

Division of Insurance and Retirement
MONTGOMERY COUNTY PUBLIC SCHOOLS
Rockville, Maryland

April 14, 2003

MEMORANDUM

To: All Montgomery County Public Schools Employees and Retirees

From: G. Wesley Girling, Director, Division of Insurance and Retirement

Subject: Health Insurance Portability and Accountability Act Privacy Notice

As a participant in a health plan offered by Montgomery County Public Schools (MCPS), you are entitled under federal law to receive a privacy notice that describes how the health plan may use and disclose your health information. The privacy notice describes how a health plan is permitted and required to use and disclose your health information and provides a description of your rights and the health plan's obligations under federal and state privacy laws.

A privacy notice for the MCPS Employee Benefit Plan, which is being given to each MCPS employee and retiree covered by the MCPS Employee Benefit Plan, is attached. A summary of the provisions in the notice is outlined below:

How a Health Plan May Use and Disclose Your Health Information

A health plan is permitted to use and disclose your health information for a number of different purposes. In some cases, you are entitled to object to such uses and/or disclosures and in other cases you are not entitled to object to certain uses and disclosures of your health information by the health plan. If a health plan wants to use or disclose your health information for a purpose not stated in the privacy notice, it may obtain your written authorization before it can use or disclose your health information. A health plan may use and disclose your information

- to pay for your health care treatment,
- to perform business management and general administrative activities,
- to law enforcement officials,
- for health oversight activities, and
- to avert a serious threat to the health or safety of an individual.

Please refer to the attached privacy notice for a complete listing of the purposes for which a health plan is permitted to use and disclose your health information.

Your Rights as a Participant in a Health Plan

Pursuant to federal law, you have a number of rights associated with your health information. Your rights include to

- restrict or limit how a health plan uses or discloses your health information,
- request confidential communications,
- inspect and copy your health information,
- amend your health information,
- an accounting of disclosures, and
- receive a paper copy of the privacy notice.

Obligations of a Health Plan

A health plan is required to provide you with a privacy notice and comply with its terms. However, a health plan may amend the privacy notice and apply such amendment to all of the health information it maintains.

Contact Information

A detailed privacy notice is enclosed. Please read it carefully. If you have any questions or require additional information about the privacy notice, please contact me in writing at 850 Hungerford Drive, Room 167, Rockville, Maryland 20850, or call 301-279-3611 before July 1, 2003. After July 1, 2003, questions should be forwarded to the director of Benefits Strategy and Vendor Relations in writing at 7361 Calhoun Place, Suite 401, Rockville, Maryland 20855, or call 301-517-8100.

GWG:vnb

Attachment

Approved:

Larry A. Bowers, Chief Operating Officer

**PRIVACY NOTICE
FOR MONTGOMERY COUNTY PUBLIC SCHOOLS
EMPLOYEE BENEFIT PLAN**

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.

This Privacy Notice describes how the self-insured components of the Montgomery County Public Schools' Employee Benefit Plan (the "Employee Benefit Plan"), and the Montgomery County Public Schools Employee Assistance Program (the "Employee Assistance Program"), may use and disclose your health information to carry out treatment, payment and health care operations and for other uses that are required or permitted by law. The self-insured components of the Employee Benefit Plan include the health, dental, prescription drug, and vision benefits for which Montgomery County Public Schools is the plan sponsor. Each of these self-insured component of the Employee Benefit Plan, and the Employee Assistance Program, is referred to in this Privacy Notice as a "Health Plan". Additionally, this Privacy Notice explains the rights you have with respect to your health information, and certain obligations the Employee Benefit Plan and Employee Assistance Program must abide by in accordance with the law.

Each health plan is required by law to maintain the privacy of your health information and provide you with this privacy notice outlining the health plan's legal duties and privacy practices with respect to your health information. Nothing contained in this privacy notice should be construed to supersede or limit any additional rights you may be entitled to under other applicable law. Therefore, if an applicable law affords you greater rights or more protections other than as described herein, each health plan will comply with the law that gives you greater rights and/or procedures.

Each health plan is required to abide by the terms of this privacy notice, but reserves the right to make additional changes to this privacy notice and to make such changes applicable to all your health information that such health plan maintains. If the Employee Benefit Plan makes any material revisions to this privacy notice, it will provide you with a copy of the revised privacy notice, which will specify the date on which such revised privacy notice becomes effective.

I. Use and Disclosure of Your Health Information

A health plan in which you are enrolled may use your health information for treatment, payment, and health care operations. A health plan also may use your health information for other purposes that are permitted and/or required by law and pursuant to your written authorization. The following lists examples of how a health plan may use and/or disclose your health information. Any other uses not described in this privacy notice will only be made with your explicit written authorization, which authorization you may revoke at any time by providing written notice of your revocation.

A. For Treatment

A health plan may disclose your health information to a health care provider that provides treatment to you. For example, in an emergency situation, a health plan may provide your health care provider with information regarding the type of prescription drugs you are currently taking if necessary for your proper treatment.

B. For Payment

A health plan will use your health information to obtain premium payments or to fulfill its responsibility for coverage and the provision of benefits under such health plan. For example, a health plan may receive and maintain information about a health care service you received in order to enable the health plan to process a claim from a physician for reimbursement for services provided to you.

C. For Health Care Operations

A health plan also may disclose your health information in connection with the management of such health plan. For example, a health plan may use and/or disclose your health information to evaluate the health plan's performance or to conduct or arrange for legal services and audit functions, including fraud and abuse detection and compliance programs. Additionally, a health plan may use your health information for business management and general administrative activities of a health plan, including but not limited to—(i) management activities relating to implementation of and compliance with law; (ii) customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided such information is not disclosed to such policy holder, plan sponsor, or customer; (iii) resolution of internal grievances; (iv) the sale, transfer, merger, or consolidation of all or part of a health plan with another covered entity, or an entity that following such activity will become a covered entity and due diligence related to such activity; and (v) fundraising for the benefit of a health plan.

For Treatment Alternatives

A health plan may use and disclose your health information to tell you about treatment options or alternatives that may be of interest to you.

D. For Health-Related Benefits and Services

A health plan may use and disclose your health information to tell you about health-related benefits or services that may be of interest to you.

E. To Family Members, Relatives, or Close Friends

Unless you object to such disclosure, a health plan may disclose your health information to your family members, relatives, or close personal friends or any other person identified by you as being involved in your treatment or payment for your medical care. If you are not present to agree or object to a health plan's disclosure of your health information to a

family member, relative, or friend, a health plan may exercise its professional judgment to determine whether the disclosure is in your best interest. If a health plan decides to disclose your health information to your family member, relative, or other individual identified by you, such health plan will only disclose the health information that is relevant to your treatment or payment.

F. Other Permitted and Required Uses and Disclosures

In some cases, a health plan may use your health information without obtaining your authorization and without offering you the opportunity to agree or object as follows:

- As required by law, provided, however, that the use or disclosure will be made in compliance with applicable law
- To a public health authority that is authorized by law to collect or receive such information or to a foreign government agency that is acting in collaboration with a public health authority
- To a health oversight agency for oversight activities authorized by law, including audits and inspections and civil, administrative, or criminal investigations, proceedings, or actions
- To a public health authority or to a government authority authorized by law to receive reports of abuse, neglect, or domestic violence
- For judicial or administrative proceedings
- For law enforcement purposes
- To a coroner or medical examiner to perform duties authorized by law
- To funeral directors, consistent with applicable law, as necessary to carry out their duties
- To organ procurement organizations or similar entities for the purpose of facilitating organ, eye, or tissue donation and transplantation
- For research purposes
- To avert a serious threat to health or safety, so long as the disclosure is only to a person who is reasonably able to prevent or lessen such threat
- For specialized government functions, such as the proper execution of a military mission or national security activities
- To a correctional institution or law enforcement custodian

- To the extent necessary to comply with laws relating to workers' compensation or other similar programs established by law that provide benefits for work-related injuries or illness without regard to fault
- To the plan sponsor of the health plan as permitted by law

II. Your Rights as a Participant in a Health Plan

As a participant in one or more of the health plans, you have a number of rights associated with your health information. The following describes your specific rights.

A. The Right to Request a Restriction or Limitation on the Use and Disclosure of Your Health Information

You have the right to request restrictions or limitations on how a health plan is allowed to use and/or disclose your health information; however, the health plan does not have to agree to your requested restriction or limitation. If you would like to request a restriction or limitation on a health plan's use or disclosure of your health information, please send your request in writing to the address listed at the end of this privacy notice. Your request must specify—(1) if you would like to restrict or limit health plan's use, disclosure, or both; (2) what information you would like to restrict or limit; and (3) to whom you want the limitation or restriction to apply (e.g., your spouse).

If a health plan agrees to a restriction or limitation of your health information, the restriction or limitation will not prevent such health plan from disclosing your health information as follows: (1) to you if you request access to your health information or if you request an accounting of disclosures; (2) for purposes required or permitted by law (e.g., to comply with laws relating to workers' compensation); or (3) in the case of an emergency, as described below.

If a health plan accepts your restriction or limitation regarding how such health plan may use or disclose your health information, the health plan may nevertheless disclose the restricted health information to a health care provider if you are in need of emergency care and your restricted health information is needed to provide emergency treatment to you. Before the health plan discloses your restricted health information to a health care provider during an emergency, the health plan will request that the health care provider that receives your health information not further use or disclose your health information.

If a health plan accepts your requested restriction or limitation, such health plan may terminate the restriction or limitation if—(1) you agree to the termination or request the termination in writing; (2) you orally agree to the termination and the oral agreement is appropriately documented; or (3) the health plan informs you that it is terminating the restriction or limitation provided, however, the health plan's termination would only be effective for health information the health plan creates or receives after the health plan informs you of the termination.

B. Right to Request Confidential Communications Via Alternative Means or Locations

You have the right to request receipt of health information from a health plan by alternative means or via alternative locations provided that you clearly state that the disclosure of all or part of your health information could endanger you. For example, you may want to receive communications related to your health care at a different address other than your home address because you could be in danger of harm if someone at that address saw such health information. If you wish to receive confidential communications via alternative means or locations, please submit your request to the address listed at the end of this privacy notice and set forth the alternative means by which you wish to receive communications or the alternative location at which you wish to receive such communications. A health plan will accommodate all reasonable requests.

C. Right to Access Your Health Information

You have the right of access to inspect and obtain a copy of your health information provided, however, you are not entitled to access health information that is: (1) contained in psychotherapy notes; (2) compiled in reasonable anticipation of or for use in a civil, criminal, or administrative action or proceeding; and (3) is either subject to the Clinical Laboratory Improvements Amendments of 1988 (CLIA) to the extent that the provision of access to the individual would be prohibited by law or is exempt from CLIA. To access your health information, please send your request in writing to the address listed at the end of this privacy notice. If a health plan does not have your health information in its possession, it will provide you with the appropriate contact information when your request is received. If you request a copy of your health information, you will receive a response to your request in a timely fashion but may be charged a reasonable, cost-based fee to cover copy costs and postage.

In some limited circumstances, a health plan may deny your request for access to health information. For example, a health plan may deny access to health information that is subject to the privacy act. A health plan also may deny you access to health information if such information was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information. If your request is denied for one of these reasons, you will not have the opportunity to review the denial.

Additionally, a health plan may deny you access to health information if—(1) access is reasonably likely to endanger the life and physical safety of you or someone else; (2) the access requested refers to another person and your access is reasonably likely to cause substantial harm to such other person; or (3) you are the personal representative of another individual and a health care professional determines that your access is reasonably likely to cause substantial harm to the individual or another person. If you are denied access for one of these reasons, you are entitled to review by a health care professional designated by the health plan who was not involved in the decision to deny access. If access is ultimately denied, you will be entitled to written explanation of the reasons for the denial.

D. Right to Receive an Accounting of Disclosures

You have the right to receive an accounting of disclosures of your health information made by a health plan, including disclosures to or by business associates of the health plan, for the period of six (6) years prior to the date on which you request an accounting of disclosures or such lesser period as you indicate provided, however, you are not entitled to receive an accounting of disclosures for disclosures that occurred prior to April 14, 2003. If you wish to receive an accounting of disclosures, please send your written request to the address listed at the end of this privacy notice. If a health plan does not have your health information in its possession, it will provide you with the appropriate contact information when it receives your request. You will receive a response to your request for an accounting of disclosures no later than 60 days after your request is received.

Notwithstanding the foregoing, your accounting of disclosures will not include any disclosures made—(1) to carry out treatment, payment, and/or health care operations; (2) directly to you; (3) incident to a use or disclosure otherwise permitted by law; (4) pursuant to your authorization; (5) to persons involved in your care; (6) for national security or intelligence purposes as permitted by law; (7) to correctional institutions or law enforcement officials as permitted by law; (8) as part of a limited data set in accordance with law; or (9) that occurred prior to April 14, 2003.

You will receive one request annually free of charge and, thereafter, a health plan may charge you a reasonable, cost-based fee for each subsequent request for an accounting of disclosures within the same 12-month period. A health plan will notify you of the cost for an accounting of disclosures and you may choose to withdraw or modify your request before you are charged any costs.

E. Right to Amend Your Health Information

If you believe a health plan has health information about you that is incorrect or incomplete, you may make a written request to the health plan stating the reasons to support your requested amendment. You have the right to request an amendment to your health information for as long as the health plan maintains your health information. If you would like to make a request to amend your health information, please send your request in writing to the address listed at the end of this privacy notice. If the health plan does not have your health information in its possession, it will provide you with the appropriate contact information when your request is received. You will receive a response to your request for an amendment no later than 60 days after the health plan receives your request. However, a health plan may deny your request for amendment if, for example, the health plan determines your requested health information was not created by such health plan or is already accurate and complete. You may respond to the denial by filing a written statement of disagreement. The health plan has the right to rebut your disagreement. If this occurs, you have the right to request that your original request, the denial, your statement of disagreement, and the rebuttal be included in future disclosures of your health information.

F. Right to Receive a Paper Copy of Your Privacy Notice

You have the right at any time to obtain a paper copy of this privacy notice, even if you receive this privacy notice electronically. If you have received an electronic copy of this privacy notice, but wish to obtain a paper copy of this privacy notice, please send your written request to the address listed at the end of this privacy notice.

III. Miscellaneous

A. Complaints

If you believe your privacy rights have been violated, you may file a complaint with the Employee Benefit Plan or with the Secretary of the Department of Health and Human Services. If you wish to file a complaint with the Employee Benefit Plan, please forward your written complaint to the address listed at the end of this privacy notice. If you choose to file a complaint, the Employee Benefit Plan is prohibited by law from retaliating against you for filing such complaint.

B. Effective Date

This notice is effective as of April 14, 2003.

C. Contact Information

If you need any additional information about this privacy notice, please contact the following:

Before July 1, 2003

Director, Division of Insurance and Retirement
850 Hungerford Drive, Room 167
Rockville, MD 20850
301-279-3611

After July 1, 2003

Director of Benefits Strategy and Vendor Relations
7361 Calhoun Place, Suite 401
Rockville, MD 20855
301-517-8100