



HIPAA Privacy Requirements for Disclosures to Employers and Group Health Plans

The final Health Insurance Portability and Accountability Act (HIPAA) regulations related to privacy requirements were released on December 20, 2000, and became effective in April 2003. Under the HIPAA Privacy Rule, an individual's PHI is protected from being used or disclosed by a covered entity without that individual's authorization, unless the information is being used by the covered entity for payment, treatment and healthcare operation purposes.

If an employer or plan sponsor wants to have access to PHI on their employees and/or their dependents, subject to the limitations set forth in the HIPAA Privacy Rule, the employer or plan sponsor must take the necessary steps needed to comply with the HIPAA Privacy Rule, as noted below:

1. Develop and implement privacy policies and procedures.
2. Furnish a Notice of Privacy Practices to the employees.
3. Appoint a Privacy Official and establish a contact office.
4. Train the group health plan employees on the privacy policies and procedures and establish sanctions for violations.
5. Implement, administrative, technical and physical safeguards to ensure data privacy and security.
6. Develop a mitigation plan in the event of privacy breaches.
7. Establish a complaint process for the employees.
8. Allow for access, copying and requests for amendment of health information.
9. Provide for an accounting of disclosures to their members upon request.
10. Retain all privacy compliance related documentation for six years.

Guardian may release the minimum necessary PHI to the **plan sponsor (employer)** only when the employer/plan sponsor needs it to perform plan administrative functions on behalf of the group health plan and certifies in writing to Guardian that the plan documents have been properly amended to comply with the HIPAA Privacy regulation. The amendments to the plan documents must include language stating that:

1. There will be no further use or disclosure of the PHI;
2. The same requirements to protect the PHI will apply to subcontractors;
3. The PHI will not be used for employment-related actions or for any other benefit plans administered by the plan sponsor/employer; and
4. The plan sponsor will:
 - a. Report any non-compliant use or disclosure to the group health plan;
 - b. Restrict use and disclosure of PHI to the minimum necessary to accomplish the intended purpose
 - c. Provide individuals access to their PHI in accordance with the HIPAA Privacy Regulation;
 - d. Permit individuals to request amendments to their PHI;
 - e. Account for disclosures in accordance with the HIPAA Privacy Regulation;
 - f. Provide DHHS access to the group health plan's books and records for compliance review;
 - g. Restrict access to PHI to specific identified employees within the group health plan; and
 - h. Return/destroy PHI when it is no longer needed for this administrative function.

It is Guardian's corporate policy that we will only release protected health information, summary health information or de-identified information pertaining to your group coverage with us to a **designated representative(s)** within your group health plan. This designation can be either a specific named individual(s) or a position title within your group health plan organization.

PLAN SPONSOR CERTIFICATION TO GROUP HEALTH PLAN

_____ (Plan Sponsor) hereby certifies that the plan documents of _____ (Company) _____ (Group Policy Number) include the following provisions, and that Plan Sponsor agrees to comply with the restrictions on use and disclosure contained in the Plan documents set forth below:

1. Not use or further disclose the information other than as permitted or required by the Plan documents or as required by law;
2. Ensure that any agents, including a subcontractor, to whom it provides protected health information received from the Plan agree to the same restrictions and conditions that apply to the Plan Sponsor with respect to such information;
3. Not use or disclose protected health information for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Plan Sponsor;
4. Report to the Plan any use or disclosure of the information that is inconsistent with the uses or disclosures provided for of which it becomes aware;
5. Make available protected health information in accordance with 45 CFR § 164.524;
6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.526;
7. Make available the protected health information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
8. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from the Plan available to the Department of Health and Human Services for purposes of determining compliance by the Plan with Subpart E of 45 CFR § 164;
9. If feasible, return or destroy all protected health information received from the Plan that the Plan Sponsor still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and
10. Ensure the adequate separation between the Plan and Plan Sponsor that is required by 45 CFR §164.504(f)(2)(iii).

Name _____ Title _____
Signature _____ Company _____
Date _____

Designated Representative(s)

Name _____ Title _____
Name _____ Title _____
Name _____ Title _____