

## EMPLOYEE/RETIREE PRIVACY NOTICE

**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.**

This Notice is provided to you on behalf of the City of Chesapeake Employee/Retiree Health Plan ("the Plan"). The Plan is sponsored by the City of Chesapeake as your current or former employer. The City has contracted with a third party administrator to provide administrative and claims processing services for the Plan and its participants.

The Plan needs to create, receive, and maintain records that contain health information about you to administer the Plan and provide you with health care benefits. This notice describes the Plan's health information privacy policy with respect to your WageWorks Medical Flexible Spending Account (FSA) benefits. The notice tells you the ways the Plan may use and disclose health information about you, and describes your rights and the obligations the Plan has regarding the use and disclosure of your health information.

### ***The Plan's Privacy Obligations***

The Plan is required by law to maintain the privacy of your protected health information ("PHI") and to provide you with notice of the Plan's legal duties and privacy practices with respect to protected health information. The Plan must abide by the terms of this notice. If the Plan makes any material changes in the notice, you must be notified before the change can take effect. The Plan reserves the right to change the terms of this notice and to make any new provisions effective for all PHI the Plan maintains. Any revised notice will be provided to you either by hand-delivery, mail delivery to your last known address, or via electronic mail to your City e-mail address, if you have one or to your personal email address if you provide prior consent. This notice and any revisions to it will also be posted on the Human Resources Department's page on the City's website.

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

### ***How the Plan May Use and Disclose Health Information About You***

The following are different ways the Plan may use and disclose your PHI:

**For Treatment.** The Plan may disclose your PHI to a health care provider who renders treatment on your behalf. For example, if you are unable to provide your medical history as the result of an accident, the Plan may advise an emergency room physician about the types of prescription drugs you currently take.

**For Payment.** The Plan may use and disclose your PHI so claims for health care treatment, services, and supplies you receive from health care providers may be paid according to the Plan's terms. For example, the Plan may receive and maintain information about surgery you received to enable the Plan to process a hospital's claim for reimbursement of surgical expenses incurred on your behalf.

**For Health Care Operations.** The Plan may use and disclose your PHI to enable it to operate or operate more efficiently. For example, the Plan may use your PHI for population-based studies designed to reduce health care costs. In addition, the Plan may use or disclose your PHI to conduct compliance reviews, audits, actuarial studies, and/or for fraud and abuse detection. However, the Plan is prohibited from using or disclosing PHI that is genetic information of an individual for underwriting purposes.

**To The City of Chesapeake.** The Plan may disclose your PHI to designated City personnel so they can carry out their Plan-related administrative functions, including the uses and disclosures described in this notice. These individuals will protect the privacy of your health information and ensure it is used only as described in this notice or as permitted by law. PHI may be disclosed to limited staff members in the following departments: 1) Department of Human Resources (enrollment, claim resolution and other matters related to Plan administration); 2) Department of Finance (payroll deductions, payment reconciliations and other matters related to Plan administration); and 3) Department of Information Technology (data compilations and reports related to Plan administration). Unless authorized by you in writing, your PHI: (1) may not be disclosed by the Plan to any other City employee or department and (2) will not be used by the City for any employment-related actions and decisions or in connection with any other employee benefit plan sponsored by the City.

**To a Business Associate.** Certain services are provided to the Plan by third party administrators known as "business associates." For example, the Plan may input information about your health care treatment into an electronic claims processing system maintained by the Plan's business associate so your claim may be paid. In so doing, the Plan will disclose your PHI to its business associate so it can perform its claims payment function. However, the Plan will require its business associates, through contract, to appropriately safeguard your health information. In addition, business associates have independent legal obligations to protect your PHI.

**Treatment Alternatives.** The Plan may use and disclose your PHI to tell you about possible treatment options or alternatives that may be of interest to you.

**Health-Related Benefits and Services.** The Plan may use and disclose your PHI to tell you about health-related benefits or services that may be of interest to you.

**As Required by Law.** The Plan will disclose your PHI when required to do so by federal, state, or local law, including those that require the reporting of certain types of wounds or physical injuries.

## **Special Use and Disclosure Situations**

The Plan may also use or disclose your PHI under the following circumstances:

**Lawsuits and Disputes.** If you become involved in a lawsuit or other legal action, the Plan may disclose your PHI in response to a court or administrative order, a subpoena, warrant, discovery request, or other lawful due process.

**Law Enforcement.** The Plan may release your PHI if asked to do so by a law enforcement official, for example, to identify or locate a suspect, material witness, or missing person.

**Workers' Compensation.** The Plan may disclose your PHI to the extent authorized by and to the extent necessary to comply with workers' compensation laws.

**Military and Veterans.** If you are or become a member of the U.S. armed forces, the Plan may release medical information about you as deemed necessary by military command authorities.

**To Avert Serious and Imminent Threat to Health or Safety.** The Plan may use and disclose your PHI when necessary to prevent a serious and imminent threat to your health and safety, or the health and safety of the public or another person.

**Public Health Risks.** The Plan may disclose health information about you for public health activities. These activities include preventing or controlling disease, injury or disability; reporting births and deaths; reporting child abuse or neglect; or reporting reactions to medication or problems with medical products or to notify people of recalls of products they have been using.

**Health Oversight Activities.** The Plan may disclose your PHI to a health oversight agency for audits, investigations, inspections, and licensure necessary for the government to monitor the health care system and government programs.

**Research.** Under certain circumstances, the Plan may use and disclose your PHI for medical research purposes.

**National Security, Intelligence Activities, and Protective Services.** The Plan 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 Plan 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 Funerals Director.** The Plan 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 Plan may also release your PHI to a funeral director, as necessary, to carry out his/her duties.

**Family and Friends.** In certain cases, your PHI can be disclosed to a family member, close friend, or other person you identify who is involved in your care or payment for your care, if you agree to the disclosure. If you are not able to state your preferences, such as if you are unconscious, the Plan may disclose your condition or location in a hospital to a family member or close friend, if it is determined to be in your best interests.

## **Uses and Disclosures Requiring Written Authorization**

For uses and disclosures other than treatment, payment and operations purposes, and for reasons not included in one of the exceptions described above, including use or disclosure of psychotherapy notes, the Plan is required to have your written authorization. Your authorizations can be revoked at any time to stop future uses and disclosures, except to the extent that the Plan has already undertaken an action in reliance upon your authorization.

## **Your Rights Regarding Health Information About You**

Your rights regarding the health information the Plan maintains about you are as follows:

**Right to Inspect and Copy.** Unless your access is restricted for clear and documented treatment reasons, you have the right to inspect and copy your PHI. This includes information about your plan eligibility, claim and appeal records, and billing records.

Health information maintained by the Plan is available via secure website. Participants can access this information by creating a profile on the vendor's website. If the participant is unable to access the vendor's website, they may submit their request in writing to the Plan Administrator. The Plan may charge a fee for the cost of copying and/or mailing your request. In limited circumstances, the Plan may deny your request to inspect and copy your PHI. Generally, if you are denied access to health information, you may request a review of the denial.

**Right to Amend.** If you feel that health information the Plan has about you is incorrect or incomplete, you may ask the Plan to amend it. You have the right to request an amendment for as long as the information is kept by or for the Plan.

To request an amendment, send a detailed request in writing to the Plan Administrator. You must provide the reason(s) to support your request. The Plan may deny your request if you ask the Plan to amend health information that was: accurate and complete, not created by the Plan; not part of the health information kept by or for the Plan; or not information that you would be permitted to inspect and copy.

**Right to an Accounting of Disclosures.** You have the right to request an "accounting of disclosures." This is a list of disclosures of your PHI that the Plan has made to others, except for those necessary to carry out health care treatment, payment, or operations; disclosures made to you; or in certain other situations.

To request an accounting of disclosures, submit your request in writing to the Plan Administrator. Your request must state a time period, which may not be longer than six years prior to the date the accounting was requested.

**Right to Request Restrictions.** You have the right to request a restriction on the health information the Plan uses or discloses about you for treatment, payment, or health care operations. You also have the right to request a limit on the health information the Plan discloses about you to someone who is involved in your care or the payment for your care, like a family member or friend. For example, you could ask that the Plan not use or disclose information about a surgery you had.

To request restrictions, make your request in writing to the Plan Administrator. You must advise us: (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 limit(s) to apply.

Note: The Plan is not required to agree to your request.

**Right to Request Confidential Communications.** You have the right to request that the Plan communicate with you about health matters in a certain way or at a certain location. For example, you can ask that the Plan send you explanation of benefits (EOB) forms about your benefit claims to a specified address.

To request confidential communications, make your request in writing to the Plan Administrator. The Plan will make every attempt to accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

**Right to a Paper Copy of this Notice.** You have the right to a paper copy of this notice. You may write to the Plan Administrator to request a written copy of this notice at any time.

## Complaints

If you believe your privacy rights under this policy have been violated, you may file a written complaint with the Plan Administrator at the address listed below. Alternatively, you may complain to the Secretary of the U.S. Department of Health and Human Services, generally, within 180 days of when the act or omission complained of occurred.

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

## Contact Information

If you have any questions about this notice, please contact the Plan Administrator:  
Department of Human Resources  
306 Cedar Road  
Chesapeake, VA 23322  
(757) 382-8956

**Notice Effective Date: January 1, 2016**  
**Reviewed 9/23/2021**