2010

Notice of Privacy Practices

Private Fee-for-Service

UPMC *for Life*

UPMC Health Plan Medicare Program

NOTICE OF PRIVACY PRACTICES

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!**

For many years, UPMC Health Plan has maintained a **Privacy Statement** that has explained our long-standing commitment to the rights of our prospective, current and former members concerning the privacy of their protected health information.

However, due to new federal Privacy Rules that are part of the Health Insurance Portability and Accountability Act (HIPAA), there are now very strict requirements on how health insurers and providers involved in providing your health care handle your protected health information (**PHI**). One of the provisions of these federal rules is the requirement that you be provided with a detailed explanation of how your PHI is protected and the rights that you have concerning the privacy of your PHI.

UPMC Health Plan has prepared this **Notice of Privacy Practices** to fulfill the requirements of the federal rules. We are required by law to follow the terms of this Notice. If we need to change any of the processes described in this Notice, we will send you a revised **Notice of Privacy Practices**.

PHI is the term used in the federal rules to refer to any information that is contained in files or records that a doctor, hospital, or health plan involved in your health care have that can link or identify that information as belonging to you. These "identifiers" include information such as your name, address, Social Security Number, ID numbers or other unique identifiers. For doctors and hospitals, your PHI is found in things such as medical records and clinical charts. For a health plan, such as UPMC Health Plan, your PHI is found in records such as claims processing and payment files and enrollment records. The HIPAA Privacy Rules ensure the privacy of your PHI in any format: oral, written, paper or electronic.

1 Use and disclosure of your PHI for treatment, payment and health care operations

According to the federal law, your PHI can only be used or disclosed by those people or companies that are subject to the HIPAA Privacy Rules for three very specific purposes: treatment, payment and health care operations. These are often referred to as "TPO."

The following are ways that UPMC Health Plan will use or disclose your PHI:

- **Treatment**
  Treatment primarily means the care and services provided by doctors and hospitals. However, we will assist your health care providers with any PHI that they may need in order to provide you with the health care you need.

- **Payment**
  There are many types of payment activities that UPMC Health Plan performs.
  - We pay the claims that your doctors, hospitals and other health care professionals send us for the services that they have provided to you. And we pay those claims and send you the Explanation of Benefits (EOBs) for those payments.
  - We will send out the premium bills for your health care benefits and collect the premium payments.
  - We confirm your eligibility of coverage to providers as well as to other insurers for such insurance activities as coordination of benefits and subrogation.
  - Payment activities also include utilization review processes - including prior authorization requests and disclosure to consumer reporting agencies relating to collection of premiums.

- **Health Care Operations.**
  This is a term that refers to a wide range of activities that we need to do to administer our health plan and to assure that we are providing you with quality health care.
  Examples of these operations include the following:
  - We use your PHI in measuring and evaluating how many of our members have received certain services (such as immunizations or mammograms).
  - We may use your PHI in the course of an accreditation survey, or for fraud and abuse prevention activities.
  - We may use your PHI in the process of revising a health benefits package at contract renewal time.

Please remember that we **use** your PHI only for the activities involved in treatment, payment and operations.

Furthermore, when we use your PHI, we do our best to use only the minimum necessary for the job at hand.

Disclosure is different than use.

To **"disclose"** your information means that we **share** it with someone outside of our company.

We disclose your PHI only for treatment, payment or operations, either:
- with others who are subject to these Privacy Rules who are also involved in your health care
- or with those vendors, agents or subcontractors with whom we have contracted to assist us in providing your health care services.

All these vendors or agents outside of our company have signed contracts with us in which they have promised to protect your PHI as required by the HIPAA Privacy Rules.

We also take special precaution to ensure that your employer or former employer does not get any individual PHI. We provide employers only with the information allowed under the federal law. This information includes summary data about their group and information concerning premiums and enrollment data. The only way that we would disclose your PHI to your employer is if you signed a written authorization directing us to do so.

Additionally, while we are always able to discuss your PHI with you, if you have someone else in your family contact UPMC Health Plan to ask about your health benefits, we must get your approval prior to being able to talk to that person. The federal regulations allow you to designate a personal representative to act on your behalf. We have no way of knowing if the person who has contacted us has your permission to discuss your PHI unless you confirm that to us. UPMC Health Plan has developed a Personal Representative Designation Form for this purpose.

2 Uses and disclosures of your PHI that do not require your written authorization

The federal rules also state that there are certain activities beyond treatment, payment and health care operations that do **not** require your authorization for the use or disclosure of your PHI. These activities - and examples of what they involve - are as follows:

a) **When required by law:**
This means that if any federal or state agency - such as the federal Department of Health & Human Services - asks for records or documentation to show our compliance with the requirements of the HIPAA regulations, we may use or disclose files containing your PHI.

b) **For public health reasons:**
This means that if a county health department were to contact us about statistics concerning a chronic disease, such as diabetes, we would share information that could include data concerning the PHI of any of our members who have diabetes.

c) **In cases of abuse or neglect:**
This means that if a government agency or social services agency contacted us concerning a case of domestic violence and asked us for records or information, we would comply with the request.

d) **For health oversight activities:**
This means that if the **Department of Health & Human Services** were to perform an audit, an accreditation survey or a compliance examination of UPMC Health Plan, the examiners might review files containing some of your PHI.

e) **Legal Proceedings:**
This means that if we were served a subpoena or a court order, we would provide whatever information was required.

f) **Law Enforcement:**
This means that if a law enforcement officer were to require information needed for purposes of identifying a missing person or material witness, we would provide the information requested.

g) **Coroners and Funeral Directors:**
This means that we would share information with a coroner or medical examiner to identify a deceased person, determine a cause of death - or make any disclosure as authorized by law. We may also share information with a funeral director as necessary for any burial purposes.

h) For purposes of Organ Donation:
This means that if an organization involved in organ procurement or transplantation needed information concerning a member's decision to donate an organ or to undergo a transplant, we would provide information to facilitate our member's wishes.

i) Research:
This means that if a medical researcher wished to use PHI maintained by UPMC Health Plan, our Medical Directors and Quality Improvement Committee would review the research project:
- to ensure that the researcher would not further disclose the information
- and to verify that summary information could not be used instead.

However, if the research project were a clinical trial or treatment program that required your active participation, we would contact you and request your authorization prior to disclosing any information to the researcher.

j) To avert serious threat to health or safety:
This means that if there were some emergency and any of the PHI that we have in our files could be used to either prevent or lessen the seriousness of the emergency, we would use the PHI to do so.

k) For specific government requirements or emergencies, such as national security and intelligence activities:
This means that in the event that federal or state agencies informed UPMC Health Plan of a need to access PHI during a time of national crisis or for protective services for the President and others, we would comply with their need.

l) Worker's Compensation:
This means that we may need to report information concerning records that we have that are relevant to any job-related injuries that by state law are considered to be involved in worker compensation coverage.

Any and all other uses or disclosures of your PHI other than described above require your prior written authorization.
UPMC Health Plan/Health Benefits will honor the specific requirements of your authorizations — including any revocation of an authorization that you have previously given us.

We have developed a Member Authorization Form that can be obtained by contacting the Member Services Department at the number on the back of your ID card. All completed authorization forms must be submitted back to the Member Services Department.

If we need to obtain your authorization for any use or disclosure beyond those needed for treatment, payment or operations, we will contact you to request your written authorization.

3 Your Individual Rights

The HIPAA Privacy Regulations give you several important rights that all health care providers and health plans involved in your health care must honor. These rights - and the processes to exercise these rights - are as follows:

a) To request restrictions on certain uses and disclosures of your PHI:

- According to federal regulations, you can request that we restrict how we use and disclose your PHI for treatment, payment or health care operations, as defined in the federal HIPAA regulations. (Please refer to Section 1 of this Notice).
- Federal regulations do not allow us to agree to any restriction for use or disclosure required for any emergency treatment that you might need, nor any of the disclosures established by the federal regulations as not requiring your authorization. Please refer to Section 2 of this Notice for further information concerning these types of disclosures.
- We have prepared a form that you can complete and submit to request restriction. The Member Services Department can provide you with this form.
- Once you have completed this form, if we have any questions about the information you provided, we will contact you at the phone number indicated on the form to review the information with you.
- Please note if we need to use or disclose your PHI for any purposes beyond treatment, payment and operations with any other provider or organization covered under HIPAA regulations, we will contact you and request your authorization to do so. **You do not need to complete this request form as additional protection against unauthorized disclosures.**
- We will respond to your request for restriction of use and disclosure of your PHI in writing.
- Federal regulations do not require us to agree with your request for restriction. If we are unable to agree to your request for restriction, our response will contain the reasons for which we cannot agree to the restriction request.
- If we agree to the restriction and then need to terminate this agreement, we will contact you in writing again to explain the reason for the termination of the previous agreement.

b) To request confidential communications of your PHI:

- You have the right to request that we communicate with you concerning your PHI in an alternative mode of communication or to an alternate address.
- We will accommodate any reasonable request for alternate mode of communication or alternate address.
- We cannot, however, agree to electronic mailing of an ID card at this time.
- Please remember that electronic communications are, by their nature, not encrypted or completely secure. We will **not** be responsible for disclosures caused by member request to provide confidential communication to invalid fax numbers or incorrect e-mail addresses.
- We have prepared a form that you can complete and submit to request confidential communication. The Member Services Department can provide you with this form.
- Once you have completed this form, if we have any questions about the information you provided, we will contact you at the phone number indicated on the form to review the information with you.
- If we have any concerns that your request (in part or all) could endanger your well-being and/or the effectiveness of our arrangement for the provision of your health care, we will contact you to let you know of our concerns.
- If, in our review of your request, we are unable to accommodate your request, we will contact you in writing.

c) <u>To have access and obtain copy of your PHI:</u>

- You have a right to have access to your PHI that we have in our files. **However, please remember that we do not collect or maintain any medical records or hospital charts.** We can only provide you access to the PHI that we have in our records.
- The PHI that we have consists mainly of the information from the claims that your health care providers have submitted to us, as well as enrollment information and the files for member services logs, utilization review files or files for any complaints or grievances that you have filed with us.
- Federal regulations have established three exceptions to the type of information to which you can have access. These exclusions concern: psychotherapy notes, information compiled for use in a civil, criminal or administrative proceedings, and health information that is covered by certain federal laws concerning clinical laboratories.
- According to federal regulations, we must act on your request no later than 30 days after the receipt of this request form.
- We have prepared a form that you can complete and submit to request access to your PHI. The Member Services Department can provide you with this form.
- Once you have completed this form, if we have any questions about the information you provided, we will contact you at the phone number indicated on the form to review the information with you.
- If, in our review of your request for access, we are unable to provide you the access requested, we will contact you in writing and explain the reason for the denial of the access you requested and the process to appeal this denial - if the grounds for denial are reviewable.
- Federal regulations allow us to charge you for the cost of copying the materials and the postage involved in shipment.

d) <u>To request an amendment of your PHI:</u>

- According to federal regulations, you have the right to request an amendment of the PHI that we have in our files.
- We must act on your request for amendment no later than 60 days after the receipt of this completed request form.
- Please remember that the federal regulations do not require us to agree to the amendment that you have requested.
- We have prepared a form that you can complete and submit to request amendment to your PHI. The Member Services Department can provide you with this form.
- Once you have completed this form, if we have any questions about the information you provided, we will contact you at the phone number indicated on the form to review the information with you.
- If, for some reason, there is a delay in our ability to make a decision concerning your request to amend your PHI, we will notify you in writing and let you know the reason for the delay and the date by which we will be able to provide you with our decision.
- If, in our review of your request to amend your PHI, we are unable to agree to the amendment you have requested, we will contact you in writing.
- We will explain the reason for the denial of the request for amendment and the process for you to submit a "Statement of Disagreement" with our denial of your request to amend. You are not required to submit this statement, but it is an option that you have.
- In the event that you submit such a statement, federal regulations allow us to prepare a written rebuttal to your statement. We will provide you with a written copy of any such rebuttal statement.

- Federal regulations also require that any Statement of Disagreement and Rebuttal for any denied request to amend PHI be appended or otherwise linked to the PHI in question.

e) To receive an accounting of disclosures of your PHI made by UPMC Health Plan/UPMC Health Benefits after April 14, 2003:

- According to the HIPAA Privacy Rules, there are certain disclosures that are excluded from any accounting requirements. The following disclosures will not be provided as part of your request for accounting:
  - Those disclosures made for purposes of treatment, payment and operations (please refer to Section 1 of this Notice for explanation of what these terms mean), as permitted by the HIPAA Privacy Rules
  - Those that we have already made to you about your PHI
  - Those that have been made to our contracted vendors for provision of your health care benefits or to any personal representative you have designated
  - Those that we have made based on authorization that you have signed
  - Those made for purposes of national security or intelligence activities
  - Those made as part of a limited set of information provided for research purposes
  - Those made to law enforcement officials
  - Those that occurred prior to April 14, 2003
- Accounting of disclosure requests concern disclosures of PHI that have been made six years prior to the date on which the accounting is requested - but after the April 14, 2003 HIPAA Privacy Rule compliance date.
- According to federal regulations, we must act on your request no later than 60 days after the receipt of this completed request form. The accounting sent to you will be in written format and in the format stipulated by the HIPAA Privacy Rules.
- We have prepared a form that you can complete and submit to request an accounting of the disclosures that we have made of your PHI. The Member Services Department can provide you with this form.
- Once you have completed this form, if we have any questions about the information you provided, we will contact you at the phone number indicated on the form to review the information with you.
- If - for some reason, there is a delay in our ability to provide you with the requested accounting within that time period, we will notify you and let you know the reason for the delay and the date by which we will be able to provide you with our decision.
- Federal regulations state that the first accounting of PHI provided to you in any 12-month period shall be made without charge, but that a reasonable, cost-recovery based fee may be made for all subsequent accounting requests in the same 12-month period.

This Notice of Privacy Practices is being provided to all UPMC Health Plan members on paper - but is also available electronically on UPMC Health Plan's web site (http://www.upmchealthplan.com).

For those accessing this notice electronically, you also have the right to obtain a paper copy of this Notice, and can do so by calling the Member Services number on the back of your ID Card and requesting that it be mailed to you.

4 UPMC Health Plan/UPMC Health Benefits' Duties

a) We are required by law to maintain the privacy of your PHI and to provide you with this notice of our company's privacy practices with respect to the PHI of all our members.
b) We are required by law to abide by the terms of the notice currently in effect.
c) We reserve the right to change the terms of our **Notice of Privacy Practices**. If we need to make any changes to the policies and procedures that we have described in this notice, we will mail you a revised notice that replaces this one, and make it available on our website. The revised notice will have a new effective date.

5 Privacy Complaints

If you feel that your privacy rights - as explained in this Notice - have been violated, you may complain to UPMC Health Plan or to the Secretary of Health & Human Services through the Office for Civil Rights (OCR).

In order to file a complaint, please contact either the Member Services Department at the number on the back of your Member ID card, or you may contact UPMC Health Plan's Privacy Officer.

Please remember that we will not take any action against you for filing a complaint. This is one of your rights.

If our investigation of your complaint confirms that there has been a breach of your privacy through the actions of one of our employees or contractors, we will do our best to undo or lessen any harmful effects. We will take disciplinary action against the employee or contractor who has caused the violation.

6 Privacy Contact

If you have any questions concerning this notice or wish to file a complaint directly with UPMC Health Plan's Privacy Officer or obtain the contact information for the Secretary of Health & Human Services, you may write or call as follows:

UPMC Health Plan Privacy Officer
One Chatham Center - Suite 800
112 Washington Place
Pittsburgh, Pennsylvania 15219
Telephone: 1-877-574-5517 (toll free)
TTY/TDD: 1-800-361-2629

7 Effective Date

This notice is effective as of April 14, 2003.

UPMC *for Life*

UPMC Health Plan Medicare Program

If you have questions and are a current UPMC *for Life* member, contact us at **1-877-539-3080**, 8 a.m. to 8 p.m., seven days a week.

TTY/TDD users should call **1-800-361-2629**.

From March 2 through November 14, you may receive a messaging service on weekends and holidays. Please leave a message and your call will be returned the next business day.

UPMC HEALTH PLAN

One Chatham Center
112 Washington Place
Pittsburgh, PA 15219

www.upmchealthplan.com/medicare

Copyright 2009 UPMC Health Plan, Inc. All Rights Reserved.
MC NOPP PFFS C20090916-15 (CK) 12/01/09 1.6M SS