

## **CITY OF LEWISVILLE Notice of Privacy Practices**

Effective October 1, 2019

This Notice is for City of Lewisville Health Benefit Trust (“City”) employees/retirees (and their dependents) participating in the City health plans (medical, dental, and vision), which together have been designated as the City of Lewisville Health Benefit Trust Arrangement (the “Plan”). If you are not currently participating in these plans, but begin participating in the future, this Notice will apply to you once you begin participating.

### **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.**

Under the Health Insurance Portability and Accountability Act (HIPAA), the Plan is required to:

- ⊞ to take reasonable steps to ensure the privacy of your personally identifiable health information;
- ⊞ give you this Notice of our legal duties and privacy practices with respect to medical information about you (the participant); and
- ⊞ follow the terms of this Notice.

In addition to the requirements above, this Notice is intended to inform you about:

The Plan’s uses and disclosures of Protected Health Information (PHI);

Your privacy rights with respect to your PHI;

The Plan’s duties with respect to your PHI;

Your right to file a complaint with the Plan and to the Secretary of the U.S. Department of Health and Human Services; and

The person or office to contact for further information about the Plan’s privacy practices.

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

If you have any questions about this Notice, please contact the Privacy Officer who is the City representative. The address to contact the Privacy Officer is as follows:

Privacy Officer  
c/o David Erb  
City of Lewisville, Texas  
151 West Church Street  
Lewisville, TX 75029

### **Who Will Follow This Notice**

This Notice describes the health information practices of the Plan, and that of third parties that provides services to the Plan. All references to “you” include employee/retiree participants and their dependent(s) who participate in the Plan.

### **Our Pledge Regarding Medical Information**

The Plan understands that medical information about you and your health is personal. The Plan is committed to protecting medical information about you. The Plan creates a record of the health care claims reimbursed under the Plan for Plan administration purposes. This Notice applies to all of the health records that the Plan maintains. Your

personal doctor or health care provider may have different policies or Notices regarding the doctor's use and disclosure of your medical information created in the doctor's office or clinic.

The Plan will not use or disclose your PHI that is genetic information about you for underwriting purposes.

This Notice will tell you about the ways in which the Plan may use and disclose medical information about you. It also describes the Plan's obligations and your rights regarding the use and disclosure of medical information.

## ***Notice of PHI Uses and Disclosures***

### **Required PHI Uses and Disclosures**

Upon your request, the Plan is required to give you access to certain 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 the Plan's compliance with the privacy regulations.

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

The Plan and its business associates will use PHI without your consent, authorization or opportunity to agree or object to carry out treatment, payment and health care operations. The Plan also will disclose PHI to the Plan Sponsor, City, for purposes related to treatment, payment and health care operations. The Plan Sponsor has amended its plan documents to protect your PHI as required by federal law.

*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, the Plan may disclose to a treating orthodontist the name of your treating dentist so that the orthodontist may ask for your dental X-rays from the treating dentist.

*Payment* includes, but is not limited to, actions to make payment (including billing, claims management, subrogation, plan reimbursement, reviews for medical necessity and appropriateness of care, utilization review and preauthorization).payment for the health care services you receive. For example, the Plan may tell your health care provider about your medical history to determine whether a particular treatment is experimental, investigational or medically necessary or to determine whether the Plan will cover the treatment. The Plan may also share medical information with a utilization review or precertification service provider. Likewise, the Plan may share medical information with another entity to assist with the adjudication or subrogation of health claims or to another health plan to coordinate benefit payments.

Furthermore, the Plan may, for payment purposes, take actions to make coverage determinations. For example, the Plan may tell a doctor whether you are eligible for coverage or what percentage of the bill will be paid by the 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 disease management, 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.

For example, the Plan may use information about your claims to refer you to a disease management program, project future benefit costs or audit the accuracy of its claims processing functions.

Other examples include the Plan using your health information to review the performance of our staff and vendors. The Plan may also use your information and the information of other members to plan what services the Plan needs to provide, expand, or reduce. The Plan may disclose your health information as necessary to others who the Plan contracts with to provide administrative service, which includes the Plan's lawyers, auditors, accreditation services, and consultants, for instance.

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

Your express written authorization must be received before the Plan sells any PHI about you. Also, your written authorization generally will be obtained before the Plan will use or disclose psychotherapy notes about you from your psychotherapist. Psychotherapy notes are separately filed notes about your conversations with your mental health professional during a counseling session. They do not include summary information about your mental health treatment. The Plan may use and disclose such notes when needed by the Plan to defend against litigation filed by you.

In addition, your written authorization is required for any marketing communication which includes a communication about a product or service that encourages you to buy or sue the product or service being marketed. However, if there is no direct or indirect fee to the Plan, an authorization is not required. Moreover, communications the Plan makes about its own health care products or services, communications for treatment purposes, and communications for purposes of case management or Personal Health Support or to recommend alternative treatments, therapies, providers or settings of care are excepted from the authorization requirement.

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

Disclosure of your PHI to family members, other relatives and your close personal friends is allowed if:

The information is directly relevant to the family or friend's involvement with your care or payment for that care; and

You have either agreed to the disclosure or have been given an opportunity to object and have not objected.

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

Use and disclosure of your PHI is allowed without your consent, authorization or request under the following circumstances:

*To Avert a Serious Threat to Health or Safety.* The Plan may disclose your health information if the Plan decides that the disclosure is necessary to prevent serious harm to the public or to an individual. The disclosure will only be made to someone who is able to prevent or reduce the threat.

*Organ and Tissue Donation.* If you are an organ donor, the Plan may release medical information to organizations that handle organ procurement or organ, eye or tissue transplantation or to an organ donation bank, as necessary to facilitate organ or tissue donation and transplantation.

*Military and Veterans.* If you are a member of the armed forces, the Plan may release medical information about you as required by military command authorities. The Plan may also release medical information about foreign military personnel to the appropriate foreign military authority.

*Workers' Compensation.* The Plan may release medical information about you for workers' compensation or similar programs.

*Public Health Risks.* The Plan may disclose medical information about you for public health activities. These activities generally include the following:

- ⊗ to prevent or control disease, injury or disability;
- ⊗ to report births and deaths;
- ⊗ to report child abuse or neglect;
- ⊗ to report reactions to medications or problems with products;
- ⊗ to notify people of recalls of products they may be using;
- ⊗ to notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition;
- ⊗ to notify the appropriate government authority if the Plan believes a participant has been the victim of abuse, neglect or domestic violence. The Plan will only make disclosure if you agree or when required or authorized by law.

*Health Oversight Activities.* The Plan may disclose medical information to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, inspections, and licensure. These activities are necessary for the government to monitor the health care system, government programs, and compliance with civil rights laws.

*Law Enforcement.* The Plan may release medical information if asked to do so by a law enforcement official:

- ⊞ in response to a court order, subpoena, warrant, summons or similar process;
- ⊞ to identify or locate a suspect, fugitive, material witness, or missing person;
- ⊞ about the victim of a crime if, under certain limited circumstances, the Plan is unable to obtain the person's agreement;
- ⊞ about a death the Plan believes may be the result of criminal conduct;
- ⊞ about criminal conduct at the hospital; and
- ⊞ in emergency circumstances to report a crime, the location of the crime or victims, or the identity, description or location of the person who committed the crime.

*Coroners, Medical Examiners and Funeral Directors.* The Plan may release medical information to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or determine the cause of death. The plan may also release medical information about patients of a hospital to funeral directors as necessary to carry out their duties.

*National Security and Intelligence Activities.* The Plan may release medial information about you to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized by law.

*Inmates.* If you are an inmate of a correctional institution or under the custody of a law enforcement official, the Plan may release medical information about you to the correctional institution or law enforcement official. This release would be necessary (1) for the institution to provide you with health care; (2) to protect your health and safety or the health and safety of others; or (3) for the safety and security of the correctional institutions.

## ***Rights of Individuals***

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

You may request the Plan to restrict uses and disclosures of your PHI to carry out treatment, payment or health care operations, or to restrict uses and disclosures to family members, relatives, friends or other persons identified by you who are involved in your care or payment for your care. For example, you could ask that the Plan not use or disclose information about a surgery you had.

The Plan is not required to agree to your request.

You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI. To request restrictions, you must make your request in writing to the Privacy Officer, c/o The City of Lewisville. In your request, you must tell the Plan (1) what information you want to limit; (2) whether you want to limit the Plan's use, disclosure or both; and (3) to whom you want the limits to apply, for example, disclosures to your spouse.

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

You have the right to inspect and copy medical information that may be used to make decisions about your Plan benefits. You also have a right to inspect and obtain a copy of your PHI contained in a "designated record set," for as long as the Plan maintains the PHI.

“*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 health plan; 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 offsite. A single 30-day extension is allowed if the Plan is unable to comply with the deadline.

To inspect and copy medical information that may be used to make decisions about you or to inspect and copy a designated record set, you must submit your request in writing to the Privacy Officer, c/o The City of Lewisville. If you request a copy of the information, the Plan may charge a fee for the costs of copying, mailing or other supplies associated with your request. 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 exercise those review rights and a description of how you may complain to the Secretary of the U.S. Department of Health and Human Services.

### **Right to Amend PHI**

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

To request an amendment, your request must be made in writing and submitted to: Privacy Officer, c/o The City of Lewisville. In addition, you must provide a reason that supports your request.

The Plan has 60 days after the request is made to act on the request. A single 30-day extension is allowed if the Plan is unable to comply with the deadline. The Plan may deny your request for an amendment if it is not in writing or does not include a reason to support the request. In addition, the Plan may deny your request if you ask the Plan to amend information that:

- ⊗ is not part of the medial information kept by or for the Plan;
- ⊗ was not created by the Plan, unless the person or entity that created the information is no longer available to make the amendment;
- ⊗ is not part of the information which you would be permitted to inspect and copy; or is accurate and complete.

If the request is denied in whole or part, the Plan 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.

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

At your request, the Plan will also provide you with an accounting of disclosures by the Plan of your PHI during the six years prior to the date of your request. However, such accounting need not include PHI disclosures made: (1) to carry out treatment, payment or health care operations; (2) to individuals about their own PHI; or (3) prior to the compliance date.

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 Plan will charge a reasonable, cost-based fee for each subsequent accounting.

To request an accounting of disclosures, your request must be made in writing and submitted to the Privacy Officer, c/o The City of Lewisville. In addition, you must provide a reason that supports your request and in what form you want the list (for example, paper or electronic)

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

You have the right to request that the Plan communicate with you about medical matters in a certain way or at a certain location. For example, you can ask that the Plan only contact you at work or by mail.

To request confidential communications, you must make your request in writing to the Privacy Officer, c/o The City of Lewisville

The Plan will not ask you the reason for your request. The Plan will accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

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

You have a right to receive a paper copy of this Notice even if you have previously received a copy or agreed to receive this Notice electronically.

You may also obtain a copy of this Notice on the intranet.

To obtain a paper copy of this Notice, please contact the Privacy Officer, c/o The City of Lewisville.

### **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:

- A power of attorney for health care purposes, notarized by a notary public;

- A court order of appointment of the person as the conservator or guardian of the individual; or

- An individual who is the parent of a minor child.

The Plan retains discretion to deny access to your PHI to 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. This also applies to personal representatives of minors.

## ***The Plan's Duties***

### **The Duty to Notify in Case of a Breach**

The Plan is required by law to notify any affected individuals of a breach of unsecured PHI.

### **The Plan's Rights and Responsibilities to Change This Notice**

The Plan is required by law to maintain the privacy of PHI and to provide individuals (participants and beneficiaries) with Notice of its legal duties and privacy practices.

This Notice is effective beginning April 14, 2003, and the Plan is required to comply with the terms of this Notice. However, the Plan reserves the right to change their privacy practices and to apply the changes to any PHI received or maintained by the Plan prior to that date. If a privacy practice is changed, a revised version of this Notice will be provided to all past and present participants and beneficiaries for whom the Plan still maintains PHI. You will receive a copy of any revised Notice from the Plan by mail or by e-mail, but only if e-mail delivery is offered by the Plan and you agree to such delivery.

Any revised version of this Notice will be distributed within 60 days of the effective date of any material change to the uses or disclosures, the individual's rights, the duties of the Plan 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 Plan 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.

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

- Disclosures to or requests by a health care provider for treatment;

- Uses or disclosures made to the individual;

- Disclosures made to the Secretary of the U.S. Department of Health and Human Services;

- Uses or disclosures that are required by law; and

- Uses or disclosures required for the Plan's compliance with legal regulations.

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.

In addition, the Plan may use or disclose "summary health information" to City for obtaining premium bids or modifying, amending or terminating the Plan, which summarizes the claims history, claims expenses or type of claims experienced by individuals for whom City has provided health benefits under the Plan; and from which identifying information has been deleted in accordance with HIPAA.

### **Your Right to File a Complaint with the Plan or the HHS Secretary**

If you believe that your privacy rights have been violated, you may complain to the Privacy Officer, c/o The City of Lewisville. You may also file a complaint with the Secretary of the U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201.

The Plan will not retaliate against you for filing a complaint.

### **Conclusion**

PHI use and disclosure by the Plan 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. This Notice attempts to summarize the regulations. The regulations will supersede any discrepancy between the information in this Notice and the regulations.