

**AMERICAN UNIVERSITY WELFARE GROUP HEALTH BENEFIT PLAN
AMERICAN UNIVERSITY FLEXIBLE SPENDING ACCOUNT PLAN
AMERICAN UNIVERSITY FACULTY AND STAFF ASSISTANCE PROGRAM**

JOINT NOTICE OF PRIVACY PRACTICES

As required by the privacy regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996, 42 USC §1320d-1329d-8 (“HIPAA”).

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

I. Your Privacy.

American University (“university”) makes health care benefits available to American University employees, and retirees, and their families through the American University Welfare Group Health Benefit Plan, the American University Flexible Spending Account Plan and the Faculty and Staff Assistance Program (“Health Plans”). The Health Plans provide the benefits by arrangement with Kaiser Permanente, DentaQuest, and through self-insured benefits programs administered for the university by Carefirst Blue Cross Blue Shield (“Carefirst”), ExpressScripts, and PayFlex. The university self-administers the Faculty Staff Assistance Program (“FSAP”).

In the course of providing these benefits, the Health Plans create records regarding your participation in these programs. Additionally, the Health Plans create records regarding you and the services that you receive from them. Each of the Health Plans is required by HIPAA to protect the confidentiality of any health information that identifies you (referred to in this Notice and HIPAA as “Protected Health Information”). They also are required by HIPAA to provide you with notice of their legal duties and privacy practices concerning your Protected Health Information.

II. Who will you receive notices from?

Where the university provides your health coverage through a health maintenance organization or through an insurance contract with a health insurance issuer, such as Kaiser Permanente and DentaQuest, you should receive notice directly from Kaiser Permanente and DentaQuest, not from the university.

With respect to those health benefits that are funded directly by the university, e.g. Carefirst, ExpressScripts, PayFlex, and the Faculty and Staff Assistance Program (collectively referred to as “Self-Insured Plan”), the university in its capacity as a health plan is responsible for ensuring that you receive the notice of privacy practices. This document constitutes this notice. The university has contracted with professional health claims administrators, i.e. Carefirst, ExpressScripts, and PayFlex, to administer some of these programs on the university’s behalf. These third-party administrators will also follow the privacy practices described in this Notice.

This Notice only applies to your Protected Health Information that is maintained by the Self-Insured Plan. Health care providers from whom you receive services may have different policies and procedures or notices regarding the use and disclosure of your Protected Health Information created in the provider's office, clinic, or hospital. For information about those policies and procedures you should contact your health care provider or health care facility directly.

III. The information below is applicable only to participants in the Carefirst, ExpressScripts, PayFlex, and Faculty and Staff Assistance programs.

This Notice provides you with the following important information:

- how we may use and disclose your identifiable health information.
- your privacy rights in your identifiable health information.
- our obligations concerning the use and disclosure of your identifiable health information.

A. How the Self-Insured Plan May Use and Disclose Your Health Information.

Your Protected Health Information may be used and disclosed by the Self-Insured Plan in the following circumstances:

1. For Payment. The Self-Insured Plan may use or disclose your Protected Health Information to determine eligibility for benefits, to facilitate payment for the treatment and services you receive from health care providers, to determine benefit responsibility under the Self-Insured Plan, to coordinate benefits coverage or to reimburse third-party claims administrators. For example, the Self-Insured Plan may tell your health care provider whether you are eligible for coverage or what percentage of your bill will be paid for by the Self-Insured Plan. The Self-Insured Plan may also use your Protected Health Information for other activities, including billing, claims management, and utilization or precertification review. The Self-Insured Plan might also 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.

2. For Health Care Operations. The Self-Insured Plan may use or disclose your Protected Health Information for purposes of Self-Insured Plan operations, including but not limited to, quality assessment and improvement, underwriting, premium rating and other insurance activities relating to the creation or renewal of insurance contracts, disease management, case management and conducting or arranging for medical review, legal services and audits. For example, the Self-Insured Plan may use information about your claims to refer you to a disease management program, project future benefit costs or to audit the accuracy of its claim processing functions.

3. To the University as the Plan Sponsor. The Self-Insured Plan also may provide the university, in its capacity as the Plan Sponsor, with summary health information so that the university can solicit premium bids from health insurers or amend, modify, or terminate its existing arrangements with claims administrators. The Self-Insured Plan may also provide the university with information on whether you are participating in a particular health plan program.

4. Business Associates. We may disclose personal health information to the business associates that we engage to provide services on our behalf if the information is necessary for such services. For example, we may use another company to audit the performance of our third-party claims administrators on our behalf. Our business associates are obligated, under contract with us, to protect the privacy of your information and are not allowed to use or disclose any information other than as specified in our contract with them.

5. As required by Law. We may disclose your Protected Health Information as required by law.

6. Public Health. We may disclose your identifiable health information to authorized public health or other public authorities for the purpose of assisting those agencies to prevent or control disease, injury, or disability.

7. Health Oversight Activities. We may disclose your identifiable health information to a health oversight agency for activities authorized by law. Oversight activities include for example investigations, inspections, audits, surveys, licensure and disciplinary actions, civil administrative and criminal procedures or actions or other activities necessary for the government to monitor government programs, compliance with civil rights laws, and the health care system in general.

8. Lawsuits and similar proceedings. We may use and disclose your identifiable health information in response to a court or administrative order, if you are involved in a lawsuit or similar proceeding. We also may disclose your identifiable health information in response to a discovery request, subpoena, or other lawful process by another party involved in the dispute, but only if we first have made an effort to inform you of the request or to obtain an order protecting the information the party has requested.

9. Law Enforcement. We may release your identifiable health information if requested to do so by a law enforcement official:

- regarding a crime victim in certain situations, if we are unable to obtain the person's agreement;
- concerning a death we believe may have resulted from criminal conduct;
- regarding criminal conduct at our institution;
- in response to a warrant, summons, court order, subpoena or similar legal process;
- to identify or locate a suspect, material witness, fugitive or missing person;
- in an emergency, to report a crime (including the location of the victim of the crime, or the description, identity or location of the perpetrator);
- if you are an inmate or under the custody of a law enforcement official

10. Serious Threat to Health or Safety. We may use and disclose your identifiable health information when necessary to reduce or prevent a serious threat to your health and safety or the health and safety of another individual or the public. Under

these circumstances, and subject to applicable law, we will only disclose information to a person or organization able to help prevent the threat.

11. *Military.* We may disclose your identifiable health information if you are a member of the U.S. or foreign military forces (including veterans) and if required by the appropriate military command authorities.

12. *National Security.* We may disclose your identifiable health information to federal officials for intelligence and national security activities authorized by law. We also may disclose your identifiable health information to federal officials to protect the President, other officials or foreign heads of state, or to conduct investigations.

13. *Workers Compensation.* Your identifiable health information may be used or disclosed to comply with laws and regulations related to Workers' Compensation and Occupational Safety and Health.

14. *Research.* We may use and disclose your identifiable health information for research when an institutional review board or privacy board that has reviewed the research proposal and established protocols to ensure the privacy of your identifiable health information has approved the research.

15. *Other Uses.* Other uses and disclosures will be made only with your written authorization. You may revoke the authorization except to the extent Self-Insured Plan has acted in reliance on such.

B. *Your Health Information Rights.* You have the following rights regarding the identifiable health information that the Self-Insured Plan maintains about you:¹

1. *Confidential Communications.* You have the right to request that the Self-Insured Plan communicate with you about your health and related issues in a particular manner or at a certain location. For example, you may request that we contact you at home, rather than at work. In order to request a type of confidential communication, you must make a written request to the contact person identified in Section E below specifying the requested method of contact, or the location at which you wish to be contacted. We will accommodate reasonable requests.

2. *Request Restrictions.* You have the right to request a restriction on our use or disclosure for health care operations. Additionally, you have the right to request that we limit disclosure as provided in 45 CFR §164.510. We are not required to agree to your request; however, if we do agree, we are bound by our agreement except when otherwise required by law, in emergencies, or when the information is necessary to treat you. To request a restriction in our use or disclosures, you must make a written request to the contact person identified in below. The request must clearly describe (a)

¹ The Self-Insured Plan does not have its own staff. Accordingly, some of the activities described in sections III(A)(1) and (2) above (i.e. a limited number of the functions that are **not** the responsibility of the third party claims administrator) are conducted by university personnel who are designated by the university to act on behalf of the Self-Insured Plan. The university does not have access to information in the possession of the Self-Insured Plan, except as described in this Notice.

the information you wish restricted; (b) whether you want to limit the Self-Insured Plan's use or disclosure or both; and (c) to whom you want the limits to apply.

3. *Inspection and Copies.* You have the right to inspect and obtain a copy of the Protected Health Information maintained by the Self-Insured Plan or for the Self-Insured Plan that may be used to make decisions about you. This right does not extend to psychotherapy notes. The Self-Insured Plan may deny your request to inspect or copy in certain limited circumstances; however, you may request a review of our denial. Reviews will be conducted, as required by law.

4. *Accounting of Disclosures.* You have the right to request an "accounting of disclosures." If you request such an "accounting," you will receive a list identifying certain disclosures that the Self-Insured Plan has made of your Protected Health Information. To obtain this list, you must make a request in writing to the person named in below.

5. *Amendment.* You may ask us to amend your health information if you believe it is incorrect or incomplete, and you may request an amendment for as long as this information is kept by the Self-Insured Plan. Any amendment request to Self-Insured Plan must be made in writing to the contact person named below. You must provide us with a reason to support your request. Any request that is not made in writing will be denied. Also we may deny your request if it asks us to amend information that is (a) accurate and complete; (b) not part of the Protected Health Information kept by or for Self-Insured Plan; (c) not part of the Protected Health Information that you would be permitted to inspect and copy; or (d) not created by the Self-Insured Plan unless the individual or entity that created the information is not available to amend the information.

6. *Right to Provide an Authorization for other Uses and Disclosures.* The Self-Insured Plan will obtain your authorization for uses or disclosures that are not identified in this notice. You may revoke your authorization at any time in writing. After you revoke the authorization, we will not use or disclose the information that was the subject of the authorization except when:

- a. We have taken action in reliance on the authorization before we received the written revocation.
- b. You were required to give us your authorization as a condition of obtaining health coverage; or
- c. the law gives us a right to contest a claim under your policy.

7. *Right to File a Complaint.* If you believe your privacy rights have been violated, you may file a complaint with the university Self-Insured Plan or with the Secretary of Health and Human Services. To file a complaint with the Self-Insured Plan, contact the person named below. All complaints must be submitted in writing. To file a complaint with the Secretary, contact the person identified below for information.

You will not be penalized for filing a complaint.

8. Right to a Notice. Although you are receiving this notice at the University's web portal my.american.edu and by electronic mail at Today@AU, you are entitled to receive a paper copy of the Self-Insured Plan' notice of privacy practices. We reserve the right to amend our notice of privacy practices. Any revision or amendment will be effective for all of the records the Self-Insured Plan have created or maintained in the past and for any records we may create or maintain in the future. A revised notice, if any, will be sent to you by electronic mail at Today@AU and the University's web portal my.american.edu unless you advise us in writing that you prefer to receive a paper copy. You may also obtain a copy of the current version of the Notice at any time by visiting the University's web portal at my.american.edu or by contacting the person listed below. Covered faculty and staff who are on leave or retired from the University will receive a paper copy of this and any revised notices.

Note –The university, in its health plan role, does not in the ordinary course of its operations have access to Protected Health Information in the records of the claims administrators, e.g. Carefirst, ExpressScripts, and PayFlex. Similarly, the university, in its health plan role, does not have access to your Protected Health Information maintained by a FSAP provider from whom you seek services. Therefore, when you are exercising the rights discussed above, we will generally ask in the first instance that you work directly with the third-party claims administrators to access those rights.

C. CONTACT information. If you have any questions or are required by this notice to submit a written request to exercise rights outlined in this notice, please contact:

Sarah Bayne
Director of Employee Benefits & Communication
Human Resources
American University
Sports Center Annex
4400 Massachusetts Avenue, N.W. 20016
Washington, D.C. 20016-8054
(202)885-2730

If you wish to file a complaint with the Self-Insured Plan or obtain information about how to file a complaint with the Secretary about a violation of your privacy rights, please contact:

Patricia Kelshian
Executive Director, Risk and Contracts Management and HIPAA Privacy Official
Office of Finance
American University
4400 Massachusetts Avenue, N.W. 20016
Washington, D.C. 20016
(202)885-3284

