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## **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) OVERVIEW**

The Health Insurance Portability and Accountability Act (HIPAA) was signed into federal law in 1996 as Public Law 104-191. One purpose of the law is to protect the portability of health insurance coverage for employees and their families if they change or lose their jobs. This is not discussed in detail here.

These pages focus on the part of the HIPAA legislation collectively known as Administrative Simplification which is designed to protect sensitive health care information and reduce the administrative burden of health care for health care providers. These sections mandated that the US Secretary of Health and Human Services adopted a series of rules to accomplish the goals of the law. The resulting rules, listed below with their effective date, have been fully adopted and implemented by the Department of Health Care Policy & Financing (Department).

- **HIPAA Transactions and Code Sets** (October 16, 2000)
- **HIPAA Privacy Rule** (February 26, 2001)
- **HIPAA Security Rule** (April 21, 2003)
- **Standard Unique Health Identifier for Health Care Providers** (May 23, 2005)

The **Transactions and Code Sets Rule** established standards for electronic transactions of health care information and for the code sets used in those transactions within the health care industry. The use of these standard transactions and code sets improves the administrative efficiency of the Department by allowing it to communicate with its providers via industry wide standards.

The **Privacy Rule** mandates that health plans (including Health First Colorado), health care providers and health care clearinghouses safeguard individuals' Protected Health Information (PHI) to prevent improper use and disclosure of that information, while providing basic individual rights to access and request amendment of this information. See the Department's [Notice of Privacy Practices](#) below (page 2).

The **Security Rule** establishes a level of security for PHI, either stored in electronic media (memory devices in computers or any removable/transportable digital memory medium) or exchanged in electronic communication media including the Internet, dial-up lines and private lines.

The **Standard Unique Health Identifier for Health Care Providers Rule** required that health care providers be uniquely identified by a single national number, which became known as the National Provider Identifier (NPI). The objective of this rule is to reduce the administrative burden on health care providers. Prior to the enforcement of this rule, providers usually needed to maintain a separate identification number for each health plan for which they provided services.

# **COLORADO NOTICE OF PRIVACY PRACTICES (HIPAA)**

Department of Health Care Policy and Financing

1570 Grant Street, Denver CO 80203-1818

[www.colorado.gov/hcpf](http://www.colorado.gov/hcpf) | <https://www.colorado.gov/hcpf/notice-privacy-practices>

HCPF Privacy Officer: 303-866-4366

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.

## **YOUR RIGHTS**

When it comes to your health information, you have certain rights. This section explains your rights and some of our responsibilities to help you.

### **Get a copy of your health and claims records**

- You can ask to see or get a copy of your health and claims records and other health information we have about you. Ask us how to do this.
- We will provide a copy or a summary of your health and claims records, usually within 30 days of your request. We reserve the right to charge a reasonable, cost-based fee.

### **Ask us to correct health and claims records**

- You can ask us to correct your health and claims records if you think they are incorrect or incomplete. Ask us how to do this.
- We may say “no” to your request, but we’ll tell you why in writing within 60 days.

### **Request confidential communications**

You can ask us to contact you in a specific way (for example, home or office phone) or to send mail to a different address.

We will consider all reasonable requests, and must say “yes” if you tell us you would be in danger if we do not.

### **Ask us to limit what we use or share**

- You can ask us not to use or share certain health information for treatment, payment, or our operations.
- We are not required to agree to your request, and we may say “no” if it would affect your care.

### **Get a list of those with whom we’ve shared information**

- You can ask for a list (accounting) of the times we’ve shared your health information for six years prior to the date you ask, who we shared it with, and why.
- We will include all the disclosures except for those about treatment, payment, and health care operations, and certain other disclosures (such as any you asked us to make). We’ll provide one accounting a year for free but will charge a reasonable, cost-based fee if you ask for another one within 12 months.

### **Get a copy of this privacy notice**

- You can ask for a paper copy of this notice at any time, even if you have agreed to receive the notice electronically. We will provide you with a paper copy promptly.

### **Choose someone to act for you**

- If you have given someone medical power of attorney or if someone is your legal guardian, that person can exercise your rights and make choices about your health information.

- We will make sure the person has this authority and can act for you before we take any action.

### **File a complaint if you feel your rights are violated**

- You can complain if you feel we have violated your rights by contacting us using the information on page 1.
- You can file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights by sending a letter to 200 Independence Avenue, S.W., Washington, D.C. 20201, calling 1-877-696-6775, or visiting [www.hhs.gov/ocr/privacy/hipaa/complaints/](http://www.hhs.gov/ocr/privacy/hipaa/complaints/).
- We will not retaliate against you for filing a complaint.

### **YOUR CHOICES**

For certain health information, you can tell us your choices about what we share. If you have a clear preference for how we share your information in the situations described below, talk to us. Tell us what you want us to do, and we will follow your instructions.

#### **In these cases, you have both the right and choice to tell us to:**

- Share information with your family, close friends, or others involved in payment for your care
- Share information in a disaster relief situation
- Contact you for fundraising efforts

If you are not able to tell us your preference, for example if you are unconscious, we may go ahead and share your information if we believe it is in your best interest. We may also share your information when needed to lessen a serious and imminent threat to health or safety.

#### **In these cases we never share your information unless you give us written permission:**

- Marketing purposes
- Sale of your information

### **OUR USES AND DISCLOSURES**

How do we typically use or share your health information?

We typically use or share your health information in the following ways.

#### Help manage the health care treatment you receive

- We can use your health information and share it with professionals who are treating you. Example: A doctor sends us information about your diagnosis and treatment plan so we can arrange additional services.

#### Run our organization

- We can use and disclose your information to run our organization and contact you when necessary.
- We are not allowed to use genetic information to decide whether we will give you coverage and the price of that coverage. This does not apply to long term care plans. Example: We use health information about you to develop better services for you.

#### Pay for your health services

- We can use and disclose your health information as we pay for your health services. Example: We share information about you with your dental plan to coordinate payment for your dental work.

#### Administer your plan

- We may disclose your health information to your health plan sponsor for plan administration. Example: Your company contracts with us to provide a health plan, and we provide your company with certain statistics to explain the premiums we charge.

### How else can we use or share your health information?

We are allowed or required to share your information in other ways – usually in ways that contribute to the public good, such as public health and research. We have to meet many conditions in the law before we can share your information for these purposes. For more information see: [www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/index.html](http://www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/index.html).

### Help with public health and safety issues

- We can share health information about you for certain situations such as:
  - Preventing disease
  - Helping with product recalls
  - Reporting adverse reactions to medications
  - Reporting suspected abuse, neglect, or domestic violence
  - Preventing or reducing a serious threat to anyone's health or safety

### Do research

- We can use or share your information for health research.

### Comply with the law

- We will share information about you if state or federal laws require it, including with the Department of Health and Human Services if it wants to see that we're complying with federal privacy law.

### Respond to organ and tissue donation requests and work with a medical examiner or funeral director

- We can share health information about you with organ procurement organizations.
- We can share health information with a coroner, medical examiner, or funeral director when an individual dies.

### Address workers' compensation, law enforcement and other government requests

- We can use or share health information about you:
  - For workers' compensation claims
  - For law enforcement purposes or with a law enforcement official
  - With health oversight agencies for activities authorized by law
  - For special government functions such as military, national security, and presidential protective services

### Respond to lawsuits and legal actions

- We can share health information about you in response to a court or administrative order, or in response to a subpoena.

There are federal and state laws that may protect or restrict certain types of health information from use or disclosure, such as information regarding HIV/AIDS, mental health, genetic tests, alcohol and drug abuse, sexually-transmitted diseases and reproductive health, and child or adult abuse or neglect.

## **OUR RESPONSIBILITIES**

- We are required by law to maintain the privacy and security of your protected health information.
- We will let you know promptly if a breach occurs that may have compromised the privacy or security of your information.
- We must follow the duties and privacy practices described in this notice and give you a copy of it.
- We will not use or share your information other than as described here unless you tell us we can in writing. If you tell us we can, you may change your mind at any time. Let us know in writing if you change your mind.

For more information

see: [www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/noticepp.html](http://www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/noticepp.html).

Changes to the Terms of This Notice

We can change the terms of this notice, and the changes will apply to all information we have about you. The new notice will be available upon request, on our web site, and we will mail a copy to you.

This notice applies to the Colorado Department of Health Care Policy and Financing. Please see top of page.

EFFECTIVE 9/17/2017 Notice of Privacy Practices

# **PRIVACY UNDER HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT**

**This section provides a general outline of the HIPAA Privacy provisions. Please seek legal counsel for answers to legal questions.**

The HIPAA Privacy rules define the rights of individuals, including members of Health First Colorado (Colorado's Medicaid Program) and all Medical assistance program beneficiaries, and the obligations of providers and others regarding the individual's Protected Health Information (PHI). The Privacy rules became effective on April 14, 2002, with nationwide implementation required two years later. The Department of Health Care Policy & Financing (Department) is fully compliant with the letter and the spirit of these rules.

The Privacy Rule protects all "individually identifiable health information" held or transmitted by a covered entity or its business associates, in any form or media, whether electronic, paper, or oral. The Privacy Rule calls this information "protected health information" (PHI). Health plans (including Health First Colorado), health care providers, and health clearinghouses are all covered entities under the rule.

While HIPAA sets a national minimum standard for protecting such patient information, it allows more stringent state laws to supersede the minimum standard.

## **Health Plans, Health Care Providers and Health Care Clearinghouses**

For entities covered by HIPAA, including Health First Colorado, the privacy rules define and limit the circumstances in which an individual's PHI may be used or disclosed. A covered entity may disclose some or all of a subject individual's PHI, even without specific authorization from the individual:

- to the subject individual when requested by the subject individual
- for treatment, payment and health care operations for the individual
- if incidental to an otherwise permitted use
- to others, if authorized in writing by the subject individual
- to others, if the subject individual has been given the opportunity to approve or deny this

A covered entity **must** disclose PHI:

- to the subject individual
- to the Secretary of Health and Human Services when it is to be used as part of an investigation or to determine compliance

In addition, covered entities are required by these rules to:

- provide notice of their privacy practices and a point of contact for further information and for submitting complaints
- limit disclosure of PHI to the minimum necessary (other than for health care treatment and certain other purposes)
- disclose to the individual to whom, when, and why PHI might be shared where it is authorized by these rules to do so
- amend health care records at an individual's request. Covered entities can deny the individual's request if it is accurate and complete or was not created by the covered entity receiving the request.

- track disclosures of PHI for other than 1) health care treatment, payment and operations, 2) to the subject individual or 3) for certain public benefit purposes.

Providers may not condition treatment, nor may health plans condition payment, upon a patient's signing an authorization.

### **Rights of Patients/Clients**

The HIPAA Privacy Rule specifies that clients/patients have the right:

- to see and have a copy of their health care information record
- to request changes to their health care record and if denied, to submit a statement of disagreement which will be included in the client/patient record
- to request that disclosure of their health care information be further restricted to that necessary for treatment, payment and limited other immediate needs
- to request a list of the instances when their health care information has been disclosed for other than a) treatment, b) payment, c) health care operations or when the disclosure was specifically approved in writing
- to request that communications of PHI be sent to alternative locations or by alternative means to further protect the privacy of the subject individual
- to file complaints with the Department of Health & Human Services' Office of Civil Rights.

### **Penalties for Non-Compliance**

Like other HIPAA rules, the Privacy Rules carries penalties for noncompliance unless the violation is due to reasonable cause, did not involve willful neglect and was corrected within 30 days.

All information can be found at: <https://www.colorado.gov/pacific/hcpf/health-insurance-portability-and-accountability-act-hipaa-0>