University of California Policy

HIPAA Uses and Disclosures for UC Group Health Plans

Responsible Officer: Senior Vice President/Chief Compliance and Audit Officer

Responsible Office: Ethics, Compliance and Audit Services

Effective Date: September 13, 2010

Next Review Date: September 1, 2013

Who is Covered: This policy applies to all workforce members who provide services for or assist the Group Health Plans in activities that involve the use and disclosure of Protected Health Information.

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Policy Summary

The University of California (UC) offers various health plans to its employees and retirees. Some of the medical plans are funded by the University (“Self-Funded" group health plans), and others are fully insured by an insurance carrier ("Funded" or fully insured group health plans). The University’s Self-Funded Plans and the Health Flexible Spending Account (Health

FSA) are covered components of the UC hybrid entity. These covered components collectively form UC's Single Health Plan Component (SHPC).[1]

All University workforce members who work with any unit of the University's SHPC or with any of the fully insured plans will protect the privacy and maintain the security of Protected Health Information (PHI). The privacy protection portions of this policy apply to the fully insured plans just as if they were part of the SHPC.

In most cases the health-related information held by the SHPC is limited to enrollment data. In limited instances it may also include information that members of the health plans provided to certain UC workforce members to assist with the coordination of member benefits or to resolve a complaint . Comprehensive medical and claims information is maintained by the third-party administrators of the Self-Funded Plans and by the fully insured plans.

Policy Definitions

Refer to the document entitled "UC HIPAA Glossary".

Policy Text

A. Group Health Plan Documents

The HIPAA Privacy Rule does not require a business associate agreement for disclosure of PHI from a Group Health Plan to a plan sponsor.[2] Instead, in order to receive University member PHI from affected University Group Health Plans solely for member advocacy purposes and other plan administration functions performed in conjunction with its Group Health Plans, the plan documents must incorporate the permitted uses and disclosures of PHI described below:

1. Treatment: The Group Health Plans may use and disclose member PHI to doctors, nurses, technicians and other personnel who are involved in providing the member with medical treatment or services.
2. Payment: The Group Health Plans may use and disclose member PHI in the course of activities that involve reimbursement for health care, such as determination of eligibility or coverage, claims processing, billing, obtaining and payment of premium, utilization review, medical necessity determinations, and pre-certifications.
3. Healthcare Operations for a Self-Funded Plan: Self-Funded Plans may use and disclose PHI about a member to carry out business operations and to assure that all enrollees receive quality care. For example, a Self-Funded Plan may disclose member PHI to a business associate who handles claims processing or administration, planning, data analysis, utilization review, quality assurance benefit management, practice

[1] Refer to the document entitled "UC HIPAA Glossary".

[2] In those cases where the University is a plan sponsor or acting as the employer, the University does not need to negotiate a business associate amendment with the Group Health Plan or provide the employee's authorization in order for the health plan to respond to questions posed by the University's Health Care Facilitators or others representing the interests of the employee, so long as the plan documents have been amended accordingly.

management, or referrals to specialists, or provides legal, actuarial, accounting, consulting, data aggregation, management, or financial services.

4. Healthcare Operations for the OHCA: The University may also engage a business associate to carry out healthcare operations on behalf of the University's Organized Health Care Arrangement (OHCA), which includes all of the group health plan options. An OHCA is defined in HIPAA to include the fully insured and self-funded group health plans of a single plan sponsor such as the University
5. Plan Sponsor: The Group Health Plans may disclose summary health information (that is, claims data that is stripped of most individual identifiers) to the University in its role as plan sponsor in order to obtain bids for health insurance coverage or to facilitate modifying, amending or terminating a plan. In addition if a member requests help from the University in coordinating benefits or resolving a complaint, the Group Health Plans may disclose PHI to designated University staff, but no PHI may be disclosed to facilitate employment-related actions or decisions or for matters involving other benefits or benefit plan. The University may not further disclose any PHI that is disclosed to it in these limited instances.
6. Payment: The Group Health Plans may use and disclose PHI in the course of activities that involve reimbursement for health care, such as determination of eligibility for coverage, claims processing, billing, obtaining and payment of premium, utilization review, medical necessity determinations, and pre-certifications.
7. As Required By Law: The Group Health Plans will disclose PHI about a member when required to do so by federal, state or local law or regulation.
8. To Avert a Serious Threat to Health or Safety: The Group Health Plans may disclose PHI about a member when necessary to prevent or lessen a serious threat to the member's health and safety or the health and safety of the public or another person. Any such disclosure, however, must be made only to someone able to help prevent the threat.
9. Military and Veterans: If a plan member is or was a member of the armed forces, the Group Health Plans may release PHI about a plan member to military command authorities as authorized or required by law. The Group Health Plans may also release medical information about foreign military personnel to the appropriate military authority as authorized or required by law.
10. Research: In limited circumstances, the Group Health Plans may use and disclose PHI for research purposes, subject to the confidentiality provisions of state and federal law. A member's PHI may be important to further research efforts and the development of new knowledge. All research projects conducted by UC undergo a special review process to protect member safety, welfare and confidentiality.
11. Workers' Compensation: The Group Health Plans may release PHI about a member for workers' compensation or similar programs as permitted or required by law. These programs provide benefits for work-related injuries or illness.
12. Health Oversight Activities: The Group Health Plans may disclose PHI to governmental, licensing, auditing and accrediting agencies as authorized or required by law.

13. Legal Proceedings: The Group Health Plans may disclose PHI to courts, attorneys and court employees in the course of conservatorship and certain other judicial or administrative proceedings.
14. Lawsuits and Disputes: If a member is involved in a lawsuit or other legal proceeding, the Group Health Plans may disclose PHI about a member in response to a court or administrative order, or in response to a subpoena, discovery request, warrant, summons, or other lawful process.
15. Law Enforcement: If authorized or required by law, the Group Health Plans may disclose PHI under limited circumstances to a law enforcement official in response to a warrant or similar process, to identify or locate a suspect, or to provide information about the victim of a crime.
16. National Security and Intelligence Activities: If authorized or required by law, the Group Health Plans may release PHI about a member to authorized federal officials for intelligence, counterintelligence, and other national security activities.
17. Protective Services for the United States President and Others: The Group Health Plans may disclose PHI about a member to authorized federal and state officials so they may provide protection to the President, other authorized persons, or foreign heads of state, or conduct special investigations, as authorized or required by law.
18. Inmates: If a member is an inmate of a correctional institution or under the custody of a law enforcement official, the Group Health Plans may release PHI about a member to the correctional institution or law enforcement official, as authorized or required by law. Such a release is justified if necessary to provide a member with health care, to protect a member's health and safety or the health and safety of others, or for the safety and security of the correctional institution.

Each UC workforce member and contractor (regardless of assignment to the SHPC) must comply with the following restrictions on use and disclosure of PHI, unless de-identified (as defined in the UC HIPAA Glossary).These restrictions must be incorporated into the plan documents:

1. To not use or further disclose PHI or summary health information other than as permitted or required by the Group Insurance Regulations documents or as required by law;
2. To ensure that any agents (including any subcontractor) to whom the University provides PHI received from any of its Group Health Plans agree to the same restrictions and conditions that apply to the University with respect to such information;
3. To not use or disclose the information for employment-related actions and decisions of the University or in connection with any other benefit or employee benefit plan;
4. To report to the University's applicable Group Health Plans any use or disclosure of information that is inconsistent with the uses or disclosures provided for, or of which it becomes aware;
5. To make PHI available in accordance with section F, below, which allows individuals to access their PHI;

6. To make PHI available for amendment and consider any amendments of PHI in accordance with section F, below, which that allows individual requests for amendment of PHI;
7. To make available an accounting of disclosures of an individual's PHI in accordance with section F, below;
8. To make available to the DHHS Secretary the University's internal practices, books, and records relating to the use and disclosure of PHI received from the University's Group Health Plans for purposes of determining compliance by the Group Health Plans with the Privacy Rule;
9. If feasible, to, return or destroy all PHI received from the Group Health Plans that the University still maintains in any form and to retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, to limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and
10. To ensure that adequate separation is maintained between the Plan Sponsor, plan administration and other covered components of the University, as required by the Privacy Rule.

    The University permits workforce members in the following departments and roles, who are responsible for performing plan administration functions for the UC Group Health Plans, access to PHI as required:

    - The Regents of the University
    - The President's Immediate Office
    - Office of the President - Business Operations
    - Office of the President - Human Resources
    - Financial Management - Payroll Coordination
    - Office of the General Counsel
    - Ethics, Compliance and Audit Services
    - University-location Benefit Offices
    - University-location Payroll Offices
    - University-location Health Care Facilitators
    - University-location Chief Human Resource Officers
    - University-location Information Technology staff

B. Disclosures to the Group Health Plans

To disclose protected health information to the plan sponsor or to provide for or permit the disclosure of PHI to the plan sponsor by a health insurance issuer or HMO with respect to the group health plan, a group health plan must ensure that the plan documents restrict uses and disclosures of such information by the plan sponsor.

The HIPAA Privacy Rule does not require a business associate agreement for disclosure of Protected Health Information (PHI) from a group health plan to a plan sponsor.[3] The group health plan can disclose PHI to a plan sponsor if, among other requirements, the plan documents are amended to appropriately reflect and restrict the plan sponsor's uses and disclosure of such information

A Plan or its administrator may disclose summary health information to the plan sponsor if the plan sponsor requests the summary health information for the purpose of:

- Obtaining premium bids from health plans for providing health coverage under the Group Health Plans; or
- Modifying, amending, or terminating the Group Health Plans.

C. Separation Between Covered Functions and Non-Covered Functions

To comply with the requirements of HIPAA, the University must maintain separation between covered functions (including the University's Group Health Plans), and non-covered functions (such as employer-related functions not associated with the University's Group Health Plans). The University prohibits the use or disclosure of member PHI for employment-related actions or decisions; nor may it be used or disclosed in connection with any other benefit or employee benefit plan of the University. Workforce members engaged in multiple roles, some part of which involves use and disclosure of PHI, must take special care to keep those roles separate. A disclosure of PHI from the SPHC to a non-covered function or unit may require written authorization.

Thus, any person who works both with matters related to the Group Health Plans and employment-related functions must:

- Maintain a strict separation of function between Group Health Plans benefits and employment related functions (for example, a staff member may not make employment-related decisions about a member using information learned while helping his or her with a health claim);
- Review internal security measures to safeguard the firewall between these functions;
- Consult his or her supervisor, the local HIPAA Privacy Officer or the UC Healthcare Plan Privacy Officer with any HIPAA compliance questions, to report violations of this firewall requirement, or if procedural assistance is needed.

D. Minimum Necessary

Workforce members must use the "minimum necessary standard" when accessing or using PHI. "Minimum necessary" means the minimum amount of member information needed to conduct Treatment, Payment and Health Care Operations. Use or disclosure of PHI must be kept to only the minimum amount necessary to accomplish the intended purpose. A member's Social Security number may not be shared unless this information is specifically required.

[3] In those cases where the University is a plan sponsor or acting as the employer, the University does not need to negotiate a business associate amendment with the Group Health Plans or provide the employee's authorization in order for the health plan to respond to questions posed by the University's Health Care Facilitators or others representing the interests of the employee, so long as the plan documents contain the required provisions.

E. University of California Healthcare Plan Notice of Privacy Practices – Self-Funded Plans

HIPAA requires the plan provider, whether UC or an insurance carrier, to provide a notice of privacy practices. The UC Healthcare Plan Notice of Privacy Practices – Self-Funded Plans (Notice) applies only to the University's Self-Funded Plans as required by HIPAA privacy regulations. The University's Self-Funded Plans are managed for the University by our Business Associates who interact with the medical care providers and/or handle members' claims.

A copy of the Notice currently in effect is provided to new health plan members and thereafter available upon request. Health plan members may ask for a copy of this Notice at any time. Even if members have agreed to receive this Notice electronically, they are still entitled to a paper copy.

To obtain a paper copy, members should contact:

UC Healthcare Plan Privacy Office
300 Lakeside Drive, 6th Floor
Oakland, CA 94612

In addition, a copy of the current Notice is posted on the UCOP website at http://atyourservice.ucop.edu under the Health and Welfare Benefits section. The effective date of the Notice is on the first page in the top right-hand corner. For further information regarding the Notice, individuals may contact the UC Healthcare Plan Privacy Office at 1-800-888-8267 (press 2 for the HIPAA Privacy Office) or at 510-287-3857.

The Self-Funded Plans reserve the right to change this Notice, and to make the revised or changed Notice effective for PHI the plan already maintains on members, as well as any information the plan receives or creates in the future.

F. Health Plan Members' Rights Under HIPAA

Health plan members have the following rights regarding PHI:

- The right to inspect and copy their PHI. With certain exceptions, members have the right to inspect and obtain a copy of PHI that is maintained by or for a Self- Funded Plan. Members may be charged a fee for the costs of copying, mailing or supplies associated with fulfilling the request. In certain limited circumstances, a Self-Funded Plan may deny a member's request to inspect and/or obtain a copy of PHI. If the member's request is denied, the member will be so informed in writing, and may request that the denial be reviewed. The person conducting the review cannot be the person who denied the request. The plan will comply with the outcome of the review.
- The right to request an amendment of their PHI. Members have the right to request an amendment for as long as the information is kept by or for the plan A request for an amendment should be made in writing and submitted to the UC Healthcare Plan Privacy Office. In addition, the member must provide a reason that supports the request. A Self-Funded Plan may deny the member's request for an amendment if it is not made in writing or does not include a reason to support the request. In addition, the plan may deny the request if the member asks to amend information that was not created by the plan; is not part of the PHI maintained by or for the plan; is not part of the information that the member would be permitted to inspect and copy under the law; or is judged by the plan to

be accurate and complete.

- The right to an accounting of disclosures of PHI for purposes other than Treatment, Payment or Health Care Operations. Members have the right to receive an "accounting of disclosures," which is a list of Personal Health Information disclosures pertaining to the member, **with the exception** of certain documents including those relating to treatment, payment, and healthcare operations. To request an accounting of disclosures, the member must submit the request in writing to the UC Healthcare Plan Privacy Office. The request must state a time period, which may not be longer than six years and may not include dates before April 14, 2003. The member's request should indicate the preferred format (for example, paper or electronic).
- The right to request that uses and disclosures of PHI be restricted. Members have the right to request a restriction or limitation on the use and disclosure of the member's PHI for treatment, payment or healthcare operations, or to request a restriction on the PHI that the plan may disclose about the member to someone who is involved in the member's care or with payment for the member's care, such as a family member or friend. The plan is not required to agree to the member's request. If the plan agrees to the member's request, it will comply with the requested restriction unless the information is needed to provide the member with emergency treatment or to assist in disaster relief efforts. The member's request should state the information the member wants to limit; whether the member wants to limit the plan's use, disclosure or both; and to whom the member wants the limits to apply.
- The right to request confidential communications. Members have the right to request that a Self-Funded Plan communicate with the member about medical matters in a certain way or at a certain location. For example, the member may ask that the plan only contact the member at work or by mail to a specific address. The plan will accommodate all reasonable requests and will not ask the member the reason for the member's request. The member's request must specify how or where the member wishes to be contacted.
- The right to a paper copy of the Notice of Privacy Practices. Members may ask the University for a copy of this Notice at any time. Even if the member agreed to receive the Notice electronically, the member is still entitled to a paper copy of the Notice. To obtain a paper copy, the member should contact the UC Healthcare Plan Privacy Office.
- Members may exercise these rights or register a complaint by submitting a request in writing to the UC Healthcare Plan Privacy Officer at:

  Attn: Privacy Officer – UC Healthcare Plan
  University of California Office of the President
  Human Resources
  300 Lakeside Drive, 6th Floor
  Oakland, CA. 94612-3557

- A response to written requests approving or denying access will be made within 30 days of receiving it.
- Action granting access or denial of access will take place within 60 days if the Designated Record Set is located or maintained off-site and not readily accessible.

- If the Self-Funded Plan or the Health Flexible Spending Account does not maintain the designated record set, a written response will be sent to the requesting member.

For members of the UC insured health plans, requests regarding the rights noted above should be directed to the member's insurance carrier.

G. Training

The University trains all University workforce members working with the University's Self-Funded Plans regarding policies and procedures with respect to HIPAA and PHI. Supervisors and managers of workforce members within the SHPC are responsible to ensure this training is accomplished. Additionally, in order to receive PHI for member advocacy and plan administration purposes, UC has certified to its HIPAA-covered insured plans that its workforce has been trained in the policies and procedures pertaining to privacy protection. This includes subsequent training of new staff and retraining as changes occur within both HIPAA and UC policies and procedures. Documentation of the training must be kept in written or electronic form for six years. For purposes of determining the scope of the training required, UC has defined all those who work or volunteer within the classes of employees in Group Insurance Regulations (GIR) Preface Provision E Section III as workforce members who need to be trained in the HIPAA policies and procedures (GIR Final).

Workforce members will be trained no later than 90 days after they are employed. When significant changes occur in the job description of a current workforce member or a policy or procedure, the affected workforce members will be trained as soon as possible following the change. Records documenting the required training must be retained for six years after completion of training.

H. Resources for Workforce Members

Workforce members are responsible for protecting the privacy and confidentiality of a member's PHI. For assistance to address PHI concerns you may contact your supervisor, your location's Privacy Officer or Legal Counsel, the UC Healthcare Plan Privacy Officer or the University's Privacy Official.

Approval Authority

Implementation of the Policy: Senior Vice President/Chief Compliance and Audit Officer
Revisions to the Policy: Senior Vice President/Chief Compliance and Audit Officer
Approval of Actions: not applicable

Compliance and Reporting

N/A

Implementation Procedures

UC Organizational Units subject to HIPAA are responsible for implementation.

Related Documents

45 CFR 164.524, 164.526, 164.528, 164.504(f)(2)(iii)

Frequently Asked Questions

FAQs may be found on the UC HIPAA website.

Revision History

HIPAA Privacy Rule: University of California Systemwide Standards and Implementation Policies (System Standards), April 2003.