

# **EMPLOYEE BENEFIT TRUST OF EASTERN PENNSYLVANIA**

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Participating Districts:  
Colonial I.U. 20  
Pen Argyl School District  
Nazareth School District  
Northampton School District  
Bethlehem Area Vo-Tech  
Career Institute of Technology

Monroe Career & Technical  
Institute  
Delaware Valley School District  
East Stroudsburg School District  
Pleasant Valley School District  
Stroudsburg School District  
Wilson Area School District

## **NOTICE OF PRIVACY PRACTICES FOR THE EMPLOYEE BENEFIT TRUST OF EASTERN PENNSYLVANIA AND MEMBER EMPLOYER**

THIS NOTICE IS ISSUED ON BEHALF OF THE FOLLOWING COVERED ENTITIES:

**EMPLOYEE BENEFIT TRUST OF EASTERN PENNSYLVANIA (TRUST)**

**BETHLEHEM AREA VOCATIONAL TECHNICAL SCHOOL**

**CAREER INSTITUTE OF TECHNOLOGY**

**COLONIAL INTERMEDIATE UNIT #20**

**DELAWARE VALLEY SCHOOL DISTRICT**

**EAST STROUDSBURG AREA SCHOOL DISTRICT**

**MONROE CAREER AND TECHNICAL INSTITUTE**

**NAZARETH AREA SCHOOL DISTRICT**

**NORTHAMPTON AREA SCHOOL DISTRICT**

**PEN-ARGYL AREA SCHOOL DISTRICT**

**PLEASANT VALLEY SCHOOL DISTRICT**

**STROUDSBURG AREA SCHOOL DISTRICT**

**WILSON AREA SCHOOL DISTRICT**

THIS NOTICE IS ALSO ISSUED IN CONNECTION WITH ANY FSA, HRA, OR EAP SPONSORED BY AN EMPLOYER.

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 NOTICE IS CONTINUED ON THE FOLLOWING PAGES.**

**Effective Date of Notice  
April 1, 2020**

The Covered Entities are required by law to take reasonable steps to ensure the privacy of your personally identifiable health information and to inform you about:

1. Their uses and disclosures of Protected Health Information (PHI);
2. Your privacy rights with respect to your PHI;
3. Their duties with respect to your PHI;
4. Your right to file a complaint with the Covered Entity and to the Secretary of the U.S. Department of Health and Human Services; and
5. The person or office to contact for further information about the Covered Entities' privacy practices.

The term "Protected Health Information" (PHI) includes all individually identifiable health information transmitted or maintained by the Covered Entities, regardless of form (oral, written, electronic).

**Section 1.  
Notice of PHI Uses and Disclosures**

**Required PHI Uses and Disclosures**

Upon your request, a Covered Entity is required to give you access to your PHI in order to inspect and copy it.

Use and disclosure of your PHI may be required by the Secretary of the Department of Health and Human Services to investigate or determine a Covered Entity's compliance with the privacy regulations.

Uses and disclosures to carry out treatment, payment and health care operations.

A Covered Entity and its business associates will use PHI without your authorization to carry out treatment, payment and health care operations in connection with medical, prescription drug, dental and vision benefits and also in connection with any FSA, HRA or EAP sponsored by the Employer. A Covered Entity and its business associates (and any health insurers providing benefits to Plan participants) may also disclose the following to the a Covered Entity: (1) PHI for purposes related to Plan administration (payment and health care operations); (2) summary health information for purposes of health or stop loss insurance underwriting or for purposes of modifying a Plan; and (3) enrollment information (whether an individual is eligible for benefits under a Plan).

*Treatment* is the provision, coordination or management of health care and related services. It also includes but is not limited to consultations and referrals between one or more of your providers.

For example, a Covered Entity may disclose to a treating physician the name of your treating radiologist so that the physician may ask for your X-rays from the treating radiologist.

*Payment* includes but is not limited to actions to make coverage determinations and payment (including billing, claims processing, subrogation, reviews for medical necessity and appropriateness of care, utilization review and preauthorizations).

For example, a Covered Entity may tell a treating doctor whether you are eligible for coverage or what percentage of the bill will be paid by a Plan.

*Health care operations* include but are not limited to quality assessment and improvement, reviewing competence or qualifications of health care professionals, underwriting, premium rating and other insurance activities relating to creating or renewing insurance contracts. It also includes case management, conducting or arranging for medical review, legal services and auditing functions including fraud and abuse compliance programs, business planning and development, business management and general administrative activities. However, no genetic information can be used or disclosed for underwriting purposes.

For example, a Covered Entity may use information to project future benefit costs or audit the accuracy of its claims processing functions.

Uses and disclosures that require that you be given an opportunity to agree or disagree prior to the use or release.

Unless you object, a Covered Entity may provide relevant portions of your protected health information to a family member, friend or other person you indicate is involved in your health care or in helping you receive payment for your health care. Also, if you are

not capable of agreeing or objecting to these disclosures because of, for instance, an emergency situation, a Covered Entity will disclose protected health information (as it determines) in your best interest. After the emergency, the Covered Entity will give you the opportunity to object to future disclosures to family and friends.

Uses and disclosures for which your consent, authorization or opportunity to object is not required.

The Covered Entity is allowed to use and disclose your PHI without your authorization under the following circumstances:

- (1) For treatment, payment and health care operations.
- (2) Providing enrollment information.
- (3) Summary health information can be provided for the purposes designated above.
- (4) When required by law.
- (5) When permitted for purposes of public health activities, including when necessary to report product defects and to permit product recalls. PHI may also be disclosed if you have been exposed to a communicable disease or are at risk of spreading a disease or condition, if required by law.
- (6) When required by law to report information about abuse, neglect or domestic violence to public authorities if there exists a reasonable belief that you may be a victim of abuse, neglect or domestic violence. In such case, a Covered Entity will promptly inform you that such a disclosure has been or will be made unless that notice would cause a risk of serious harm. For the purpose of reporting child abuse or neglect, it is not necessary to inform the minor that such a disclosure has been or will be made. Disclosure may generally be made to the minor's parents or other representatives although there may be circumstances under federal or state law when the parents or other representatives may not be given access to the minor's PHI.
- (7) A Covered Entity may disclose your PHI to a public health oversight agency for oversight activities required by law. This includes uses or disclosures in civil, administrative or criminal investigations; inspections; licensure or disciplinary actions (for example, to investigate complaints against providers); and other activities necessary for appropriate oversight of government benefit programs (for example, to investigate Medicare or Medicaid fraud).

(8) A Covered Entity may disclose your PHI when required for judicial or administrative proceedings. For example, your PHI may be disclosed in response to a subpoena or discovery request.

(9) When required for law enforcement purposes, including for the purpose of identifying or locating a suspect, fugitive, material witness or missing person. Also, when disclosing information about an individual who is or is suspected to be a victim of a crime but only if the individual agrees to the disclosure or the Covered Entity is unable to obtain the individual's agreement because of emergency circumstances. Furthermore, the law enforcement official must represent that the information is not intended to be used against the individual, the immediate law enforcement activity would be materially and adversely affected by waiting to obtain the individual's agreement and disclosure is in the best interest of the individual as determined by the exercise of the Covered Entity's best judgment.

(10) When required to be given to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death or other duties as authorized by law. Also, disclosure is permitted to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent.

(11) When consistent with applicable law and standards of ethical conduct if the Covered Entity, in good faith, believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and the disclosure is to a person reasonably able to prevent or lessen the threat, including the target of the threat.

(12) When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.

Except as otherwise indicated in this notice, uses and disclosures will be made only with your written authorization subject to your right to revoke such authorization.

#### Uses and disclosures that require your written authorization.

Other uses or disclosures of your protected health information not described above will only be made with your written authorization. For example, in general and subject to specific conditions, the Covered Entity will not use or disclose your psychiatric notes; the Covered Entity will not use or disclose your protected health information for marketing; and the Covered Entity will not sell your protected health information, unless you provide a written authorization to do so. You may revoke written authorizations at any time, so long as the revocation is in writing. Once the Covered Entity receives your written revocation, it will only be effective for future uses and disclosures. It will not be effective

for any information that may have been used or disclosed in reliance upon the written authorization and prior to receiving your written revocation.

## **Section 2 Rights of Individuals**

### **Right to Request Restrictions on Uses and Disclosures of PHI**

You may request a Covered Entity to restrict the uses and disclosures of your PHI. However, a Covered Entity is not required to agree to your request (except that the Covered Entity must comply with your request to restrict a disclosure of your confidential information for payment or health care operations if you paid for the services to which the information relates in full, out of pocket).

You or your personal representative will be required to submit a written request to exercise this right.

Such requests should be made to a Covered Entity's Privacy Official.

### **Right to Request Confidential Communications**

A Covered Entity will accommodate reasonable requests to receive communications of PHI by alternative means or at alternative locations if necessary to prevent a disclosure that could endanger you.

You or your personal representative will be required to submit a written request to exercise this right.

Such requests should be made to a Covered Entity's Privacy Official.

### **Right to Inspect and Copy PHI**

You have a right to inspect and obtain a copy of your PHI contained in a "designated record set," for as long as the Covered Entity maintains the PHI. If the information you request is in an electronic designated record set, you may request that these records be transmitted electronically to yourself or a designated individual.

*"Protected Health Information"* (PHI) includes all individually identifiable health information transmitted or maintained by a Covered Entity, regardless of form.

*"Designated Record Set"* includes the medical records and billing records about individuals maintained by or for a covered health care provider; enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a Covered Entity; or other information used in whole or in part by or for the Covered Entity to make decisions about individuals. Information used for quality control or peer review analyses and not used to make decisions about individuals is not in the designated record set.

The requested information will be provided within 30 days if the information is maintained on site or within 60 days if the information is maintained off site. A single 30-day extension is allowed if the Covered Entity is unable to comply with the deadline.

You or your personal representative will be required to submit a written request to request access to the PHI in your designated record set. Such requests should be made to the Covered Entity's Privacy Official.

If access is denied, you or your personal representative will be provided with a written denial, setting forth the basis for the denial, a description of how you may appeal the Covered Entity's decision and a description of how you may complain to the Secretary of the U.S. Department of Health and Human Services.

A Covered Entity may charge a reasonable, cost-based fee for copying records at your request.

### **Right to Amend PHI**

You have the right to request a Covered Entity to amend your PHI or a record about you in your designated record set for as long as the PHI is maintained in the designated record set.

A Covered Entity has 60 days after the request is made to act on the request. A single 30-day extension is allowed if a Covered Entity is unable to comply with the deadline. If the request is denied in whole or part, the Covered Entity must provide you with a written denial that explains the basis for the denial. You or your personal representative may then submit a written statement disagreeing with the denial and have that statement included with any future disclosures of your PHI.

Such requests should be made to a Covered Entity's Privacy Official.

You or your personal representative will be required to submit a written request to request amendment of the PHI in your designated record set.

### **Right to Receive an Accounting of PHI Disclosures**

At your request, a Covered Entity will also provide you an accounting of disclosures by the Covered Entity of your PHI during the six years prior to the date of your request. However, such accounting will not include PHI disclosures made: (1) to carry out treatment, payment or health care operations; (2) to individuals about their own PHI; (3) pursuant to your authorization; (4) prior to April 14, 2003; and (5) where otherwise permissible under the law and the Covered Entity's privacy practices. In addition, the Covered Entity need not account for certain incidental disclosures.

If the accounting cannot be provided within 60 days, an additional 30 days is allowed if the individual is given a written statement of the reasons for the delay and the date by which the accounting will be provided.

If you request more than one accounting within a 12-month period, the Covered Entity will charge a reasonable, cost-based fee for each subsequent accounting.

Such requests should be made to the Covered Entity's Privacy Official.

### **Right to Receive a Paper Copy of This Notice Upon Request**

You have the right to obtain a paper copy of this Notice.

Such requests should be made to the Covered Entity's Privacy Official.

### **A Note About Personal Representatives**

You may exercise your rights through a personal representative. Your personal representative will be required to produce evidence of his/her authority to act on your behalf before that person will be given access to your PHI or allowed to take any action for you. Proof of such authority may take one of the following forms:

1. a power of attorney for health care purposes;
2. a court order of appointment of the person as the conservator or guardian of the individual; or

3. an individual who is the parent of an unemancipated minor child may generally act as the child's personal representative (subject to state law).

The Covered Entity retains discretion to deny access to your PHI by a personal representative to provide protection to those vulnerable people who depend on others to exercise their rights under these rules and who may be subject to abuse or neglect.

### **Section 3** **A Covered Entity's Duties**

A Covered Entity is required by law to maintain the privacy of PHI and to provide individuals (participants and beneficiaries) with notice of the Covered Entity's legal duties and privacy practices.

This updated Notice is effective March 22, 2017, and the Covered Entity is required to comply with the terms of this Notice. However, the Covered Entity reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by the Covered Entity prior to that date. If a privacy practice is changed, a revised version of this Notice will be provided to all participants for whom the Covered Entity still maintains PHI. The revised Notice will be distributed in the same manner as the initial Notice was provided or in any other permissible manner.

If the revised version of this Notice is posted on the Trust's website, you will also receive a copy of the Notice, or information about any material change and how to receive a copy of the Notice in the next annual mailing. Otherwise, the revised version of this Notice will be distributed within 60 days of the effective date of any material change to the Covered Entity's policies regarding the uses or disclosures of PHI, the individual's privacy rights, the duties of the Covered Entity or other privacy practices stated in this Notice.

#### **Minimum Necessary Standard**

When using or disclosing PHI or when requesting PHI from another covered entity, the Covered Entity will make reasonable efforts not to use, disclose or request more than the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request, taking into consideration practical and technological limitations. When required by law, the Covered Entity will restrict disclosures to the limited data set, or otherwise as necessary, to the minimum necessary information to accomplish the intended purpose.

However, the minimum necessary standard will not apply in the following situations:

1. Disclosures to or requests by a health care provider for treatment;
2. Uses or disclosures made to the individual;
3. Disclosures made to the Secretary of the U.S. Department of Health and Human Services;
4. Uses or disclosures that are required by law; and
5. Uses or disclosures that are required for the Plan's compliance with legal regulations.

#### *De-Identified Information*

This notice does not apply to information that has been de-identified. De-identified information is information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

#### *Summary Health Information*

A Covered Entity may disclose "summary health information" to the Trustees for obtaining insurance premium bids or modifying, amending or terminating the Plan. "Summary health information" summarizes the claims history, claims expenses or type of claims experienced by participants and excludes identifying information in accordance with HIPAA.

#### *Notification of Breach*

A Covered Entity is required by law to maintain the privacy of participants' PHI and to provide individuals with notice of its legal duties and privacy practices. In the event of a breach of unsecured PHI, the Covered Entity will notify affected individuals of the breach.

### **Section 4**

#### **Your Right to File a Complaint With a Covered Entity or the HHS Secretary**

If you believe that your privacy rights have been violated, you may complain to the Covered Entity. Such complaints should be made to the Covered Entity's Privacy Official.

You may file a complaint with the Secretary of the U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, D.C. 20201.

The Covered Entity will not retaliate against you for filing a complaint.

**Section 5**  
**Whom to Contact at the Covered Entity for More Information**

If you have any questions regarding this notice or the subjects addressed in it, you may contact the Covered Entity Privacy Official. Such questions should be directed to the Employer's Privacy Official at: HIPAA Privacy Official, Pleasant Valley School District, 2233 Route 115, Suite 100, Brodheadsville, PA 18322, 570-402-1000 Ext 1315.

**Conclusion**

PHI use and disclosure by a Covered Entity is regulated by a federal law known as HIPAA (the Health Insurance Portability and Accountability Act). You may find these rules at 45 *Code of Federal Regulations* Parts 160 and 164. The Covered Entities intend to comply with these regulations. This Notice attempts to summarize the regulations. The regulations will supersede any discrepancy between the information in this Notice and the regulations.