

## AMERICAN UNIVERSITY WELFARE GROUP HEALTH BENEFIT PLAN

### **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, the American University Retiree Health Reimbursement Arrangement, the Faculty and Staff Assistance Program, and the Faculty and Staff Wellness Program (“Health Plans”).

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 protected health information, as that term is defined under HIPAA (referred to in this Notice and HIPAA as “Protected Health Information” or “PHI”). 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 you should receive notice directly from these vendors, not from the University.

With respect to those health benefits that are funded directly by the University (the “Self-Insured Plan”), the University in its capacity as a health plan is responsible for ensuring that you receive the notice of privacy practices (“Notice”). This document constitutes this Notice. The University has contracted with professional third-party health claims administrators 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 of the health benefits in the Self-Insured Plan.**

This Notice provides you with the following important information:

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- how we may use and disclose your Protected Health Information.
- your privacy rights in your Protected Health Information.
- your right to file a complaint with the Plan and the Secretary of the U.S. Department of Health and Human Services; and
- the person or the office to contact for further information about your Plan's privacy practices.

#### **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. Some of the categories include examples, but every type of use or disclosure of PHI in a category is not listed:

1. ***Treatment.*** *Treatment* is the provision, coordination or management of health care and related services. For example, a Business Associate of the Plan may disclose to a treating surgeon the name of your treating primary care physician so that the surgeon may ask for your chest X-rays from the treating primary care physician.
2. ***Payment.*** *Payment* includes but is not limited to actions to make coverage determinations and payment (including billing, claims management, subrogation, plan reimbursement, reviews for medical necessity and appropriateness of care and utilization review and preauthorizations). For example, the Self-Insured Plan (or its Business Associate) may tell a doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Plan.
3. ***Health Care Operations.*** *Health Care Operations* include but are not limited to quality assessment and improvement, reviewing competence or qualifications of health care professionals, underwriting, except that we are prohibited from using or disclosing genetic information for underwriting purposes, premium rating and other insurance activities relating to creating or renewing 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 audit the accuracy of its claims processing functions.
4. ***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. In addition, the Self-Insured Plan may disclose Protected Health Information to the University for treatment, payment or health care operations and plan administration purposes as permitted under HIPAA.
5. ***Business Associates.*** We may disclose Protected 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 by

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law, and by contract with us, to protect the privacy of your PHI and are not allowed to use or disclose any of your PHI other than as specified in our contract with them.

6. ***As required by Law.*** We may disclose your Protected Health Information as required by law.
7. ***Public Health.*** We may disclose your Protected 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.
8. ***Health Oversight Activities.*** We may disclose your Protected 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.
9. ***Lawsuits and similar proceedings.*** We may use and disclose your Protected 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 Protected Health Information in response to a discovery request, subpoena, or other lawful process by another party involved in the dispute, provided certain requirements have been satisfied.
10. ***Law Enforcement.*** We may release your Protected 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
11. ***Serious Threat to Health or Safety.*** We may use and disclose your Protected 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.
12. ***Military.*** We may disclose your Protected 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.
13. ***National Security.*** We may disclose your Protected Health Information to federal officials for intelligence and national security activities authorized by law. We also may disclose your

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Protected Health Information to federal officials to protect the President, other officials or foreign heads of state, or to conduct investigations.

14. ***Workers Compensation.*** Your Protected Health Information may be used or disclosed to comply with laws and regulations related to Workers' Compensation and Occupational Safety and Health.
15. ***Research.*** We may use and disclose your Protected 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 Protected Health Information has approved the research.
16. ***Organ and Tissue Donation.*** If you are an organ donor, we may release your Protected Health 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.
17. ***Inmates or Individuals in Custody.*** If you are an inmate of a correctional institution or under the custody of a law enforcement official, we may release your Protected Health Information to the appropriate correctional institution or law enforcement official. This release would be made only if necessary i) for the institution to provide you with health care; ii) to protect your health and safety or the health and safety of others; or iii) for the safety and security of the correctional institution.
18. ***Coroners, Medical Examiners and Funeral Directors.*** We may release your Protected Health Information to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or determine the cause of death. We also may release Protected Health Information to funeral directors as necessary for their duties.
19. ***Other Uses and Disclosures by Written Authorization.*** Uses and disclosures for other purposes will be made only with your prior written authorization. For example, we will obtain your prior written authorization for uses and disclosures related to or for: 1) psychotherapy notes; 2) marketing purposes, and 3) a sale of Protected Health Information. If you give us permission to use or disclose PHI for a purpose that requires specific authorization you may revoke the authorization, in writing, at any time, except to the extent the Self-Insured Plan has acted in reliance on such authorization.

**Your Health Information Rights. Your Individual Rights.** You have the following rights regarding the Protected Health Information that the Self-Insured Plan maintains about you: <sup>1</sup>

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<sup>1</sup> 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.

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1. ***Confidential Communications.*** You have the right to request that the Self-Insured Plan communicates 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. To request a type of confidential communication, you must make a written request to the contact person identified below describing 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 Treatment, Payment, and Health Care Operations. Additionally, you have the right to request that we limit disclosure as provided in 45 CFR §164.510(b). 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 below. The request must clearly describe (a) 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 that may be used to make decisions about you. This right does not extend to certain PHI including psychotherapy notes (if any). 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 contact person named 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 Get Notice of a Breach.*** You have the right to be notified of a breach of your unsecured Protected Health Information when we (or a Business Associate) determine through a risk assessment that notification is required.
7. ***Right to a Paper Copy of This Notice.*** You are entitled to receive a paper copy of the Self-Insured Plan notice of privacy practices at myAU.american.edu or by contacting the person listed below. 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

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future. Any revised notices are posted at <https://www.american.edu/hr/benefits/health/medical.cfm> and are sent to you electronically unless you advised us in writing that you prefer to receive a paper copy. Covered faculty and staff who are on leave, retired, or receiving COBRA benefits from the University will receive a paper copy the Notice.

**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. 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.

**B. 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:

Ann Joiner  
Executive Director of Total Rewards & Service Delivery  
Human Resources  
American University  
4400 Massachusetts Avenue, N.W.  
Washington, D.C. 20016-8054  
(202) 885-2716

**C. COMPLAINTS.** If you believe your privacy rights have been violated, you may file a complaint with the university's Privacy Officer or with the Secretary of Health and Human Services. All complaints to the university must be in writing and submitted to:

Daniel Nichols  
Assistant Vice President, Risk, Safety, and Transportation Programs  
HIPAA Privacy Officer  
Office of Finance and Treasurer  
American University  
4400 Massachusetts Avenue, N.W.  
Washington, D.C. 20016  
(202) 885-2534

Be assured that we will not retaliate against you for filing a complaint.

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