

SECTION EIGHTEEN: Privacy Requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Genetic Information and Non-Discrimination Act of 2008 (GINA)

HIPAA Privacy Requirements

I. Introduction to HIPAA

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires that health plans (and healthcare providers) protect the confidentiality and privacy of Protected Health Information (PHI). The term "Protected Health Information" includes all information related to your past or present health condition that individually identifies you or could reasonably be used to identify you and is transferred to another entity or maintained by the Plan in oral, written, electronic or any other form. This not only includes medical records, but also includes information regarding your eligibility for benefits under the Plan, claim status or coverage issues regarding a particular claim and other specific information regarding you and your dependents.

A group health plan is required to allow special enrollment for certain individuals to enroll in the plan without having to wait until the plan's next regular enrollment season.

Group health plans and health insurance issuers are required to provide special enrollment periods during which individuals who previously declined coverage for themselves and their dependents may be allowed to enroll (without having to wait until the plan's next open enrollment period).

A special enrollment opportunity occurs if an individual with other health insurance **loses that coverage** or if a person **becomes a new dependent** through marriage, birth, adoption or placement for adoption. However, an individual must notify the plan of their request for special enrollment within 60 days of having (or becoming) a new dependent.

II. Your HIPAA Rights

A description of your HIPAA Privacy rights is found in the Privacy Notice. The revised Privacy Notice issued on May 1, 2016 is attached in Section III below.

The Privacy Notice includes the following information:

1. Your Protected Health Information (PHI)

- When the Plan may disclose your PHI
- When the disclosure of your PHI requires your written authorization
- Use or disclosure of your PHI that requires you to be given an opportunity to agree or disagree before its use or release.
- Use or disclosure of your PHI for which consent, authorization or opportunity to object is not required.

2. Your Individual Privacy Rights

- Requesting restrictions on PHI uses and disclosures
- Inspecting and copying PHI
- Requesting that the Plan amend your PHI
- Receiving an accounting of the Plan's PHI disclosures
- Exercising your rights through a personal representative

3. The Plan's Duties

- Maintaining your privacy by duties and privacy practices
- Disclosing only the minimum necessary PHI

4. Your Right to File a Complaint with the Plan or the Secretary of the U.S. Department of Health and Human Services (HHS Secretary)

If you believe that your privacy rights have been violated, you may file a complaint with a Plan's Privacy Officer at the Fund Office or you may contact 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

If you have any questions about your Privacy Rights under HIPAA, you may contact the Privacy Officer at the Fund Office.

III. HIPAA Privacy Notice

Teamsters Local 251 Health Services and Insurance Plan Privacy Notice

Section 1: Purpose of This Notice and Effective Date

This Notice Describes:

1. How medical information about you may be used and disclosed; and
2. How you may obtain access to this information.

Please review this information carefully.

Effective date. The effective date of this Notice is May 1, 2016

This Notice is required by law. The Teamsters Local 251 Health Services and Insurance Plan (the "Plan") is required by law to take reasonable steps to ensure the privacy of your personally identifiable health information and to inform you about:

1. The Plan's uses and disclosures of Protected Health Information (PHI),

2. Your rights to privacy with respect to your PHI,
3. The Plan's duties with respect to your PHI,
4. Your right to file a complaint with the Plan and with the Secretary of the U.S. Department of Health and Human Services, and
5. The person or office you should contact for further information about the Plan's privacy practices.

Section 2: Your Protected Health Information

Protected Health Information (PHI) Defined

The term "Protected Health Information" (PHI) includes all information related to your past or present health condition that individually identifies you or could reasonably be used to identify you and is transferred to another entity or maintained by the Plan in oral, written, electronic or any other form.

PHI refers to your health information held by the Plan.

When the Plan May Disclose Your PHI

The Plan Sponsor has amended its Plan Documents to protect your PHI as required by federal law. Under the law, the Plan may disclose your PHI without your consent or authorization in the following cases:

- ***At your request.*** If you request it, the Plan is required to give you access to certain PHI in order to allow you to inspect it and/or copy it.
- ***As required by the Department of Health and Human Services (HHS).*** The Secretary of the Department of Health and Human Services may require the disclosure of your PHI to investigate or determine the Plan's compliance with the privacy regulations.
- ***For treatment, payment or health care operations.*** The Plan and its business associates will use PHI without your consent, authorization or opportunity to agree or object in order to carry out:
 - Treatment,
 - Payment, or
 - Health care operations.

The Plan does not need your consent or authorization to release your PHI when:

- you request it,
- a government agency requires it, or
- the Plan uses it for treatment, payment or health care operations.

<i>Definitions of Treatment, Payment or Health Care Operations</i>	
Treatment is health care.	<p>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.</p> <p><i>For example:</i> The Plan discloses 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.</p>
Payment is paying claims for health care and related activities.	<p>Payment includes but is not limited to making coverage determinations and payment. These actions include billing, claims management, subrogation, Plan reimbursement, reviews for medical necessity and appropriateness of care, utilization review and preauthorization.</p> <p><i>For example:</i> The Plan tells your doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Plan.</p>
HealthCare Operations keep the Plan operating soundly.	<p>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.</p> <p><i>For example:</i> The Plan uses information about your medical claims to refer you to a disease management program, to project future benefit costs or to audit the accuracy of its claims processing functions.</p>

When the Disclosure of Your PHI Requires Your Written Authorization

The Plan must generally obtain your written authorization before the Plan will use or disclose psychotherapy notes about you from your psychotherapist. However, the Plan may use and disclose such notes when needed by the Plan to defend itself against litigation filed by you.

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 provide health information for the purpose of evaluating and processing a claim for Weekly Accident and

Sickness benefits; however, the Plan will obtain your written authorization before it will use or disclose any health information for this purpose.

Disclosure to other benefit plans. On certain occasions, the Plan may need to provide health information for the purpose of evaluating and processing a claim for Weekly Accident and Sickness or Social Security Disability benefits; however, the Plan will obtain your written authorization before it will use or disclose any health information for this purpose.

For marketing purposes. The Plan will request your authorization for any use or disclosure of PHI for marketing, except in situations involving a face-to-face communication or a promotional gift of nominal value. The Plan is not in the business of marketing PHI, and it does not expect to do so in the future.

Sale of PHI. The Plan will request your authorization for any disclosure of PHI which constitutes a sale of PHI. Please note, however, that the Plan is not in the business of selling PHI and it does not expect to do so in the future.

Use or Disclosure of Your PHI That Requires You Be Given an Opportunity to Agree or Disagree Before the Use or Release

Disclosure of your PHI to family members, other relatives and your close personal friends is allowed under federal law 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.

Use or Disclosure of Your PHI For Which Consent, Authorization or Opportunity to Object Is Not Required

The Plan is allowed under federal law to use and disclose your PHI without your consent or authorization under the following circumstances:

1. ***When required by law.***
2. ***Public health purposes.*** When permitted for purposes of public health activities. This includes reporting product defects, permitting product recalls and conducting 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.
3. ***Domestic violence or abuse situations.*** When authorized by law to report information about abuse, neglect or domestic violence to public authorities if a

In general, the Plan does not need your consent to release your PHI if required by law or for public health and safety purposes.

reasonable belief exists 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.

4. ***Oversight activities.*** To a public health oversight agency for oversight activities authorized by law. These activities include 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).
5. ***Court proceedings.*** When required for judicial or administrative proceedings. For example, your PHI may be disclosed in response to a subpoena or discovery request, provided certain conditions are met, including that:
 - a. the requesting party must give the Plan satisfactory assurances a good faith attempt has been made to provide you with written notice, and
 - b. the notice provided sufficient information about the proceeding to permit you to raise an objection, and
 - c. no objections were raised or were resolved in favor of disclosure by the court or tribunal.
6. ***Law enforcement health purposes.*** When required for law enforcement purposes (for example, to report certain types of wounds).
7. ***Law enforcement emergency purposes.*** For law enforcement purposes if the law enforcement official represents that the information is not intended to be used against the individual, the immediate law enforcement activity would be materially and adversely affected by waiting to obtain the individual's agreement and the Plan in its best judgment determines that disclosure is in the best interest of the individual. Law enforcement purposes include:
 - a. identifying or locating a suspect, fugitive, material witness or missing person, and
 - b. 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.

8. ***Determining cause of death.*** When required to be given to a coroner or medical examiner to identify a deceased person, determine a cause of death or other authorized duties.
9. ***Funeral purposes.*** When required to be given to funeral directors to carry out their duties with respect to the decedent.
10. ***Research.*** For research, subject to certain conditions.
11. ***Health or safety threats.*** When, consistent with applicable law and standards of ethical conduct, 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 the threat, including the target of the threat.
12. ***Workers' compensation programs.*** When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.
13. ***Specialized Government Functions.*** When required, to military authorities under certain circumstances, to authorized federal officials for lawful intelligence, counter intelligence and other national security activities.

Except as otherwise indicated in this notice, uses and disclosures of your PHI will be made only with your written authorization subject to your right to revoke your authorization.

Other Uses or Disclosures

The Plan may contact you to provide you information about treatment alternatives or other health-related benefits and services that may be of interest to you.

The Plan may disclose protected health information to the sponsor of the Plan for reviewing your appeal of a benefit claims or for other reasons regarding the administration of this Plan. The "plan sponsor" of this Plan is the Teamsters Local 251 Health Services and Insurance Plan Board of Trustees.

Section 3: Your Individual Privacy Rights

The following is a description of your individual privacy rights. It is important to note that requests to invoke your rights regarding your medical benefits should be directed to the Plan. All other requests (for dental, vision and hearing) should be directed to the Plan. The Plan contracts with several vendors, also called "business associates," who provide services to the Plan and services and benefits to you on the Plan's behalf. Once the Plan is notified that you choose to invoke any of the individual rights listed below, it will notify the appropriate vendor on your behalf. Because some of your PHI is maintained and used by these business associates to provide or process your benefits, the Plan requires that they administer certain aspects of the individual privacy rights.

You may contact the Privacy Official at the address and phone number listed below:

Privacy Official
Teamsters Local 251 Health Services and Insurance Plan
1201 Elmwood Avenue
Providence, RI 02907
(401) 467-3323

You May Request Restrictions on PHI Uses and Disclosures

You may request the Plan to:

1. Restrict the uses and disclosures of your PHI to carry out treatment, payment or health care operations, or
2. Restrict uses and disclosures to family members, relatives, friends or other persons identified by you who are involved in your care.

The Plan, however, is not required to agree to your request if the Plan Administrator or Privacy Official determines it to be unreasonable.

In addition, the Plan will accommodate an individual's reasonable request to receive communications of PHI **by alternative means or at alternative locations** where the request includes a statement that disclosure could endanger the individual.

You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI. Make such requests to the Privacy Official listed at the address and phone number below:

Privacy Official
Teamsters Local 251 Health Services and Insurance Plan
1201 Elmwood Avenue
Providence, RI 02907 (401) 467-3323

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

You May 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.

You may request your hardcopy of electronic information in a format that is convenient for you and the Plan will honor that request to the extent possible. You may also request a summary of your PHI.

The Plan must provide the requested information within 30 days if the information is maintained on site or within 60 days if the information is maintained offsite. A single 30-day extension is allowed if the Plan is unable to comply with the deadline and if the Plan provides you with a notice of the reason for the delay and the expected date by which the requested information will be provided.

You or your personal representative will be required to complete a form to request access to the PHI in your designated record set. Requests for access to PHI should be made to the Plan’s Privacy Official (at the address listed above).

In limited circumstances, access may be denied. 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 your review rights and a description of how you may complain to Plan and the Secretary of the U.S. Department of Health and Human Services.

You Have the Right to Amend Your PHI

You have the right to request that the Plan 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 subject to certain exceptions. See the Plan’s Right to Amend Policy for a list of exceptions.

The Plan has 60 days after receiving your request to act on it. The Plan is allowed a single 30-day extension if the Plan is unable to comply with the 60-day deadline. If the Plan denied your request in whole or part, the Plan must provide you with a written denial that explains the basis for the decision. 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 that PHI.

Designated Record Set: includes your medical records and billing records that are maintained by or for a covered health care provider. Records include 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 you. Information used for quality control or peer review analyses and not used to make decisions about you is not included.

If you disagree with the record of your PHI, you may amend it.

If the Plan denies your request to amend your PHI, you still have the right to have your written statement disagreeing with that denial included in your PHI.

Forms are available for these purposes.

You should make your request to amend PHI to the Plan's Privacy Official (at the address listed above).

You or your personal representative will be required to complete a form to request amendment of the PHI.

The covered entity may require individuals to make requests for amendment in writing and to provide a reason to support the requested amendment. The Plan must inform individuals in advance of such requirements.

You Have the Right to Receive an Accounting of the Plan's 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 before the date of your request. We do not have to provide you with an accounting of disclosures related to treatment, payment, health care operations, or disclosures made to you or authorized by you in writing. See the Plan's Accounting for Disclosure Policy for the contents of an accounting.

The Plan has 60 days to provide the accounting. The Plan is allowed an additional 30 days if the Plan gives you 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.

You Have the Right to Receive a Paper Copy of This Notice Upon Request

You have the right to request and receive a paper copy of this Notice at any time, even if you have received the Notice previously or agreed to receive the Notice electronically. To obtain a paper copy of this Notice, contact the Plan's Privacy Official (at the address listed above).

Your Personal Representative

You may exercise your rights through a personal representative. Your personal representative will be required to produce evidence of authority to act on your behalf before the personal representative will be given access to your PHI or be allowed to take any action for you. Proof of such authority will be a completed, signed and approved Appointment of Personal Representative form. You may obtain this form by calling the Fund Office.

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.

You may designate a personal representative by completing a form that is available from the Fund Office.
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The Plan will recognize certain individuals as personal representatives without you having to complete an Appointment of Personal Representative form. For example, the Plan will automatically consider a spouse to be

the personal representative of an individual covered by the plan. In addition, the Plan will consider a parent, guardian, or other person acting *in loco parentis* as the personal representative of an unemancipated minor unless applicable law requires otherwise. A spouse or a parent may act on an individual's behalf, including requesting access to their PHI. Spouses and unemancipated minors may, however, request that the Plan restrict information that goes to family members as described above at the beginning of Section 3 of this Notice.

You should also review the Plan's Policy and Procedure for the Recognition of Personal Representatives for a more complete description of the circumstances where the Plan will automatically consider an individual to be a personal representative.

You May Request Confidential Communications

The Plan will accommodate an individual's reasonable request to receive communications of PHI by alternative means or at alternative locations where the request includes a statement that disclosure could endanger the individual.

You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI. Make such requests to the Plan's Privacy Official (at the address listed previously).

Section 4: The Plan's Duties

Maintaining Your Privacy

The Plan is required by law to maintain the privacy of your PHI and to provide you and your eligible dependents with notice of its legal duties and privacy practices.

This notice is written to inform you of the Plan's obligation to maintain the privacy of your PHI.
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In addition, the Plan is now required to notify you of anything the law defines as a breach of your unsecured PHI, and you have a right to, and will receive, appropriate notifications in the event of any such breach.

The Plan is required to comply with the terms of this Notice. However, 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 to you and to all past and present participants and beneficiaries for whom the Plan still maintains PHI.

The Privacy Notice will be provided via first class mail to all named participants. Any other person, including dependents of named participants, may receive a copy upon request.

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 of PHI,

- Your individual rights,
- The duties of the Plan, or
- Other privacy practices stated in this notice.

Disclosing Only the Minimum Necessary Protected Health Information

When using or disclosing PHI or when requesting PHI from another covered entity, the Plan will make reasonable efforts not to use, disclose 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.

<p>The Plan must limit its uses and disclosures of PHI or requests for PHI to the <i>minimum necessary</i> amount to accomplish its purposes.</p>
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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 you,
- Disclosures made to the Secretary of the U.S. Department of Health and Human Services pursuant to its enforcement activities under HIPAA,
- Uses or disclosures required by law, and
- Uses or disclosures required for the Plan’s compliance with legal regulations.

This notice does not apply to information that has been de-identified. De-identified information is information that:

- Does not identify you, and
- With respect to which there is no reasonable basis to believe that the information can be used to identify you.

In addition, the Plan may use or disclose “summary health information” to the Plan Sponsor for obtaining premium bids or modifying, amending or terminating the group health Plan. Summary information 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. Identifying information will be deleted from summary health information, in accordance with HIPAA.

The Plan Will Not Use or Disclose Genetic Information PHI for Underwriting

In accordance with the Genetic Information Nondiscrimination Act (“GINA”), the Plan will not use PHI that is genetic information for underwriting purposes. “Underwriting purposes” are broadly defined to include rules for eligibility, enrollment, cost sharing, computation of premium or computation amounts and incentives for participating in

wellness programs, as well as activities related to the creation, renewal, or replacement of health insurance or health benefits.

Section 5: Your Right to File a Complaint with the Plan or the HHS Secretary

If you believe that your privacy rights have been violated, you may file a complaint with the Plan's Privacy Official (at the address listed above).

You may also file a complaint with the U.S. Department of Health and Human Services, Office for Civil Rights (OCR), at the following website:

<http://www.hhs.gov/ocr/privacy/hipaa/complaints/index.html>

Alternatively, you can call OCR at 800-368-1019. The Plan will not retaliate against you for filing a complaint.

You have the right to file a complaint if you feel your privacy rights have been violated.

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

Section 6: If You Need More Information

If you have any questions regarding this notice or the subjects addressed in it, you may contact the Privacy Official at the Fund Office.

Section 7: Conclusion

PHI use and disclosure by the Plan is regulated by the federal Health Insurance Portability and Accountability Act, known as HIPAA. You may find these rules at 45 *Code of Federal Regulations* Parts 160 and 164. This notice attempts to summarize the regulations. The regulations will supersede this notice if there is any discrepancy between the information in this notice and the regulations.

Limitations on the Use and Disclosure of Genetic Information Policy Under GINA

This policy and procedure is adopted pursuant to Section 164.502(a)(5)(i) under the privacy rules under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by Health Information Technology for Economic and Clinical Health (HITECH) Act and the Genetic Information Non-Discrimination Act of 2008 (GINA). If the privacy rules are changed by HHS, the Plan will follow the revised rules.

I. Limitations on the Use and Disclosure of Genetic Information Privacy Policy Effective May 1, 2016

The Plan will not use or disclose PHI that is genetic information for underwriting purposes.

Genetic information includes, with respect to an individual, information about:

- The individual's genetic tests;

- The genetic tests of the individual’s family members;
- The manifestation of a disease or disorder in family members (described below) of such individual; or
- Any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by the individual or any family member (described below) of the individual.

References to “family members” include: parents, spouses, siblings, children, grandparents, grandchildren, aunts, uncles, nephews, nieces, great-grandparents, great-grandchildren, great aunts, great uncles, first cousins, great-great grandparents, great-great grandchildren and children of first cousins, whether by consanguinity (such as siblings who share both parents) or affinity (such as by marriage or adoption). In addition, references to genetic information of an individual or family member includes the genetic information of a fetus carried by the individual or family member, and any embryo legally held by an individual or family member using assisted reproductive technology.

Underwriting purposes is defined broadly to include:

- Rules for, or determination of, eligibility (including enrollment and continued eligibility) for, or determination of coverage for, benefits under the Plan. Among other items, this includes changes in deductibles or other cost sharing mechanisms in return for activities such as completing a health risk form or being in a wellness program;
- The computation of premium or contribution amounts under the Plan. Among other items, this includes discounts, rebates, payment in kind or any other premium differential mechanisms in return for completing a health risk assessment or participating in a wellness program;
- The application of any pre-existing condition exclusion under the Plan; and
- Other activities related to the creation, renewal or replacement of a contract of health insurance or health benefits.

Underwriting purposes do not include determinations of medical appropriateness where an individual seeks a benefit under the Plan.