specialized government functions, and for worker's compensation programs.

V. Disclosures Pursuant to an Authorization

Procedure –

Any requested disclosure to a third party (not the individual to whom the PHI pertains) that does not fall within one of the categories for which disclosure is permitted or required (under the Use and Disclosure Procedures) may be made pursuant to an individual's authorization. When there is a disclosure via an authorization, the following procedures apply:

- a. Verify the individual's identity in accordance with the appropriate procedure.
- b. Determine that the authorization is valid. It should be signed properly and dated, and must not be expired.
- c. Include a description of the information to be used or disclosed, along with the name of the entity or person authorized to use or disclose the PHI.
- d. Include the name of the recipient.
- e. Include a statement regarding the individual's right to revoke the authorization and the procedure for such, along with a statement regarding the possibility for any subsequent re-disclosure of the information.
- f. A use or disclosure made pursuant to an authorization must be consistent with the terms of the authorization itself. And the disclosures must be documented in accordance with the appropriate procedure.

VI. Disclosures of PHI to Business Associate

A Business Associate is an entity or person who performs or assists in performing a Plan function or activity involving the use and disclosure of PHI. A Business Associate is also one who provides legal, accounting, actuarial, consulting, data aggregations management, accreditation, or financial services, where the performance of such services involves giving the service provider access to PHI.

Procedure –

All uses and disclosures must be consistent with the Business Associate Agreement. The disclosures must comply with the minimum necessary standards and must be documented in accordance with the appropriate procedure.

VII. Disclosures of PHI From Spouses, Family Members and Friends

The Plan and the district will not disclose PHI to an individual's family and friends except as permitted by HIPAA.

Procedure –

If an employee receives a request for disclosure of an individual's PHI from an individual's spouse, family member, or personal friend, and the spouse, family member, or personal friend is either (1) the parent of the individual and the individual is a minor child; or (2) the personal representative of the individual, then their identity must be verified. The verification should comply with the appropriate procedure for individual access.

XIII. Disclosures of De-Identified Information

De-identified information is health information that does not identify an individual and is not reasonably expected to be used to identify an individual. A covered entity can determine whether the information is de-identified in two ways: either by professional statistical analysis, or by removing 18 specific identifiers.

Procedure –

Obtain approval for the disclosure from the district's Contact Person. The Contact Person will verify that the information is de-identified. The Plan may freely use and disclose de-identified information, and de-identified information is not PHI.

IX. Verification of Identity of Those Requesting Protected Health Information

Employees must take steps to verify the identity of individuals who request access to PHI. They must also verify the authority of any person who is to have access to PHI, if the identity or authority of said person is not known. Separate procedures are set forth below for verifying the identity and authority, depending on whether the request is made by the individual, by a parent seeking access to the PHI of his or her minor child, by a personal representative, or by a public official seeking access.

When an individual requests access to his or her own PHI, the following steps should be followed:

- a. Request a form of identification from the individual.
- b. Verify that the identification matches the identity of the individual requesting access to the PHI.
- c. Make a copy of the identification provided by the individual and file it with the individual's designated record set.
- d. Disclosures must be documented in accordance with the appropriate procedure.

When a parent requests access to the PHI of the parent's minor child, the following steps should be followed:

- a. Seek verification of the person's relationship with the child and document the disclosure in accordance with the appropriate procedure.
- b. When a personal representative requests access to an individual's PHI, the employee should require a valid power of attorney. A copy of this documentation should be made and filed with the individual's designated record set. And the disclosure must be documented in accordance with the appropriate procedure.

If a public official requests access to PHI, and if the request is for one of the purposes set forth above in "Mandatory Disclosures of PHI" or "Permissive Disclosures of PHI," then the steps below should be followed to verify the official's identity and authority:

- a. If the request is made in person, request presentation of an agency identification badge, other official credentials, or other proof of government status. Make a copy of the identification provided and file it with the individual's designated record set.
- b. If the request is in writing, verify that the request is on the appropriate government letterhead.
- c. If the request is by a person purporting to act on behalf of a public official, request a written statement (on appropriate government letterhead) that the person is acting under the government's authority, or other evidence or documentation of agency (such as a contract for services, memorandum of understanding, or purchase order), that establishes that the person is acting on behalf of the public official.
- d. Request a written statement of the legal authority under which the information is requested, or, if a written statement would be impractical, an oral statement of such legal authority. If the individual's request is made pursuant to legal process, warrant, subpoena, order, or other legal process issued by a grand jury or judicial or administrative tribunal, contact the district's attorney for guidance.
- e. Obtain approval for the disclosure from the Contact Person.
- f. Document disclosures in accordance with the appropriate procedure.

X. Complying With the "Minimum-Necessary" Standard

Procedure for Disclosures

- a. Identify recurring disclosures. For each recurring disclosure, identify the types of PHI to be disclosed, the types of person who may receive the PHI, the conditions that would apply to such access, and the standards for disclosures to routinely-hired types of Business Associates. Create a policy for each specific recurring disclosure that limits the amount disclosed to the minimum amount necessary.
- b. For all other requests for disclosures of PHI, contact the district's Contact Person, who will ensure that the amount of information disclosed is the minimum necessary.

Procedure for Requests

- a. Identify recurring requests. For each recurring request, identify the information that is necessary for the purpose of the requested disclosure and create a policy that limits each request to the minimum amount necessary.
- b. For all other requests, the Contact Person should be contacted and should ensure that the amount of information requested is the minimum necessary.
- c. A few exceptions apply. The minimum necessary standard does not apply to use or disclosures made to the individual, made pursuant to an individual authorization, or made to the Department of Health and Human Services (DHHS), nor does it apply to use or disclosures required by law or those required to comply with HIPAA.

XI. Documentation

Procedure –

Employees shall maintain certain items for a period of six years from the date the documents were created or were last in effect, whichever is later. These documents include the Notice of Privacy Practice, Individual Authorization, and all information relating to the specifics of a disclosure.

XII. Unknown Disclosures of PHI

To the extent possible, the district must mitigate any harmful affects that become known relative to the disclosure of an individual PHI in violation of the policies and procedures set forth in this manual. The Contact Person must be notified immediately of any incorrect use or disclosure of PHI.

PROCEDURES FOR COMPLYING WITH INDIVIDUAL RIGHTS

I. Request for Access

A Designated Record set is a group of records maintained by or for the employer, and includes the enrollment, payment and claims adjudication record of an individual maintained by the Plan. It also includes other protected health information used, in

whole or in part, by or for the Plan when making coverage decisions about an individual.

Procedure –

For disclosure of an individual's PHI, the employee must take the following steps:

- a. Verify the individual's identity.
- b. Determine whether the PHI is held in the designated record set.
- c. Determine whether an exception to the disclosure requirement might exist. See the Contact Person as to whether any exception exists.
- d. Provide or deny the request within 30 days. If the PHI cannot comply with such a deadline, the deadline may be extended for 30 days by providing written notice to the individual within the original 30 day period.
 - 1) A denial notice must contain the basis for the denial, a statement of the individual's right to request a review, and directions to the individual for filing a complaint concerning the denial.
 - 2) Provide the information in a readable format. Or provide in a format agreed to by the employee.
- e. At the discretion of the employer, additional fees may be charged for copying, postage and preparation.
- f. Disclosures must be documented in accordance with the "Documentation Requirements" procedure.

II. Request for Amendment

Procedure –

Upon receipt of a request from an individual, from a parent of a minor child, or from a personal representative for an amendment to an employee's PHI in a designated record set, the employee must take the following steps:

- a. Verify the individual identity.
- b. Determine whether the PHI at issue is held in the employee's designated record set. See the district's Contact Person if the information does not seem to be held in the designated record set.
- c. Determine whether the amendment is allowable under HIPAA's right to access.
- d. Determine whether the request for the amendment is appropriate.
- e. Respond to the request in 60 days by informing the individual whether the request has been accepted or denied. If a decision cannot be made within 60 days, the deadline may be extended for 30 more days.
- f. Upon acceptance of the amendment, make the change in the designated record set.
- g. Denied requests must do the following:
 - 1) The district's Contact Person must review the denial. The denial must include the reason for the denial, information about the individual's right to disagree, an explanation that the individual may ask that the request for

amendment and its denial be included in future disclosures of the information, and directions for filing a complaint concerning the denial.

- 2) Under circumstances where the individual provides a statement of disagreement, include all specifics relating to the denial.

III. Processing Request for an Account of PHI

Procedure –

Upon the receipt of a request for an accounting of disclosures the following procedures must be followed:

- a. Verify the identity of the individual.
- b. Inform the individual that there may be a fee charged if the employee has requested this information more than once in the last twelve months.
- c. Respond to the request within 60 days by providing the accounting, or by informing the individual that there have been no disclosures that must be included in an accounting. The 60-day deadline may be extended for an additional 30 days by written notice.
- d. The accounting must include any disclosures made by the Plan or by a Business Associate for up to six years prior to the request. Disclosures not included are:
 - 1) To carry out treatment, payment and health care operations.
 - 2) To the individual about his/her own PHI
 - 3) Incidental to an otherwise permitted use or disclosure.
 - 4) Pursuant to an individual authorization.
 - 5) For specific national security or intelligence purposes.
 - 6) To correctional institution or law enforcement when the disclosure was permitted without an authorization.
 - 7) As part of a limited data set.
- e. The accounting must include the date of disclosure, the name of the entity or person to whom the information was disclosed, a brief description of the PHI disclosed, and a brief statement explaining the purpose for the disclosure.
- f. If the Plan has received a temporary suspension statement from a health oversight agency or a law enforcement official indicating that the notice to the individual of disclosures of PHI would likely impede the district's activities, then disclosure may not be required. The employee must contact the Contact Person under these circumstances for more guidance.
- g. Accountings must be documented in accordance with the appropriate procedure.

IV. Processing Request for Confidential Communications

Procedure –

In order for an individual to receive communications in an alternate format or location, the following steps must be followed:

- a. Verify the individual's identity as set forth in the appropriate procedures.
- b. Determine whether the request could endanger the individual.
- c. The employee should take steps to honor the request.
- d. If the request cannot be accommodated, the employees must contact the individual explaining why.
- e. All confidential requests will be maintained by the district's Contact Person.
- f. Requests and their dispositions must be documented in accordance with the appropriate procedure.

V. Processing Requests for Restriction on Use and Disclosures of PHI

Procedure –

Upon the permission for access employees must adhere to the following steps regarding an individual's PHI:

- a. Verify the individual's identity in accordance with the appropriate procedure.
- b. Take steps to honor the request.
- c. If the request cannot be accommodated, the employee must contact the individual explaining why.
- d. Track all requests on use or disclosures.
- e. Notify all Business Associates that may have access to the individual's PHI of any agreed-upon restrictions.
- f. Document requests and their dispositions in accordance with the appropriate procedure.

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