

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.

NOTICE OF PRIVACY PRACTICES

<i>Effective Date:</i>	<i>April 14, 2003, revised September 23, 2013</i>
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THIS PRIVACY NOTICE IS PROVIDED BY the City of Portland as the Plan Sponsor of the self-insured Employee Group Health Plan and the Health Flexible Spending Arrangement (referred to as “the Plan”). This notice covers functions of the Plan to the extent the performance of those functions are in connection with providing medical care, including items and services paid for as medical care, directly or through insurance, reimbursement or otherwise.

The Health Insurance Portability and Accountability Act (HIPAA) is a federal law. The Plan is required by HIPAA to provide you with this notice. This notice describes the Plan’s privacy practices, legal duties, and your rights concerning your Protected Health Information (PHI). The Plan must follow the privacy practices described in this notice while it is in effect. This notice takes effect **April 14, 2003**. It will remain in effect until the Plan publishes and issues a new notice.

1 THE PLAN’S COMMITMENT TO YOUR PRIVACY

The Plan is committed to protecting the confidential nature of your medical information to the fullest extent of the law. In addition to various laws governing your privacy, the Plan has its own privacy policies and procedures in place. These are designed to protect your information. The Plan will continue to make protecting your privacy a priority.

2 THE PLAN’S LEGAL DUTIES

The Plan is required by applicable federal and state laws to keep certain information about you private. An example of this is your medical information. The Plan treats your medical and demographic information that it collects as part of providing your coverage, as “Protected Health Information (PHI)”. It is the Plan’s policy to maintain the privacy of PHI in accordance with HIPAA, except to the extent that applicable state law provides greater privacy protections. This Notice of Privacy Practices was drafted to be consistent with the HIPAA privacy

regulation. Any terms not defined in this Notice will have the same meaning as they have in the HIPAA privacy regulation.

The HIPAA Privacy Regulations generally do not "preempt" (or take precedence over) state privacy or other applicable laws that provide individuals greater privacy protections. As a result, to the extent state law applies, the privacy laws of a state, or other federal laws, rather than the HIPAA Privacy Regulation, might impose a privacy standard that the Plan is required to follow.

The Plan reserves the right to change the terms of this notice. The Plan may make the new notice provisions effective for all the PHI that it maintains. This includes information that the Plan created or received before it made the changes. Any revised notice will be provided to you by one of the following means: (1) by mail to the participant under the terms of your coverage; or (2) by delivery of the notice to the participant at his or her work location if the participant is an active employee of the plan sponsor. A copy of any revised notice will also be available on the Plan's website.

Anyone may request a copy of the Plan's notice at any time. For more information about the Plan's privacy practices, or for additional copies of this notice, please contact the Plan's Privacy Officer. Contact information is provided at the end of this notice.

3 THE PLAN'S PRIMARY USES AND DISCLOSURES OF YOUR PROTECTED HEALTH INFORMATION (PHI)

The Plan may use and disclose your Protected Health Information (PHI) without your specific authorization for the purposes of treatment, payment, and health care operations. To illustrate:

- **Treatment activities.** Activities performed by a health care provider related to the provision, coordination or management of health care provided to you. The Plan does not provide treatment, which is the role of a health care provider (your physician, a hospital or the like). However, the Plan may disclose PHI to your health care provider in order for that provider to treat you.
- **Payment activities.** Activities undertaken to obtain premiums or to determine or fulfill the Plan's responsibilities for coverage and provision of plan benefits. These include activities such as determining eligibility or coverage, utilization review activities, billing, claims management, and collection activities. For example, the Plan may use PHI to determine whether a particular medical service given or to be given to you is covered under the terms of your

coverage. The Plan may also disclose PHI to health care providers or other health plans for their payment activities, such as to coordinate benefits.

- **Health care operation activities.** Activities such as credentialing, business planning and development, quality assessment and improvement, premium rating, enrollment, underwriting, claims processing, customer service, medical management, fraud and abuse detection, obtaining legal and auditing services, and business management. For example, the Plan may use your PHI for underwriting, premium rating or other activities associated with the creation, renewal or replacement of a contract of health insurance or health benefits. The Plan may also disclose PHI to other health plans or health care providers for certain health care operation activities of their own as described in the HIPAA privacy regulation.

The Plan may also use your PHI to give you information about one of its disease/care management programs. The Plan may also give you information about treatment alternatives or other health-related benefits and services that may interest you. The Plan may disclose PHI to the sponsor of the Plan, provided that the Plan adopts certain protections required by federal law.

When using and disclosing your PHI in the Plan's payment and health care operation activities, the Plan may only request, use, and disclose the minimum amount of your PHI necessary to complete the activity.

The Plan may contract with others to assist it with treatment, payment or health care operation activities that involve the use of your PHI. Such third parties are referred to as the Plan's business associates. The Plan requires business associates to agree, in writing, to contract terms. These terms are specifically designed to safeguard PHI before it is shared with them. The Plan may also have business associates assist in the activities described in the following section that involve permitted uses and disclosures.

4 OTHER USES AND DISCLOSURES OF YOUR PROTECTED INFORMATION (PHI)

You and on Your Authorization. The Plan must disclose your PHI to you. This is described in the Individual Rights section of this notice, below. You may also give the Plan written authorization to use or disclose your PHI to anyone for any purpose. If you give the Plan an authorization, you may revoke it in writing at any time. Your revocation will not affect any use or disclosures permitted by your authorization while it was in effect. In general, and subject to specific conditions, the Plan will not use or disclose psychiatric notes without your authorization; the Plan will not use or disclose PHI that is genetic information for underwriting

purposes; the Plan will not sell your PHI, i.e. receive direct or indirect payment in exchange for your PHI, without your authorization; and the Plan will not use or disclose your PHI for fundraising purposes unless that activity is disclosed in this notice. Without your written authorization, the Plan may not use or disclose your PHI for any reason except as described in this notice.

The following is a description of other possible ways the Plan may (and are permitted by law to) use and/or disclose your PHI without your specific authorization.

- **Family and Friends.** If you are unavailable to agree, the Plan may disclose your PHI to a family member, friend or other person when the situation indicates that disclosure would be in your best interest. This includes a medical emergency or disaster relief. If you are available and agree, the Plan may disclose your PHI to a family member, friend or other person to the extent necessary to help with your health care or with payment for your health care.
- **Research. Death. Organ Donation.** The Plan may use or disclose your PHI for research purposes in limited circumstances specified in the HIPAA privacy regulation. The Plan may disclose the PHI of a deceased person to a coroner, medical examiner, funeral director, or organ procurement organization for certain purposes.
- **Public Health and Safety.** The Plan may disclose some of your PHI permitted by state law to the extent necessary to avert a serious and imminent threat to your health or safety or the health or safety of others. The Plan may disclose your PHI to a government agency that oversees the health care system or government programs or its contractors, and to public health authorities for public health purposes. The Plan may disclose your PHI to appropriate authorities if it reasonably believes that you are a possible victim of abuse, neglect, domestic violence or other crimes.
- **Required by Law.** The Plan may use or disclose your PHI when it is required to do so by law. For example, the Plan must disclose your PHI to the U.S. Department of Health and Human Services upon request in order to determine if it is in compliance with federal privacy laws. The Plan may disclose your PHI to comply with workers' compensation or similar laws.
- **Legal Process and Proceedings.** The Plan may disclose your PHI in response to a court or administrative order, subpoena, discovery request, or other lawful process. These disclosures are subject to certain administrative requirements imposed by the HIPAA privacy regulation and permitted by state law.

- **Law Enforcement.** The Plan may disclose limited information to a law enforcement official concerning the PHI of a suspect, fugitive, material witness, crime victim or missing person subject to certain administrative requirements approved by the HIPAA regulation and permitted by state law. The Plan may disclose the PHI of an inmate or other person in lawful custody to a law enforcement official or correctional institution under certain circumstances specified by the HIPAA privacy regulation. The Plan may also disclose PHI where necessary to assist law enforcement officials to capture an individual who has admitted to participation in a crime or has escaped from lawful custody.
- **Military and National Security.** The Plan may disclose to military authorities the PHI of Armed Forces personnel under certain circumstances specified by the HIPAA privacy regulation. The Plan may also disclose to authorized federal officials PHI required for lawful intelligence, counterintelligence, and other national security activities.

5 INDIVIDUAL RIGHTS WITH RESPECT TO YOUR PROTECTED HEALTH INFORMATION (PHI)

- **Access.** You have the right to inspect and obtain copies of your PHI for as long as your information is maintained in the Plan's designated record set. The Plan's designated record set includes records from its claims administrator's enrollment, billing, claims, and medical management systems, as well as any other records the Plan maintains in order to make decisions about your health care benefits. Your right of access to PHI does not extend to certain information. This includes information contained in psychotherapy notes or information compiled in reasonable anticipation of, or for use in a civil, criminal or administrative proceeding.

You may request that the Plan provide copies in a format other than photocopies. It will use the format you request unless it is not practical for it to do so. The Plan reserves the right to charge a reasonable fee for copies of PHI that it provides.

Any request to exercise your individual right of access to your PHI must be in writing. You may obtain a form to request access by using the contact information listed at the end of this notice. The Plan will respond to your request for access within 30 days of receiving the request. If all or any part of your request is denied, the Plan's response will detail any appeal rights you may have with respect to that decision.

Notwithstanding the formal process for your right of access, certain information related to enrollment and claims processing may be available to

you by contacting the Plan's claims administrator as part of its normal customer service function. You should contact the claims administrator first to see if your request can be satisfied as a customer service request.

- **Amendment.** You have the right to request that the Plan amend your PHI that it keeps in its designated record set if you believe it is inaccurate. A request that your PHI be amended must be done in writing. You may obtain a form to request amendment by using the contact information listed at the end of this notice. The Plan will respond to your request for amendment within 60 days of receiving the request.

If the Plan accepts your request to amend the information, it will notify you. The Plan will make reasonable efforts to inform other persons, including those identified by you as having received your PHI and needing the amendment. The Plan will also include the changes in any future disclosure of that information. If the Plan denies your request for reasons permitted by the HIPAA privacy regulations, its notice to you will explain any appeal rights you may have with respect to that decision.

Notwithstanding the formal process for your right of amendment, certain information related to enrollment and claims processing may be corrected by contacting the Plan's claims administrator. This is part of its normal customer service function. You should contact the claims administrator first to see if your request can be satisfied as a customer service request.

- **Breach.** You have a right to be notified upon a breach of your PHI.
- **Disclosure Accounting.** You have the right to request and receive an accounting of disclosures of your PHI made by the Plan. It is not required under the HIPAA privacy regulation to provide you with an accounting of certain types of disclosures. The most significant types include:
 - Any disclosures made prior to April 14, 2003.
 - Disclosures for treatment, payment or health care operations activities.
 - Disclosures to you or pursuant to your authorization.
 - Disclosures to persons involved in your care.
 - Disclosures for disaster relief, national security or intelligence purposes.
 - Disclosures that are incidental to a permitted use or disclosure.

To request an accounting of disclosures, you must send a written request to the contact office listed at the end of this notice. You may request one such accounting at no charge every 12 months. You may request that the accounting cover up to a 6 year period of reportable disclosures from the date of your request. The Plan will respond within 60 days of your request. It reserves the right to impose a reasonable charge for requests made more than once per year.

- **Confidential Communications.** You may believe that you will be in danger if the Plan communicates PHI to you to your address of record. If so, you have the right to request that the Plan communicate with you about your PHI at an alternative location or by alternate means. The Plan will make reasonable efforts to accommodate your request if you specify an alternate address. To request a confidential communication, you must direct your request to the contact office listed at the end of this notice.
 - **Restriction Request.** You have the right to request that the Plan restrict the use or disclosure of your PHI for treatment, payment or health care operation activities. You also have the right to request that the Plan restricts disclosures to relatives, friends, or other individuals that may be involved in your care or payment for your health care. The Plan is not required to agree to such a request for restriction. To request a restriction, you must direct your request to the contact office listed at the end of this notice.
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6 CONTACTING THE PLAN

Please contact the Plan at the address below.

- If you want a printed copy of the Plan's current notice
- If you want to access your PHI
- If you want to request an amendment to your PHI
- If you want to request an accounting of the Plan's disclosures of your PHI
- If you want to request a restriction on the Plan's use and disclosure of your PHI
- If you want the Plan to communicate with you at an alternative address or by alternate means because you believe that you are endangered
- If you have questions, concerns, or complaints about this notice or the Plan's privacy practices.

Contact Person:

Janice Kimball, Benefits Manager
389 Congress Street
Portland, Maine 04101
207-874-8629
207-874-8937 (fax)
jak@portlandmaine.gov

Privacy Officer:
Director of Human Resources
389 Congress Street
Portland, Maine 04101

As described in section 5 of this notice, you may also be able to access or amend certain information in enrollment, billing, or claims systems by contacting the claims administrator using the contact information on your ID card.

7 COMPLAINTS; NON-RETALIATION

You may also submit a written complaint to the Privacy Officer or the contact person above, or the Secretary of the United States Department of Health and Human Services if you believe your privacy rights have been violated.

THE PLAN MAINTAINS AND ENFORCES A POLICY OF NON-RETALIATION AGAINST THE PLAN'S MEMBERS, MEMBERS OF THE PLAN'S WORKFORCE, OR MEMBERS OF THE PUBLIC WHO BRING BREACHES (OR POTENTIAL BREACHES) OF THIS NOTICE TO THE ATTENTION OF THE PLAN'S PRIVACY OFFICER OR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.