

## HealthFlex Notice of Privacy Practices

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**This notice describes how medical information about you may be used and disclosed and how you can get access to this information. Please review carefully.**

This Notice of Privacy Practices (Notice) describes how the group health plan (Group Health Plan) and medical reimbursement account components of the Hospitalization and Medical Expense Program, known as HealthFlex (collectively the Plan) may use and disclose your protected health information (PHI), as defined in the Privacy Rule of the Administrative Simplification provision of the Health Insurance Portability and Accountability Act of 1996, as amended. This Notice also describes the Plan's legal duties with respect to your PHI, and your rights to access and control your PHI. For purposes of this Notice, references to "you" or "your" are references to the individuals covered by the Plan.

### Use and Disclosure of PHI

The following categories describe different ways that the Plan may use and disclose your PHI. However, this Notice does not contain an exhaustive description or list every use or disclosure in each of the categories.

**Disclosures to You** – Upon your request and under certain circumstances, the Plan is required to give you access to inspect or copy certain PHI in a designated record set, and to provide you with an accounting of disclosures of certain PHI made by the Plan. For further information, see *Right to Inspect and Copy Your PHI* and *Right to an Accounting* below.

**Disclosures to Personal Representatives** – The Plan may disclose your PHI to a person who qualifies as your personal representative in accordance with applicable law. However, you, or a person claiming to be your personal representative, must provide the Plan with evidence of the person's authority to qualify as your personal representative before that person will be given access to your PHI or allowed to take any action for you. Under certain circumstances, the Plan will not treat a person as your personal representative.

**Disclosures to Secretary of the U.S. Department of Health and Human Services** – The Plan will disclose your PHI when required by the Secretary of the U.S. Department of Health and Human Services to investigate and determine the Plan's compliance with the Privacy Rule.

**Payment** – The Plan may use or disclose your PHI to make payment to or collect payment from third parties, to determine or fulfill their responsibilities for coverage and the provision of benefits, or to obtain or provide reimbursement for the provision of your health care. For example, the Plan may provide information regarding your coverage or health care treatment to other health plans to coordinate payment of benefits.

**Health Care Operations** – The Plan may use or disclose PHI for its own operations to facilitate the administration of the Plan and as necessary to provide coverage and services to individuals covered by the Plan. Health care operation includes, but is not limited to: 1) quality assessment and improvement activities; 2) activities designed to improve health or reduce health care costs; 3) protocol development, case management and care coordination; 4) contacting health care providers and individuals with information about treatment alternatives and other related functions; 5) evaluating health plan performance; 6) health care professional competence or qualifications review and performance evaluation; 7) accreditation, certification, licensing or credentialing activities; 8) underwriting, premium rating or other activities related to the creation, renewal or replacement of health insurance or health benefits; 9) securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess risk insurance); 10) conducting or arranging for medical reviews, legal services and audit functions, including fraud and abuse detection and compliance programs; 11) business planning and development, including cost management and planning-related analysis and formulary development; and 12) business management and general administrative activities of the Plan, including customer service and resolution of internal grievances. For example, the Plan may use or disclose your PHI to conduct case management, quality improvement and utilization review, and provider credentialing activities or to engage in customer service and grievance resolution activities.

**Treatment Alternatives, Health-Related Benefits and Services** – The Plan may contact you to remind you about appointments or provide you with information about possible treatment options or alternatives that may be of interest to you. The Plan also may contact you to provide you with information on health-related benefits and services that may be of interest to you.

**Disclosures to Wespath Benefits and Investments (Wespath)** – The Plan, or a health insurer or HMO with respect to the Group Health Plan, may disclose to Wespath: 1) your PHI to Wespath for plan administration functions performed by Wespath on behalf of the Plan; 2) summary health information, so that Wespath may solicit premium bids from health insurers and HMOs, or modify, amend or terminate the Plan; and 3) information on whether you are participating in the Plan.

**Underwriting and Related Purposes** – The Plan may use or disclose your PHI for underwriting, premium rating or other activities relating to the creation, renewal or replacement of health insurance or health benefits. The Plan may not use or disclose genetic information for underwriting purposes.

**Business Associates** – The Plan contracts with individuals and entities (i.e., business associates) to perform various functions on the Plan's behalf or to provide certain types of services. The Plan may disclose your PHI to a business associate, and a business associate may create, receive and disclose your PHI on the Plan's behalf, if the Plan obtains satisfactory assurances that the business associate will appropriately safeguard the information.

**Organized Health Care Arrangement** – The Plan participates in an organized health care arrangement with the health insurers and HMOs that provide coverage through the Group Health Plan to provide you with certain benefits. As such, the Plan, health insurers and HMOs may share your PHI with each other as needed for the treatment, payment and health care operations relating to the organized health care arrangement. This Notice only applies to the privacy practices of the Plan. The privacy practices of the health insurers and HMOs are described in their respective notices of privacy practices.

**Persons Involved in Your Health Care** – The Plan may disclose to a family member, other relative, close personal friend or other person identified by you, PHI directly relevant to such person's involvement in your care or payment for your health care when you are present for, or otherwise available prior to, a disclosure and you are able to make health care decisions, if the Plan: 1) obtains your agreement; 2) provides you with the opportunity to object to the disclosure and you fail to do so; or 3) infers from the circumstances, based upon professional judgment, that you do not object to the disclosure.

However, if you are not present, or the opportunity to agree or object to the disclosure cannot practically be provided because of your incapacity or an emergency circumstance, the Plan may, in the exercise of professional judgment, determine whether the disclosure is in your best interest, and, if so, disclose only PHI that is directly relevant to the person's involvement in your health care.

**Required by Law** – The Plan may use or disclose your PHI when required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

**Health Oversight Activities** – The Plan may disclose your PHI to a health oversight agency for oversight activities authorized by law. These oversight activities include, but are not limited to, audits, civil, administrative or criminal investigations, inspections, licensure or disciplinary action, and other activities necessary for the appropriate oversight of the health care system, government programs and compliance with civil rights laws.

**Public Health Activities** – The Plan may disclose your PHI for public health activities that are permitted or required by law. These activities may include, but are not limited to, the following: 1) to prevent or control disease, injury or disability; 2) to report child abuse or neglect; and 3) to report reactions to medications or problems with products.

**Abuse, Neglect or Domestic Violence** – When required or authorized by law, or with your agreement, the Plan may disclose your PHI to a government authority, including a social service or protective services agency, if the Plan reasonably believes you to be a victim of abuse, neglect or domestic violence.

**Judicial and Administrative Proceedings** – As permitted or required by law, the Plan may disclose your PHI in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal as expressly authorized by such order. The Plan also may disclose your PHI in response to a subpoena, discovery request or other lawful process that is accompanied by an order of a court or administrative tribunal, if certain conditions are met.

**Law Enforcement Purposes** – As permitted or required by law, the Plan may disclose your PHI to a law enforcement official for certain law enforcement purposes. For example, the Plan may disclose your PHI: 1) in compliance with and as limited by a court order, subpoena, warrant, summons or similar process issued by a judicial officer; 2) to identify or locate a suspect, fugitive, material witness or missing person; 3) if you are, or are suspected to be, a victim of a crime; 4) if the Plan has a suspicion that your death was the result of criminal conduct or, in an emergency, to report a crime; or 5) if the Plan believes in good faith that the PHI constitutes evidence of criminal conduct that occurred on the Plan’s premises.

**Coroners and Medical Examiners** – The Plan may disclose your PHI to a coroner or medical examiner for the purpose of identifying you, determining the cause of your death, or performing other duties as authorized by law.

**Funeral Directors** – The Plan may also disclose your PHI to funeral directors, consistent with applicable law, as necessary to carry out their duties.

**Cadaveric Organ, Eye or Tissue Donation Purposes** – The Plan may use or disclose your PHI to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaver organs, eyes or tissue for the purpose of facilitating organ, eye or tissue donation and transplantation.

**Serious Threat to Health or Safety** – The Plan may, consistent with applicable law and ethical standards of conduct, use or disclose your PHI if the Plan, in good faith, believes that the use or disclosure: 1) is necessary to prevent or lessen a serious and imminent threat to your health or safety or to the health and safety of the public and is to the person(s) able to prevent or lessen the threat, including the target of the threat; or 2) is needed for law enforcement authorities to identify or apprehend an individual, provided that certain requirements are met.

**Specified Government Functions** – When permitted or required by law, the Plan may use or disclose your PHI to facilitate specified government functions related to the military and veterans, national security and intelligence activities, protective services for the President and others, and correctional institutions and inmates.

**Workers’ Compensation** – The Plan may disclose your PHI as authorized by and to the extent necessary to comply with laws related to workers’ compensation or similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.

### **Authorization to Use or Disclose PHI**

Other than as described above, the Plan will not use or disclose your PHI other than with your written authorization (e.g., psychotherapy notes, marketing and sale of PHI). If you authorize the Plan to use or disclose your PHI, you may revoke that authorization in writing at any time. The revocation will be effective for future uses and disclosures of your PHI. However, the revocation will not be effective for PHI that the Plan already used or disclosed in reliance upon the written authorization.

### **Impact of Other Laws**

Certain applicable federal or state laws may require special privacy protections. If a use or disclosure of your PHI is prohibited or materially limited by other applicable law, it is the Plan’s intent to meet the requirements of the more stringent law.

### **Your Rights with Respect to Your PHI**

The following is a brief description of certain rights that you have with respect to your PHI and how you may exercise such rights.

**Right to Request Restrictions** – You have the right to request restrictions on certain uses and disclosures of your PHI to carry out payment or health care operations, or to restrict disclosures to family members, relatives, close personal friends or other persons identified by you who are involved in your care or the payment of your health care. However, the Plan is not required to agree to your request, unless the disclosure is to a health plan to carry out payment or health care operations and the PHI relates to a health care item or service for which you have paid a health care provider out-of-pocket in full. If the Plan agrees to a requested restriction, the Plan may not use or disclose PHI in violation of such restriction, except if the restricted PHI is needed to provide you with emergency treatment. Any restriction agreed to by the Plan is not effective to prevent all uses or disclosures of the restricted PHI. For example, a restriction agreed to by the Plan is not effective to prevent uses or disclosures when required by the Secretary of the U.S. Department of Health and Human Services to investigate or determine the Plan’s compliance with the Privacy Rule, or uses or disclosures that are otherwise required by law. Under certain circumstances, a restriction may be terminated.

You must make a request for restrictions in writing. You may request restrictions by contacting the HealthFlex Plan Manager. It is important that you direct your request as indicated so that the Plan can process your request in a timely manner. Requests made of or sent to persons, offices or addresses other than indicated above might delay processing your request.

The process for handling such a request (once the identity of the individual is confirmed as described above) is as follows:

- 1) Request is forwarded to the HIPAA Privacy Officer (or designee).
- 2) HIPAA Privacy Officer considers the request. If the individual states that disclosure could endanger the individual, the HIPAA Privacy Officer will determine if the request is reasonable, and if it is, will grant the request. In other cases, the HIPAA Privacy Officer is not required to grant the request, but will make a decision on the request.
- 3) The decision of the HIPAA Privacy Officer is communicated to the individual.

**Right to Receive Confidential Communications** – You have the right to request that the Plan communicates with you in an alternative manner or at an alternative location, if you feel the disclosure of your PHI could endanger you. For example, you may ask that the Plan only communicates with you at a certain telephone number, address or by e-mail. You must make your request in writing, and you must state that the information could endanger you if it is not communicated in an alternative manner or location. The Plan will honor a request for a confidential communication if it is reasonable, specifies the alternative manner or location, and states that the disclosure of your PHI could endanger you.

You may request a confidential communication by contacting the HealthFlex Plan Manager. It is important that you direct your request as indicated so that the Plan can process your request as quickly as possible. Requests made of or sent to persons, offices or addresses other than indicated might delay processing the request.

**Right to Inspect and Copy Your PHI** – You have the right to inspect and copy your PHI in a designated record set, for so long as the Plan maintains the PHI in the designated record set. However, you may not inspect or receive a copy of psychotherapy notes or certain other information that may be contained in a designated record set. You may request that the Plan provides copies in a format other than photocopies. The Plan will use the format you request, unless the format is not readily producible. Your request may be subject to a reasonable cost-based fee.

You must make a request to inspect or copy PHI in writing. You may request to inspect and copy PHI by contacting the HealthFlex Plan Manager. It is important that you direct your request as indicated so that the Plan can process your request in a timely manner. Requests made of or sent to persons, offices or addresses other than as indicated might delay processing the request.

**Right to Amend Your PHI** – If you believe that your PHI or record about you in a designated record set is inaccurate or incomplete, you may request that the Plan amends the information. That request may be made as long as the Plan maintains the information in the designated record set. In certain cases, the Plan may deny your request for an amendment. For example, the Plan may deny your request if the information that you want to amend was not created by the Plan, or if the Plan determines that the information that you want to amend is accurate and complete. If the Plan denies your request to amend, the Plan will provide you with a written explanation. You may respond with a statement of disagreement to be appended to the information you wanted amended. If the Plan accepts your request to amend the information, the Plan will make reasonable efforts to inform others, including persons you name, of the amendment and to include the changes in any future disclosure of that information.

You must make a request to amend in writing, and it must explain why the information should be amended. You may request an amendment of PHI or records by contacting the HealthFlex Plan Manager. It is important that you direct your request as indicated so that the Plan can process your request in a timely manner. Requests made of or sent to persons, offices or addresses other than as indicated might delay processing the request.

**Right to an Accounting** – You have the right to request a list of certain disclosures of your PHI that the Plan is required to keep a record of under the Privacy Rule. This right does not extend to disclosures for treatment, payment or health care operations or certain other disclosures as set forth in the Privacy Rule, unless disclosures for treatment, payment or health care operations are made through an electronic health record. The request should specify the time period for which you are requesting the information. Accounting requests relating to treatment, payment or health care operations that are not made through an electronic health record may be made for periods of time less than six years from the date of the request,

but not for disclosures made before April 14, 2003. Accounting requests relating to treatment, payment or health care operations that are made through an electronic health record may be made for a period of time less than three years prior to the date an accounting is requested. The Plan will provide the first accounting you request during any 12-month period without charge. Subsequent accounting requests may be subject to a reasonable cost-based fee. The Plan will inform you in advance of the fee so that you may withdraw or modify the request for a subsequent accounting to avoid or reduce the fee.

You must make a request for an accounting of disclosures in writing. You may obtain a form to request an accounting of disclosures by contacting the HealthFlex Plan Manager. It is important that you direct your request as indicated so that the Plan can process your request in a timely manner. Requests made of or sent to persons, offices or addresses other than as indicated might delay processing the request.

**Right to Request Access to Certain Information in Electronic Format** – If the Plan uses or maintains an electronic health record with respect to your PHI, then you have the right to obtain a copy of the information in an electronic format.

**Right to a Paper Copy of this Notice** – You have a right to request and receive a paper copy of this Notice at any time, even if you have previously received this Notice electronically. To obtain a paper copy, please contact the HealthFlex Plan Manager. You also may obtain a copy of the current version of the Notice at [www.wespath.org/assets/1/7/3157.pdf](http://www.wespath.org/assets/1/7/3157.pdf).

### **Duties of the Plan**

The Plan is required by law to maintain the privacy of your PHI and to provide to you this Notice of its legal duties and privacy practices with respect to PHI. The Plan is required to notify all affected individuals following a breach of unsecured PHI. The Plan is required to abide by the terms of this Notice while in effect, which may be amended from time to time.

The Plan reserves the right to change its privacy practices and the terms of this Notice at any time, provided that such changes are permitted by applicable law. The Plan reserves the right to make the changes in its privacy practices and the new terms of this Notice effective for all PHI that the Plan maintains, including any PHI created, received or maintained by the Plan before the changes are made. If the Plan changes its privacy practices, the Plan will revise this Notice and will provide a copy of the revised Notice to all participants then covered by the Plan. The Plan will mail a paper copy of the revised Notice to the participant's home address.

Any revised version of this Notice will be distributed within 60 days of any material change to the uses or disclosures, the individual rights, the duties of the Plan or other privacy practices stated in this Notice. Except as required by law, a material change to any term of this Notice may not be implemented prior to the effective date of the revised Notice in which such material change is reflected.

### **Complaints**

If you believe that your privacy rights have been violated, you may file a complaint with the Plan. Any complaints to the Plan must be made in writing to the HealthFlex Plan Manager. You also may file a complaint with the Secretary of the U.S. Department of Health and Human Services. You will not be retaliated against in any way for filing a complaint with the Plan or the Secretary of the U.S. Department of Health and Human Services.

### **Contact Person**

The Plan has designated the HealthFlex Plan Manager as the contact person for complaints and request for additional information about the matters covered by this Notice. You may contact this person at:

Wespath Benefits and Investments (Wespath)  
Attention: HealthFlex Plan Manager  
1901 Chestnut Avenue, Glenview, IL 60025-1604  
Phone: 1-800-851-2201  
Fax: 1-847-869-4493

### **Effective Date**

This Notice is effective July 18, 2016.