

HIPAA NOTICE OF HEALTH INFORMATION PRIVACY PRACTICES

All COBRA Participants New York Power Authority

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.

PROTECTING THE PRIVACY OF YOUR HEALTH INFORMATION

This Notice is required by the Health Insurance Portability and Accountability Act (“HIPAA”) and is intended to describe how the following New York Power Authority (“NYPA”) health plans (collectively, “Health Plans”), to the extent applicable to you, will protect your health information that is created or received by the Health Plans¹:

- New York Power Authority Major Medical & Hospitalization Plan (UnitedHealthcare) and Prescription Drug Plan (CVS Health), New York Power Authority Choice Plan (UnitedHealthcare). If you participate in any of the following HMOs you will receive a HIPAA Notice of Health Information Privacy Practices directly from the insurance carrier: CDPHP, Inc.; Independent Health.²
- New York Power Authority Dental Plan (Delta Dental)
- New York Power Authority Core Vision/Hearing Plan
- New York Power Authority Optional Vision Plan (Davis Vision)
- New York Power Authority Employee Assistance Program (EAP), Corporate Counseling Associates (CCA)
- New York Power Authority PowerFlex Flexible Spending Account (UnitedHealthcare)

“Health information” for this purpose means information that identifies you, is transmitted or maintained by the Health Plans in any form (including oral, written or electronic media), and either relates to your physical or mental health condition or the payment of your health care expenses. This individually identifiable health information is known as “protected health information” (“PHI”). Your PHI will not be used or disclosed by any of the Health Plans without a written authorization from you, except as described in this Notice or as otherwise required or permitted by federal or state health information privacy laws.

¹ Except as otherwise expressly stated in this Notice, the health information policies and procedures described in this Notice apply separately and independently to each of the respective Health Plans identified in this Notice.

² This Notice describes the protection afforded the individually identifiable health information either (i) received or created under the self-insured portion of the NYPA-sponsored health plan; or (ii) received by NYPA from a health insurance company or HMO that provides health benefits under an insured arrangement offered by NYPA. If you receive your medical coverage (including prescription drug or mental health/substance abuse benefits) through an insured program or HMO offered by NYPA, you may also receive a notice of privacy practices from the insurance company or HMO that describes how the insurance company or HMO will protect your health information created or received by the insurance company or HMO in connection with the coverage it provides to you.

HEALTH PLAN PRIVACY OBLIGATIONS

The Health Plans are required by law to:

- Make certain that your PHI is safeguarded and used or disclosed only in accordance with HIPAA and the provisions of this Notice;
- Give you this Notice of your legal rights with respect to your PHI and their legal duties and privacy practices with respect to PHI about you; and
- Follow the terms of the Notice that are in effect.

HOW THE HEALTH PLANS MAY USE AND DISCLOSE YOUR PHI

The Health Plans may use your PHI or disclose it to others in any of the following circumstances:

Required Uses and Disclosures of PHI

Upon your request, the Health Plans are required to give you access to certain portions of your PHI for inspection and copying. Disclosure of your PHI to the Secretary of the U.S. Department of Health and Human Services also may be required to enable the Secretary to investigate and determine the Health Plans' compliance with the HIPAA privacy regulations.

Uses and Disclosures of PHI without Authorization

The Health Plans and their third-party administrators known as "business associates" will use PHI without your consent, authorization or opportunity to agree or object to carry out treatment, payment and health care operations as follows:

- **For Treatment.** The Health Plans may disclose your PHI to a health care provider for treatment purposes. Treatment includes the provision, coordination or management of health care and related services on your behalf. For example, if you are unable to provide your medical history as a result of an accident, the Health Plans may advise an emergency room physician about the different medications that you may have been prescribed.
- **For Payment.** The Health Plans may use or disclose your PHI for payment activities, which include, but are not limited to, actions to make coverage determinations and payment of benefits (including billing, claims management, subrogation, plan reimbursement, reviews for medical necessity and appropriateness of care, utilization review, and pre-authorizations). As part of their payment activities, the Health Plans may use and disclose your PHI so claims for health care treatment, services, and supplies that you receive from health care providers may be paid according to the Health Plans' terms. For example, the Health Plans may tell a doctor or hospital whether you are eligible for coverage or what percentage of covered expenses will be paid by the Health Plans.
- **For Health Care Operations.** The Health Plans may use and disclose your PHI for health care operations that are designed to enable them to operate more efficiently or to make certain that all of their participants receive the appropriate health benefits. 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. Health care operations also include 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 Health Plans may use your PHI for case management, to refer individuals to disease management programs, for underwriting, premium rating, activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits, to arrange for medical reviews or to perform population-based studies designed to reduce health care costs. In addition, the Health Plans may use or disclose your PHI to conduct compliance reviews, audits, legal reviews, actuarial studies, and/or for fraud and abuse detection.

The Health Plans will only disclose the minimum information necessary with respect to the amount of health information used or disclosed for these purposes. In other words, only information relating to the task being performed will be used or disclosed. Information not required for the task will not be used or disclosed.

- **To the Plan Sponsor.** The Health Plans are sponsored by NYPA. The Health Plans may disclose your PHI to designated personnel at NYPA so that they can carry out related administrative functions, including the uses and disclosures described in this Notice. Such disclosures of PHI (other than your Health Plan enrollment information)

will be made only to the individuals authorized to receive such information under the Health Plans. These individuals will protect the privacy of your health information and ensure that it is used only as described in this Notice or as permitted by law. Unless authorized by you in writing, your health information: (1) may not be disclosed by the Health Plans to any other employee or department of NYPA; and (2) will not be used by NYPA for any employment-related actions or decisions, or in connection with any other employee benefit plans sponsored by NYPA.

The Health Plans may combine health information about participants and disclose it to NYPA in a non-identifiable, summary fashion so that NYPA can decide, for example, what types of coverage the Health Plans should provide. The Health Plans may also disclose health information to NYPA or others from which all personal information that identifies you has been removed.

- **To a Business Associate.** Certain services are provided to the Health Plans by business associates, i.e., the people or entities providing those services. For example, the Health Plans may place information about your health care treatment into an electronic claims processing system maintained by a business associate so that your claim may be paid. In so doing, the Health Plans will disclose your PHI to their business associates so that the business associates can perform their claims payment functions. However, the Health Plans will require their business associates, through written agreements, to appropriately safeguard your health information.
- **For Treatment Alternatives and For Health-Related Benefits and Services.** The Health Plans may use and disclose your PHI to tell you about possible treatment options, health-related benefits or services that may be of interest to you.

Uses and Disclosures that require that you be Given an Opportunity to agree or Object

The Health Plans will disclose your PHI to a family member, other relative or your close, personal friend if:

- The information is directly relevant to the family member's 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 to the disclosure and you have not objected.

The Health Plans may also use or disclose your PHI to notify a family member, a personal representative or another person responsible for your care about your condition, your location (for example, that you are in the hospital) or death, unless other laws would prohibit such disclosures.

Special Protections for Genetic Information

Notwithstanding the above, special protections are given to your genetic information. The Health Plans are not permitted to disclose your genetic information for underwriting purposes, which includes:

- Determining whether you are eligible for benefits
- Determining the premium for coverage
- Determining whether you are subject to a pre-existing condition exclusion; and
- Other activities related to the creation, renewal or placement of the coverage provided by the Health Plans

Genetic information includes genetic tests of an individual or family member, family medical histories, and genetic services (e.g., counseling, education and evaluation of genetic information). Family members include immediate family members and extended family members, up to the fourth degree of kinship.

Special Use and Disclosure Situations

The Health Plans may also use or disclose your PHI without your authorization under the following circumstances:

- As **Required by Law.** The Health Plans will disclose your PHI when required to do so by federal, state or local law, including those laws that require the reporting of certain types of wounds, illnesses or physical injuries.
- **Lawsuits and Disputes.** If you become involved in a lawsuit or other judicial or administrative proceeding, the Health Plans may disclose your PHI in response to a court or administrative order, a subpoena, warrant, discovery request or other forms of legal process.

- **Law Enforcement.** The Health Plans may release your PHI if asked to do so by a law enforcement official, for example, to report child abuse, to identify or locate a suspect, material witness, missing person or to report a crime, the crime's location or victims, or the identity, description or location of the person who committed the crime. The Health Plans may also release your PHI if you are suspected to be a victim of a crime, but only if you agree to the disclosure or the Health Plans are unable to obtain your agreement because of emergency circumstances.
- **Workers' Compensation.** The Health Plans may disclose your PHI to the extent authorized by and to the extent necessary to comply with workers' compensation laws and other similar programs.
- **Military and Veterans.** If you are or become a member of the U.S. armed forces, the Health Plans may release medical information about you as deemed necessary by military command authorities.
- **To Avert Serious Threat to Health or Safety.** The Health Plans may use and disclose your PHI when necessary to prevent a serious threat to your health and safety, or the health and safety of the public or another person.
- **Public Health Risks.** The Health Plans may disclose your PHI for public health activities. These activities include preventing or controlling disease, injury or disability; reporting births and deaths; reporting child abuse or neglect; reporting reactions to medications or problems with medical products; or notifying people of recalls of products they have been using.
- **Health Oversight Activities.** The Health Plans may disclose your PHI to a health oversight agency for audits, investigations (including civil, criminal, and administrative), inspections, and licensure necessary for the government to monitor the health care system and government health programs.
- **Research.** Under certain limited circumstances, the Health Plans may use and disclose your PHI for medical research purposes.
- **National Security, Intelligence Activities, and Protective Services.** The Health Plans may release your PHI to authorized federal officials: (1) for intelligence, counterintelligence, and other national security activities authorized by law; and (2) to enable them to provide protection to the members of the U.S. government or foreign heads of state, or to conduct special investigations.
- **Organ and Tissue Donation.** If you are an organ donor, the Health Plans may release medical information to organizations that handle organ procurement or organ, eye, or tissue transplantation, or to an organ donation bank to facilitate organ or tissue donation and transplantation.
- **Coroners, Medical Examiners, and Funeral Directors.** The Health Plans may release your PHI to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or to determine the cause of death. The Health Plans may also release your PHI to a funeral director, as necessary, to carry out his or her duties with respect to the decedent.

Any other use or disclosure of your PHI not identified in this section (including uses and disclosures of PHI for marketing purposes, most uses and disclosures of psychotherapy notes and disclosures that constitute a sale of PHI) will be made only with your express written authorization.

YOUR RIGHTS REGARDING YOUR HEALTH INFORMATION
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You have the following rights regarding the health information that the Health Plans maintain about you:

Right to Access, Inspect and Copy Your Personal Health Information. You have the right to access, inspect and copy your PHI that is maintained in a "designated record set" for so long as the Health Plans maintain your PHI. A "designated record set" includes medical information about eligibility, enrollment, claim and appeal records, and medical and billing records maintained by or for the Health Plans, but does not include psychotherapy notes, information intended for use in a civil, criminal or administrative proceeding, or information that is otherwise prohibited by law.

You will be required to complete and submit a specified form to request access to the PHI in your designated record set maintained by the Health Plans for inspection or copying. Requests for access to your PHI should be submitted to **New York Power Authority, Medical Privacy Officer, 123 Main Street, NYPA HR, White Plains, NY 10601**; or via email to

MedicalPrivacyOfficer@nypa.gov. The Health Plans may charge a reasonable, cost-based fee for the cost of copying and/or mailing your requested health information. The Health Plans must act upon your request for access no later than 30 days after receipt (60 days if the information is maintained off-site). A single, 30-day extension is allowed if the Health Plans are unable to comply by the initial deadline. In limited circumstances, the Health Plans may deny your request to inspect and copy your PHI. If you are denied access to your health information, you or your personal representative will be informed as to the reasons for the denial, and of your right to request a review of the denial.

The Plan may provide you with a summary or explanation of the information instead of access to or copies of your health information, if you agree in advance and pay any applicable fees. The Plan also may charge reasonable fees for copies or postage.

You also have the right to access electronically an electronic health record that contains your PHI or to direct that a copy of the electronic health record be sent to a designated individual. The electronic PHI will be provided in a mutually agreed-upon format, and you may be charged for the cost of any electronic media (such as a USB flash drive) used to provide a copy of the electronic PHI.

If you request to receive the information by unencrypted email, the Health Plans will explain the risks to the PHI while in transit. Before sending the information via this method after receipt of a written statement that you have received the explanation and accept the risks associated with such delivery method.

Right to Amend Your Personal Health and Claims Information. You have the right to request the Health Plans 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. If you feel that the PHI that the Health Plans have about you is incorrect or incomplete, you may ask the Health Plans to amend it. You have the right to request an amendment for so long as the Health Plans maintain your PHI in a designated record set.

You will be required to complete and submit a specified form to request amendment of the PHI in your designated record set maintained by the Health Plans. Requests to amend your PHI should be submitted to **New York Power Authority, Medical Privacy Officer, 123 Main Street, NYPA HR, White Plains, NY 10601**; or via email to MedicalPrivacyOfficer@nypa.gov. You must provide the reason(s) to support your request. The Health Plans may deny your request if you ask the Health Plans to amend health information that was: (1) accurate and complete; (2) not created by the Health Plans; (3) not part of the health information kept by or for the Health Plans; or (4) not information that you would be permitted to inspect and copy.

The Health Plans have 60 days after the request is received to act on the request. A single, 30-day extension is allowed if the Health Plans cannot comply by the initial deadline. If the request is denied, in whole or in part, the Health Plans will 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, if permitted under HIPAA, have that statement included with any future disclosures of your PHI.

Right to An Accounting of Disclosures. You have the right to request an “accounting of disclosures” of your PHI. This is a list of disclosures of your PHI that the Health Plans have made to others for the six (6) year period prior to the request, except for those disclosures necessary to carry out treatment, payment or health care operations, disclosures previously made to you, disclosures based on your written authorization, or in certain other situations described under HIPAA.

You will be required to complete and submit a specified form to request an accounting of disclosures. Requests for accountings of disclosures should be submitted to **New York Power Authority, Medical Privacy Officer, 123 Main Street, NYPA HR, White Plains, NY 10601**; or via email to MedicalPrivacyOfficer@nypa.gov. Your request must state a time period, which may not be longer than six (6) years prior to the date the accounting was requested. If the accounting cannot be provided within 60 days, an additional 30 days is allowed if the Health Plans provide you with a written statement of the reasons for the delay and the date by when the accounting will be provided. If you request more than one accounting within a 12-month period, the Health Plans will charge a reasonable, cost-based fee for each subsequent accounting.

Right to Request Restrictions. You have the right to request a restriction on the PHI that the Health Plans use or disclose about you for treatment, payment or health care operations. You also have the right to request that the Health Plans restrict 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 Health Plans not use or disclose information about a surgical procedure that you had or prescription medications you are taking. While the Health Plans will consider your request, they are not required to agree to it. If the Health Plans agree to the restriction, they will comply with your request until such time as the Health Plans provide written notice to you of their intent to no longer agree to such restriction, or unless such disclosure is required by law.

You will be required to complete a specified form to request restrictions on uses and disclosures of your PHI. Requests for restrictions or limitations on the use or disclosure of your PHI should be submitted to **New York Power Authority, Medical Privacy Officer, 123 Main Street, NYPA HR, White Plains, NY 10601**; or via email to MedicalPrivacyOfficer@nypa.gov. In your request, you must state: (1) what information you want to limit; (2) whether you want to limit the Health Plans' use, disclosure, or both; and (3) to whom you want the limit(s) to apply. **Note:** The Health Plans are not required to agree to your request.

Right to Request Confidential Communications. You have the right to request that the Health Plans communicate with you about health matters using alternative means or at alternative locations. For example, you can ask that the Health Plans send your explanation of benefits ("EOB") forms about your benefit claims to a specified address.

You will be required to complete and submit a specified form to request confidential communication of your PHI. Requests for confidential communication of your PHI should be submitted to **New York Power Authority, Medical Privacy Officer, 123 Main Street, NYPA HR, White Plains, NY 10601**; or via email to MedicalPrivacyOfficer@nypa.gov. The Health Plans will make every attempt to accommodate all reasonable requests. The Health Plans will accommodate reasonable requests to receive communications of PHI by alternative means or at alternative locations. Your request must specify how or where you want to be contacted.

Right to receive notice of any breach of unsecured PHI. The Health Plans will be required to notify members of any breaches of unsecured PHI. Generally, a breach is defined as unauthorized access, use or disclosure of Protected Health Information.

The notice of the breach must be sent no later than 60 days from the date the breach was discovered. It must contain a description of the breach and types of unsecured Protected Health Information involved in the breach and protective measures the member should take, if any.

State Privacy Rights. You may have additional privacy rights under state laws, including rights in connection with mental health and psychotherapy reports, pregnancy, HIV/AIDS-related illnesses, and the health treatment of minors.

Right to a Paper Copy of this Notice. You have the right to a paper copy of this Notice upon request. This right applies even if you have previously agreed to accept this Notice electronically. You may write to the **New York Power Authority, Medical Privacy Officer, 123 Main Street, NYPA HR, White Plains, NY 10601**; or via email to MedicalPrivacyOfficer@nypa.gov to request a written copy of this Notice at any time.

EXERCISE OF RIGHTS BY PERSONAL REPRESENTATIVE

You may exercise your rights to your PHI as described in this Notice through a personal representative, except as otherwise limited by applicable state law. Your personal representative will be required to produce evidence of his or 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; or
- A court order of appointment of the person as the conservator or guardian of the individual.

A parent, guardian or person acting *in loco parentis* generally may act as a personal representative for a minor child, except in those circumstances when the individual is deemed not to control the minor child's health care decisions. The Health Plans retain 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.

CHANGES TO THIS PRIVACY NOTICE

Subject to applicable law, the Health Plans reserve the right to change this Notice at any time and from time to time, and to make the revised or changed Notice effective for health information that the Health Plans already have about you, as well as any information that the Health Plans may receive in the future.

If a privacy practice is changed, a revised version of this Notice will be provided to you in the same manner as this Notice, or electronically if you have consented to receive the Notice electronically. 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 Health Plans or other privacy practices stated in this Notice. You will automatically be provided with a new copy of this Notice every three years, even if there have been no changes.

COMPLAINTS

If you believe that your health information privacy rights as described under this Notice have been violated, you may file a written complaint with the Health Plans by contacting the person listed at the address under "Contact Information".

You may also file a written complaint directly with the Secretary of the U.S. Department of Health and Human Services, at the Office for Civil Rights, U.S. Department of Health and Human Services, 200 Independence Avenue, S.W., Room 509F, Hubert H. Humphrey Building, Washington, D.C. 20201. The complaint should generally be filed within 180 days of when the act or omission complained of occurred.

Note: *You will not be penalized or retaliated against for filing a complaint.*

OTHER USES AND DISCLOSURES OF HEALTH INFORMATION

Other uses and disclosures of health information not covered by this Notice (including uses and disclosures of PHI for marketing purposes, most uses and disclosures of psychotherapy notes and disclosures that constitute the sale of PHI) or by the laws that apply to the Health Plans will be made only with your written authorization. If you authorize the Health Plans to use or disclose your PHI, you may revoke the authorization, in writing, at any time. If you revoke your authorization, the Health Plans will no longer use or disclose your PHI for the reasons covered by your written authorization; however, the Health Plans will not reverse any uses or disclosures already made in reliance on your prior authorization.

CONTACT INFORMATION

To receive more information about the Health Plans' privacy practices or your rights, or if you have any questions about this Notice, you may contact the Benefit Plan Administrator at the following address:

Contact Office or Person: **New York Power Authority
Benefits Plan Administrator**
Telephone: **(914) 287-3586**
E-mail: **MedicalPrivacyOfficer@nypa.gov**
Address: **New York Power Authority
Medical Privacy Officer
123 Main Street
NYPA HR
White Plains, NY 10601**

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