

# Health and Welfare Employer Notices Package 2020<sup>1</sup>

## **Disclosure of Grandfathered Status (if applicable)**

As permitted by the Affordable Care Act, a grandfathered health plan can preserve certain basic health coverage that was already in effect when that law was enacted. Being a grandfathered health plan means that you may not include certain consumer protections of the Affordable Care Act that apply to other plans, for example, the requirement for the provision of preventive health services without any cost sharing. However, grandfathered health plans must comply with certain other consumer protections in the Affordable Care Act, for example, the elimination of lifetime limits on benefits.

Questions regarding which protections apply and which protections do not apply to a grandfathered health plan and what might cause a plan to change from grandfathered health plan status can be directed to the plan administrator. You may also contact the Employee Benefits Security Administration, U.S. Department of Labor at 1-866-444-3272 or [www.dol.gov/ebsa/healthreform](http://www.dol.gov/ebsa/healthreform). This website has a table summarizing which protections do and do not apply to grandfathered health plans.

## **Patient Protection Disclosure**

You have the right to designate any primary care provider who participates in our network and who is available to accept you or your family members. Until you make this designation, the plan may designate one for you. For information on how to select a primary care provider, and for a list of the participating primary care providers, you may contact the insurance carrier. For children, you may designate a pediatrician as the primary care provider.

You do not need prior authorization from the insurance carrier or from any other person (including a primary care provider) in order to obtain access to obstetrical or gynecological care from a health care professional in our network who specializes in obstetrics or gynecology. The health care professional, however, may be required to comply with certain procedures, including obtaining prior authorization for certain services, following a pre-approved treatment plan, or procedures for making referrals. For a list of participating health care professionals who specialize in obstetrics or gynecology, you may contact the insurance carrier.

## **HIPAA Notice of Special Enrollment Rights**

If you are declining enrollment for yourself or your dependents (including your spouse) because of other health insurance or group health plan coverage, you may be able to enroll yourself and your dependents in this plan if you or your dependents lose eligibility for that other coverage (or if the employer stops contributing towards your or your dependents' other coverage). However, you must request enrollment within 30 days after your or your dependents' other coverage ends.

If you have a new dependent as a result of marriage, birth, adoption, or placement for adoption, you may be able to enroll yourself and your dependents. However, you must request enrollment within 30 days after the marriage, birth, adoption, or placement for adoption.

If you decline enrollment for yourself or for an eligible dependent (including your spouse) while Medicaid coverage or coverage under a state children's health insurance program is in effect, you may be able to enroll yourself and your dependents in this plan if you or your dependents

lose eligibility for that other coverage. However, you must request enrollment within 60 days after your or your dependents' coverage ends under Medicaid or a state children's health insurance program.

If you or your dependents (including your spouse) become eligible for a state premium assistance subsidy from Medicaid or through a state children's health insurance program with respect to coverage under this plan, you may be able to enroll yourself and your dependents in this plan. However, you must request enrollment within 60 days after your or your dependents' determination of eligibility for such assistance.

To request special enrollment or obtain more information, contact the HR department and/or the Plan Administrator.

### **Wellness Program Disclosure (if applicable)**

Your health plan is committed to helping you achieve your best health. Rewards for participating in a wellness program are available to all employees. If you think you might be unable to meet a standard for a reward under this program, you might qualify for an opportunity to earn the same reward by different means. Contact the HR Department and we will work with you and if you wish, with your doctor to find a wellness program with the same reward that is right for you in light of your health status.

### **HIPAA Notice of Privacy Practices**

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.

#### **Your Rights**

##### *Get a copy of your health and claims records*

- You can ask to see or get a copy of your health and claims records and other health information we have about you. Ask us how to do this.
- We will provide a copy or a summary of your health and claims records, usually within 30 days of your request. We may charge a reasonable, cost-based fee.

##### *Ask us to correct health and claims records*

- You can ask us to correct your health and claims records if you think they are incorrect or incomplete. Ask us how to do this.
- We may say "no" to your request, but we'll tell you why in writing within 60 days.

##### *Request confidential communications*

- You can ask us to contact you in a specific way (for example, home or office phone) or to send mail to a different address.
- We will consider all reasonable requests, and must say "yes" if you tell us you would be in danger if we do not.

##### *Ask us to limit what we use or share*

- You can ask us not to use or share certain health information for treatment, payment, or our operations.
- We are not required to agree to your request, and we may say “no” if it would affect your care.
- Get a list of those with whom we’ve shared information.
- You can ask for a list (accounting) of the times we’ve shared your health information for six years prior to the date you ask, who we shared it with, and why.
- We will include all the disclosures except for those about treatment, payment, and health care operations, and certain other disclosures (such as any you asked us to make). We’ll provide one accounting a year for free but will charge a reasonable, cost-based fee if you ask for another one within 12 months.

*Get a copy of this privacy notice*

- You can ask for a paper copy of this notice at any time, even if you have agreed to receive the notice electronically. We will provide you with a paper copy promptly.

*Choose someone to act for you*

- If you have given someone medical power of attorney or if someone is your legal guardian, that person can exercise your rights and make choices about your health information.
- We will make sure the person has this authority and can act for you before we take any action.

*File a complaint if you feel your rights are violated*

- You can complain if you feel we have violated your rights by contacting us using the information on the back page.
- You can file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights by sending a letter to 200 Independence Avenue, S.W., Washington, D.C. 20201, calling 1-877-696-6775, or visiting [www.hhs.gov/ocr/privacy/hipaa/complaints/](http://www.hhs.gov/ocr/privacy/hipaa/complaints/).
- We will not retaliate against you for filing a complaint.

## **Your Choices**

For certain health information, you can tell us your choices about what we share. If you have a clear preference for how we share your information in the situations described below, talk to us. Tell us what you want us to do, and we will follow your instructions. In these cases, you have both the right and choice to tell us to:

- Share information with your family, close friends, or others involved in payment for your care.
- Share information in a disaster relief situation.

If you are not able to tell us your preference, for example if you are unconscious, we may go ahead and share your information if we believe it is in your best interest. We may also share your information when needed to lessen a serious and imminent threat to health or safety. In these cases we never share your information unless you give us written permission:

- Marketing purposes
- Sale of your information

### **How do we typically use or share your health information?**

We typically use or share your health information in the following ways.

#### *Help manage the health care treatment you receive*

- We can use your health information and share it with professionals who are treating you.
- Example: A doctor sends us information about your diagnosis and treatment plan so we can arrange additional services.

#### *Run our organization*

- We can use and disclose your information to run our organization and contact you when necessary.
- We are not allowed to use genetic information to decide whether we will give you coverage and the price of that coverage. This does not apply to long term care plans.
- Example: We use health information about you to develop better services for you.

#### *Pay for your health services*

- We can use and disclose your health information as we pay for your health services.
- Example: We share information about you with your dental plan to coordinate payment for your dental work.

#### *Administer your plan*

- We may disclose your health information to your health plan sponsor for plan administration.
- Example: Your company contracts with us to provide a health plan, and we provide your company with certain statistics to explain the premiums we charge.

### **Our Uses and Disclosures**

#### *How else can we use or share your health information?*

We are allowed or required to share your information in other ways – usually in ways that contribute to the public good, such as public health and research. We have to meet many conditions in the law before we can share your information for these purposes. For more information see: [www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/index.html](http://www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/index.html).

*Help with public health and safety issues. We can share health information about you for certain situations such as:*

- Preventing disease
- Helping with product recalls
- Reporting adverse reactions to medications
- Reporting suspected abuse, neglect, or domestic violence
- Preventing or reducing a serious threat to anyone's health or safety
- We can use or share your information for health research.

- Comply with the law. We will share information about you if state or federal laws require it, including with the Department of Health and Human Services if it wants to see that we're complying with federal privacy law.

### **Our Uses and Disclosures**

*Respond to organ and tissue donation requests and work with a medical examiner or funeral director*

- We can share health information about you with organ procurement organizations.
- We can share health information with a coroner, medical examiner, or funeral director when an individual dies.

*Address workers' compensation, law enforcement, and other government requests*

We can use or share health information about you:

- For workers' compensation claims.
- For law enforcement purposes or with a law enforcement official.
- With health oversight agencies for activities authorized by law.
- For special government functions such as military, national security, and presidential protective services.

*Respond to lawsuits and legal actions*

- We can share health information about you in response to a court or administrative order, or in response to a subpoena.
- We are required by law to maintain the privacy and security of your protected health information.
- We will let you know promptly if a breach occurs that may have compromised the privacy or security of your information.
- We must follow the duties and privacy practices described in this notice and give you a copy of it.
- We will not use or share your information other than as described here unless you tell us we can in writing. If you tell us we can, you may change your mind at any time. Let us know in writing if you change your mind.

### **Our Responsibilities**

- We are required by law to maintain the privacy and security of your protected health information.
- We will let you know promptly if a breach occurs that may have compromised the privacy or security of your information.
- We must follow the duties and privacy practices described in this notice and give you a copy of it.
- We will not use or share your information other than as described here unless you tell us we can in writing. If you tell us we can, you may change your mind at any time. Let us know in writing if you change your mind.
- We can change the terms of this notice, and the changes will apply to all information we have about you. The new notice will be available upon request, on our web site, and we will mail a copy to you.

For more information see: [www.hhs.gov/ocr/privacy/hipaa/understanding/consumers](http://www.hhs.gov/ocr/privacy/hipaa/understanding/consumers)

### **Women's Health and Cancer Rights Act Enrollment Notice**

Do you know that your plan, as required by the Women's Health and Cancer Rights Act of 1998, provides benefits for mastectomy-related services including all stages of reconstruction and surgery to achieve symmetry between the breasts, prostheses, and complications resulting from a mastectomy, including lymphedema?

For individuals receiving mastectomy-related benefits, coverage will be provided in a manner determined in consultation with the attending physician and the patient, for:

- all stages of reconstruction of the breast on which the mastectomy was performed;
- surgery and reconstruction of the other breast to produce a symmetrical appearance;
- prostheses; and
- treatment of physical complications of the mastectomy, including lymphedema.

These benefits will be provided subject to the same deductibles and coinsurance applicable to other medical and surgical benefits provided under this plan. If you would like more information on WHCRA benefits, please contact the Plan Administrator.

### **Mental Health/Substance Use Disorder Parity**

Effective for Plan Years on and after July 1, 2010, benefits under Plans that provide Mental Health Benefits are subject to final regulations supporting the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA). Benefits for mental health conditions and substance use disorder conditions that are Covered Health Services under the Policy must be treated in the same manner and provided at the same level as Covered Health Services for the treatment of other Sickness or Injury. Benefits for Mental Health Services and Substance Use Disorder Services are not subject to any annual maximum benefit limit (including any day, visit or dollar limit).

MHPAEA requires that the financial requirements for coinsurance and copayments for mental health and substance use disorder conditions must be no more restrictive than those coinsurance and copayment requirements for substantially all medical/surgical benefits. MHPAEA requires specific testing to be applied to classifications of benefits to determine the impact of these financial requirements on mental health and substance use disorder benefits. Based upon the results of that testing, it is possible that coinsurance or copayments that apply to mental health conditions and substance use disorder conditions in your benefit plan may be reduced.

**Premium Assistance Under Medicaid and the Children’s Health Insurance Program (CHIP)**

**Premium Assistance Under Medicaid and the Children’s Health Insurance Program (CHIP)**

If you or your children are eligible for Medicaid or CHIP and you’re eligible for health coverage from your employer, your state may have a premium assistance program that can help pay for coverage, using funds from their Medicaid or CHIP programs. If you or your children aren’t eligible for Medicaid or CHIP, you won’t be eligible for these premium assistance programs but you may be able to buy individual insurance coverage through the Health Insurance Marketplace. For more information, visit [www.healthcare.gov](http://www.healthcare.gov).

If you or your dependents are already enrolled in Medicaid or CHIP and you live in a State listed below, contact your State Medicaid or CHIP office to find out if premium assistance is available.

If you or your dependents are NOT currently enrolled in Medicaid or CHIP, and you think you or any of your dependents might be eligible for either of these programs, contact your State Medicaid or CHIP office or dial 1-877-KIDS NOW or [www.insurekidsnow.gov](http://www.insurekidsnow.gov) to find out how to apply. If you qualify, ask your state if it has a program that might help you pay the premiums for an employer-sponsored plan.

If you or your dependents are eligible for premium assistance under Medicaid or CHIP, as well as eligible under your employer plan, your employer must allow you to enroll in your employer plan if you aren’t already enrolled. This is called a “special enrollment” opportunity, and you must request coverage within 60 days of being determined eligible for premium assistance. If you have questions about enrolling in your employer plan, contact

**If you live in one of the following states, you may be eligible for assistance paying your employer health plan premiums. The following list of states is current as of July 31, 2019. Contact your State for more information on eligibility -**

<b>ALABAMA – Medicaid</b>	<b>FLORIDA – Medicaid</b>
Website: <a href="http://myalhipp.com/">http://myalhipp.com/</a> Phone: 1-855-692-5447	Website: <a href="http://flmedicaidtplrecovery.com/hipp/">http://flmedicaidtplrecovery.com/hipp/</a> Phone: 888-687-6868
<b>ALASKA – Medicaid</b>	<b>GEORGIA – Medicaid</b>
The AK Health Insurance Premium Payment Program Website: <a href="http://myakhipp.com/">http://myakhipp.com/</a> Phone: 1-866-251-4861 Email: <a href="mailto:CustomerService@MyAKHIPP.com">CustomerService@MyAKHIPP.com</a> Medicaid Eligibility: <a href="http://dhss.alaska.gov/dpa/Pages/medicaid/default.asp">http://dhss.alaska.gov/dpa/Pages/medicaid/default.asp</a> x	Website: <a href="https://medicaid.georgia.gov/health-insurance-premium-payment-program-hipp">https://medicaid.georgia.gov/health-insurance-premium-payment-program-hipp</a> Phone: 678-564-1162 ext 2131
<b>ARKANSAS – Medicaid</b>	<b>INDIANA – Medicaid</b>

Website: <a href="http://myarhipp.com/">http://myarhipp.com/</a> Phone: 1-855-MyARHIPP (855-692-7447)	Healthy Indiana Plan for low-income adults 19-64 Website: <a href="http://www.in.gov/fssa/hip/">http://www.in.gov/fssa/hip/</a> Phone: 1-877-438-4479 All other Medicaid Website: <a href="http://www.indianamedicaid.com">http://www.indianamedicaid.com</a>
<b>COLORADO – Health First Colorado (Colorado’s Medicaid Program) &amp; Child Health Plan Plus (CHP+)</b>	<b>IOWA – Medicaid</b>
Health First Colorado Website: <a href="https://www.healthfirstcolorado.com/">https://www.healthfirstcolorado.com/</a> Health First Colorado Member Contact Center: 1-800-221-3943/ State Relay 711 CHP+: <a href="https://www.colorado.gov/pacific/hcpf/child-health-plan-plus">https://www.colorado.gov/pacific/hcpf/child-health-plan-plus</a> CHP+ Customer Service: 1-800-359-1991/ State Relay 711	Website: <a href="http://dhs.iowa.gov/Ha/wiki">http://dhs.iowa.gov/Ha/wiki</a> Phone: 1-800-257-8563
<b>KANSAS – Medicaid</b>	<b>NEW HAMPSHIRE – Medicaid</b>
Website: <a href="http://www.kdheks.gov/hcf/">http://www.kdheks.gov/hcf/</a> Phone: 1-785-296-3512	Website: <a href="https://www.dhhs.nh.gov/oii/hipp.htm">https://www.dhhs.nh.gov/oii/hipp.htm</a> Phone: 603-271-5218 Toll free number for the HIPP program: 1-800-852-3345, ext 5218
<b>KENTUCKY – Medicaid</b>	<b>NEW JERSEY – Medicaid and CHIP</b>
Website: <a href="https://chfs.ky.gov">https://chfs.ky.gov</a> Phone: 1-800-635-2570	Medicaid Website: <a href="http://www.state.nj.us/humanservices/dmahs/clients/medicaid/">http://www.state.nj.us/humanservices/dmahs/clients/medicaid/</a> Medicaid Phone: 609-631-2392 CHIP Website: <a href="http://www.njfamilycare.org/index.html">http://www.njfamilycare.org/index.html</a> CHIP Phone: 1-800-701-0710
<b>LOUISIANA – Medicaid</b>	<b>NEW YORK – Medicaid</b>
Website: <a href="http://dhh.louisiana.gov/index.cfm/subhome/1/n/331">http://dhh.louisiana.gov/index.cfm/subhome/1/n/331</a> Phone: 1-888-695-2447	Website: <a href="https://www.health.ny.gov/health_care/medicaid/">https://www.health.ny.gov/health_care/medicaid/</a> Phone: 1-800-541-2831
<b>MAINE – Medicaid</b>	<b>NORTH CAROLINA – Medicaid</b>
Website: <a href="http://www.maine.gov/dhhs/ofi/public-assistance/index.html">http://www.maine.gov/dhhs/ofi/public-assistance/index.html</a> Phone: 1-800-442-6003 TTY: Maine relay 711	Website: <a href="https://medicaid.ncdhhs.gov/">https://medicaid.ncdhhs.gov/</a> Phone: 919-855-4100
<b>MASSACHUSETTS – Medicaid and CHIP</b>	<b>NORTH DAKOTA – Medicaid</b>
Website: <a href="http://www.mass.gov/eohhs/gov/departments/masshealth/">http://www.mass.gov/eohhs/gov/departments/masshealth/</a> Phone: 1-800-862-4840	Website: <a href="http://www.nd.gov/dhs/services/medicalserv/medicaid/">http://www.nd.gov/dhs/services/medicalserv/medicaid/</a> Phone: 1-844-854-4825
<b>MINNESOTA – Medicaid</b>	<b>OKLAHOMA – Medicaid and CHIP</b>

Website: <a href="https://mn.gov/dhs/people-we-serve/seniors/health-care/health-care-programs/programs-and-services/other-insurance.jsp">https://mn.gov/dhs/people-we-serve/seniors/health-care/health-care-programs/programs-and-services/other-insurance.jsp</a> Phone: 1-800-657-3739	Website: <a href="http://www.insureoklahoma.org">http://www.insureoklahoma.org</a> Phone: 1-888-365-3742
<b>MISSOURI – Medicaid</b>	<b>OREGON – Medicaid</b>
Website: <a href="http://www.dss.mo.gov/mhd/participants/pages/hipp.htm">http://www.dss.mo.gov/mhd/participants/pages/hipp.htm</a> Phone: 573-751-2005	Website: <a href="http://healthcare.oregon.gov/Pages/index.aspx">http://healthcare.oregon.gov/Pages/index.aspx</a> <a href="http://www.oregonhealthcare.gov/index-es.html">http://www.oregonhealthcare.gov/index-es.html</a> Phone: 1-800-699-9075
<b>MONTANA – Medicaid</b>	<b>PENNSYLVANIA – Medicaid</b>
Website: <a href="http://dphhs.mt.gov/MontanaHealthcarePrograms/HIPP">http://dphhs.mt.gov/MontanaHealthcarePrograms/HIPP</a> Phone: 1-800-694-3084	Website: <a href="http://www.dhs.pa.gov/provider/medicalassistance/healthinsurancepremiumpaymenthippprogram/index.htm">http://www.dhs.pa.gov/provider/medicalassistance/healthinsurancepremiumpaymenthippprogram/index.htm</a> Phone: 1-800-692-7462
<b>NEBRASKA – Medicaid</b>	<b>RHODE ISLAND – Medicaid and CHIP</b>
Website: <a href="http://www.ACCESSNebraska.ne.gov">http://www.ACCESSNebraska.ne.gov</a> Phone: (855) 632-7633 Lincoln: (402) 473-7000 Omaha: (402) 595-1178	Website: <a href="http://www.eohhs.ri.gov/">http://www.eohhs.ri.gov/</a> Phone: 855-697-4347, or 401-462-0311 (Direct RIte Share Line)
<b>NEVADA – Medicaid</b>	<b>SOUTH CAROLINA – Medicaid</b>
Medicaid Website: <a href="https://dhcfp.nv.gov">https://dhcfp.nv.gov</a> Medicaid Phone: 1-800-992-0900	Website: <a href="https://www.scdhhs.gov">https://www.scdhhs.gov</a> Phone: 1-888-549-0820
<b>SOUTH DAKOTA - Medicaid</b>	<b>WASHINGTON – Medicaid</b>
Website: <a href="http://dss.sd.gov">http://dss.sd.gov</a> Phone: 1-888-828-0059	Website: <a href="https://www.hca.wa.gov/">https://www.hca.wa.gov/</a> Phone: 1-800-562-3022 ext. 15473
<b>TEXAS – Medicaid</b>	<b>WEST VIRGINIA – Medicaid</b>
Website: <a href="http://gethipptexas.com/">http://gethipptexas.com/</a> Phone: 1-800-440-0493	Website: <a href="http://mywvhipp.com/">http://mywvhipp.com/</a> Toll-free phone: 1-855-MyWVHIPP (1-855-699-8447)
<b>UTAH – Medicaid and CHIP</b>	<b>WISCONSIN – Medicaid and</b>
Medicaid Website: <a href="https://medicaid.utah.gov/">https://medicaid.utah.gov/</a> CHIP Website: <a href="http://health.utah.gov/chip">http://health.utah.gov/chip</a> Phone: 1-877-543-7669	Website: <a href="https://www.dhs.wisconsin.gov/publications/pi/p10095.pdf">https://www.dhs.wisconsin.gov/publications/pi/p10095.pdf</a> Phone: 1-800-362-3002
<b>VERMONT– Medicaid</b>	<b>WYOMING – Medicaid</b>
Website: <a href="http://www.greenmountaincare.org/">http://www.greenmountaincare.org/</a> Phone: 1-800-888-8888	Website: <a href="https://wyequalitycare.acs-inc.com/">https://wyequalitycare.acs-inc.com/</a> Phone: 307-777-7531
<b>VIRGINIA – Medicaid and</b>	

Medicaid Website: <a href="http://www.coverva.org/programs_premium_assistanc_e.cfm">http://www.coverva.org/programs_premium_assistanc_e.cfm</a> Medicaid Phone: 1-800-432-5924 CHIP Website: <a href="http://www.coverva.org/programs_premium_assistanc_e.cfm">http://www.coverva.org/programs_premium_assistanc_e.cfm</a> CHIP Phone: 1-855-242-8282	
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To see if any other states have added a premium assistance program since July 31, 2019, or for more information on special enrollment rights, contact either:

U.S. Department of Labor U.S. Department of Health and Human Services  
 Employee Benefits Security Administration Centers for Medicare & Medicaid  
 Services [www.dol.gov/agencies/ebsa](http://www.dol.gov/agencies/ebsa) [www.cms.hhs.gov](http://www.cms.hhs.gov)  
 1-866-444-EBSA (3272) 1-877-267-2323, Menu Option 4, Ext. 61565

### **Paperwork Reduction Act Statement**

According to the Paperwork Reduction Act of 1995 (Pub. L. 104-13) (PRA), no persons are required to respond to a collection of information unless such collection displays a valid Office of Management and Budget (OMB) control number. The Department notes that a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. See 44 U.S.C. 3507. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. See 44 U.S.C. 3512.

The public reporting burden for this collection of information is estimated to average approximately seven minutes per respondent. Interested parties are encouraged to send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Employee Benefits Security Administration, Office of Policy and Research, Attention: PRA Clearance Officer, 200 Constitution Avenue, N.W., Room N-5718, Washington, DC 20210 or email [ebsa.opr@dol.gov](mailto:ebsa.opr@dol.gov) and reference the OMB Control Number 1210-0137. OMB Control Number 1210-0137 (expires 12/31/2019)

### **Michelle's Law Notice**

Michelle's Law, passed in 2008, prohibits group health plans from terminating the coverage of a dependent child who has lost student status as a result of a medically necessary leave of absence. Plans must continue to provide coverage for up to one year, or until coverage would otherwise terminate under the plan.

### **Newborns' and Mothers' Health Protection Act Model Language**

Group health plans and health insurance issuers generally may not, under Federal law, restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child to less than 48 hours following a vaginal delivery, or less than 96 hours following a cesarean section. However, Federal law generally does not prohibit the mother's or newborn's attending provider, after consulting with the mother, from discharging the mother or her newborn earlier than 48 hours (or 96 hours as applicable). In any case, plans and issuers may not, under

Federal law, require that a provider obtain authorization from the plan or the insurance issuer for prescribing a length of stay not in excess of 48 hours (or 96 hours).

### **Genetic Information Nondiscrimination Act (GINA Disclosures)**

Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

### **Rescission**

A rescission of your coverage means that the coverage may be legally voided all the way back to the day the Plan began to provide you with coverage, just as if you never had coverage under the Plan. Your coverage can only be rescinded if you (or a person seeking coverage on your behalf), performs an act, practice, or omission that constitutes fraud, or unless you (or a person seeking coverage on your behalf) makes an intentional misrepresentation of material fact, as prohibited by the terms of your Plan. You will be provided with thirty (30) calendar days' advance notice before your coverage is rescinded. You have the right to request an internal appeal of a rescission of your coverage. Once the internal appeal process is exhausted, you have the additional right to request an independent external review.

### **Family and Medical Leave Act (if applicable)**

#### *Leave Entitlements*

Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within 1 year of the child's birth or placement);
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

### *Benefits & Protections*

While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave. Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

### *Eligibility Requirements*

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:

- Have worked for the employer for at least 12 months;
- Have at least 1,250 hours of service in the 12 months before taking leave;\* and
- Work at a location where the employer has at least 50 employees within 75 miles of the employee's worksite.

\*Special "hours of service" requirements apply to airline flight crew employees.

### *Requesting Leave*

Generally, employees must give 30-days' advance notice of the need for FMLA leave. If it is not possible to give 30-days' notice, an employee must notify the employer as soon as possible and, generally, follow the employer's usual procedures.

Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

Employers can require a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

### *Employer Responsibilities*

Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the employer must provide a reason for ineligibility.

Employers must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

### *Enforcement*

Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit against an employer.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

For additional information or to file a complaint, call U.S. Department of Labor – Wage and Hour Division at 1-866-487-9243. [www.dol.gov/whd](http://www.dol.gov/whd)





**CITY OF BOWLING GREEN  
ADMINISTRATIVE INSTRUCTION NO. 33**

**FAMILY AND MEDICAL LEAVE ACT**

These Administrative Instructions establish City policy with respect to compliance with the Family and Medical Leave Act (FMLA), as defined in the final regulations released by the Department of Labor (DOL).

**INSTRUCTIONS**

The Family and Medical Leave Act of 1993 establishes the right for "eligible" employees to take up to 12 weeks of unpaid, job-protected leave during a calendar year for certain family and medical reasons. Employees are "eligible" if they have been on the City's payroll for at least twelve months and have worked at least 1,250 hours during the 12 months prior to the commencement of the leave. The 12 months do not have to be consecutive. In determining the hours worked, vacation, personal, sick leave or unpaid leave would not be included. Overtime hours would be considered hours worked. However, an employee's entitlement to leave for the birth or placement of a son or daughter for adoption or foster care shall expire at the end of the 12-month period beginning on the date of such birth or placement.

Eligible employees whose spouse, son, daughter or parent is on covered active duty or called to covered active duty status may use their twelve-week leave entitlement to address certain qualifying exigencies. FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single twelve month period.

**Reasons for Taking Leave**

An eligible employee may be granted leave for any of the following reasons:

1. For incapacity due to pregnancy or prenatal medical care.
2. For the "birth" and/or care of the employee's "son or daughter" (includes natural birth or placement for adoption or foster care).
3. For the care of the employee's parent, spouse, son, or daughter with a "serious health condition."
4. For a serious health condition that makes the employee unable to perform one or more of the essential functions of his position.
5. For a spouse, son, daughter, parent, or next of kin to care for a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty, up to 26 weeks of leave may be taken.

6. For any qualifying exigency related to the employee's spouse, son, daughter, or parent who is a covered servicemember on or called to active duty.

### **Definition of Terms**

"Spouse" means a husband or wife that entered into marriage recognized under the law of the State where married or if married outside of any State, if valid where married and valid in at least one State. This includes a same-sex or common law marriage that either (1) was entered into in a State that recognizes such marriage; or (2) if entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State as defined under Ohio law.

"Covered servicemember" means: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment recuperation, or therapy for a serious injury or illness.

"Son" or "Daughter" means a biological, adopted, or foster child, a stepchild, or a legal ward that is either under age 18, or age 18 or older and is incapable of self-care because of mental or physical disability, as defined by the Americans with Disabilities Act.

"Parent" means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter as previously defined in this section. This term does not include parents "in-law".

"Serious health condition" means an illness, injury, impairment, or physical or mental condition that renders the employee unable to perform his/her job and involves inpatient care or continuing treatment by a health care provider.

"Serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".

"Health care provider" means a licensed doctor of medicine or osteopathy, or licensed podiatrist, dentist, clinical psychologist, optometrist, chiropractor (with certain limitations), nurse practitioner, or nurse midwife.

**“Continuing treatment” involves a period of incapacity:**

(1) of more than three consecutive calendar days and any subsequent treatment that also involves at least treatment two or more times by a health care provider; or treatment by a health care provider on at least one occasion which results in a regimen of continuous treatment under the supervision of the health care provider; (2) due to pregnancy, or for prenatal care, or one treatment which results in a regimen of continuing treatment under the health care provider’s supervision; (3) due to a chronic serious health condition requiring treatment by a health care provider over an extended period of time and may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy); (4) permanent or long-term incapacity due to a condition for which treatment may not be effective; (5) any period of absence to receive multiple treatments by a health care provider either for restorative surgery after an accident or injury for a condition such as cancer that would likely result in a period of incapacity of more than three consecutive calendar days without medical treatment. Treatment would not include routine physical examinations.

#### **Substitution of Accrued Leave Time**

Whenever an employee has accumulated unused sick leave, vacation, or personal business leave, that time shall be substituted for and counted against the employee’s 12-week FMLA entitlement. Employees will not be required to substitute compensatory time for unpaid FMLA leave; however, they may voluntarily elect to utilize accrued by unused compensatory time in order to remain in a paid status.

#### **Advance Notice**

An employee must provide the City with written notice at least 30 days in advance before FMLA leave is to begin if the need for leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or immediate family member. Such notice must set forth the reasons for the requested leave, the anticipated starting date of the leave, and the anticipated duration.

If 30-days’ notice is not practicable under the circumstances, for example, because of lack of knowledge of when leave will be required, a substantial change in circumstances, or a medical emergency, notice must be given as soon as possible after the employee becomes aware of the necessary scheduling arrangements.

If an employee fails to give at least 30-days’ notice of a foreseeable leave with no reasonable excuse for the delay, the City may deny the taking of FMLA leave until at least 30 days after the date the employee provides notice to the City of the need for FMLA leave.

Whenever an employee requests FMLA leave to care for a seriously-ill spouse, son, daughter, or parent, or due to the employee’s own serious health condition, the employee must furnish written certification of the serious health condition signed by the employee’s or immediate family member’s health care provider. Such certification should

be submitted at the time the employee requests leave, or in the case of an unforeseen leave, as soon after the leave commences as possible. Certification can be made using Federal Form WH-380 E or F, whichever is applicable.

The City may require a second opinion from another health care provider. If the opinions differ, the City may require a third opinion from a health care provider jointly selected by the City and the employee. The third health care provider's opinion shall be final and binding. The costs of obtaining second or third opinions that have been incurred by an employee or family member shall be reimbursed by the City. Itemized receipts and verification of mileage traveled will be required.

Whenever an employee requests FMLA leave to care for a covered service member, who is a spouse, son, daughter, parent, or next of kin, who is recovering from a serious illness or injury sustained in the line of duty on active duty or for any qualifying exigency related to the employee's spouse, son, daughter, or parent on or called to active duty the employee must furnish written certification of the need for the leave. Such certification should be submitted at the time the employee requests leave, or in the case of an unforeseen leave, as soon after the leave commences as possible. Certification shall be made using Federal Forms WH-384 or WH-385, whichever is applicable.

When accrued sick, vacation, or personal business leave is substituted for unpaid FMLA leave, the employee must submit to the City a completed "Application for Leave" form with medical documentation verifying the necessity for the leave. These documents must be submitted to the City as soon as practicable.

As a condition of restoring an employee, whose FMLA leave was due to his or her own serious health condition, the employee must present written certification from a health care provider that the employee is able to resume work.

### **Recurring Notice**

The City may request recertification of the employee's or family member's condition in accordance with Federal regulations governing FMLA. If the employee provides a statement of intent to return to work, entitlement to leave and maintenance of health benefits continues. However, if the employee gives an unequivocal notice of intent not to return to work, the City is no longer obligated to continue health and dental benefits (other than COBRA requirements) or to restore the employee to his or her job.

Employees who desire to return to work prior to the end of their leave must give the employer reasonable notice (at least two working days).

### **Work Related Injuries and Illnesses**

Where an employee suffers a serious injury or illness at work that makes the employee unable to perform any one or more of the essential functions of the position, the employee could be eligible for both workers' compensation benefits and Family Medical Leave. Time absent from work for work-related accidents and/or illnesses shall be counted concurrently towards both Family Medical Leave and Workers' Compensation.

### **Intermittent or Reduced Leave**

An employee requesting FMLA leave to care for a seriously ill immediate family member, or for such employee's own serious health condition, may take intermittent leave or work a reduced work schedule if medically necessary. Intermittent leave may also be taken as a result of the birth of a child or for the placement of a child for adoption or foster care. If the need for leave is foreseeable based on planned medical treatment, the City may temporarily transfer the employee to an available alternative position with equivalent pay and benefits that better accommodates recurring periods of leave, provided the employee is qualified for the position.

### **Joint Use of FMLA Leave by Husband and Wife**

A husband and wife who work for the City and who are eligible for FMLA leave are permitted to take only a combined total of 12 weeks of leave during any 12-month period if the leave is taken:

1. for the birth and/or care of the child after birth; or
2. for the placement of a son or daughter with the employee for adoption or foster care or to care for the child after placement; or
3. to care for a parent (but not a parent-in-law) with a serious health condition.

### **Benefits Protection**

The City shall maintain the employee's health and dental coverages for the duration of a FMLA leave. Premium payments for medical and dental insurance that are normally the responsibility of the employee shall continue to be paid by him or her through payroll deduction, regardless of whether the employee has accrued paid leave time to cover all or part of the FMLA leave the City will continue to pay its share of the employee's monthly premiums that it would otherwise pay if the employee were on paid leave status or otherwise present for duty.

If a FMLA leave request is foreseeable, the employee must make arrangements with the City Finance Director at the time of requesting FMLA leave as to a payment schedule, or payroll deduction, to cover his or her share of the medical and dental insurance premiums coming due during the requested period of FMLA leave. If the need for leave is unforeseeable, such arrangements must be made with the City Finance Director no later than 15 days after commencement of the FMLA leave period.

If an employee on FMLA leave fails to submit any required premium to the City within 30 calendar days of the date the premium is due, the City may discontinue health and dental insurance for such employee. If the City chooses to discontinue coverage as a result of non-payment of premium(s) after the 30-day grace period, the employee's health and dental benefits will be restored upon the employee's return to work at the same level and terms as were provided when leave commenced.

If an employee fails to return to work after expiration of such employee's FMLA leave entitlement, the City may recover premiums it paid for maintaining group health and dental plan coverages during the FMLA leave period, unless the reason the employee fails to return to work is either (1) the continuation, recurrence, or onset of a serious health condition, or (2) other circumstances beyond the employee's control. The validity of "circumstances beyond the employee's control" will be judged by the City on a case-by-case basis.

Whenever an employee fails to return from FMLA leave due to "the continuation, recurrence, or onset" of a serious health condition, such employee must submit medical certification of the serious health condition to the City. If such an employee fails to furnish the required certification within 30 days, the City may recover the health and dental insurance premiums it paid on such employee's behalf during the FMLA leave period.

Upon return from a FMLA leave the employee shall be restored to the same position that the employee held when the leave started, if available, or if such position is unavailable, to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

  
Richard A. Edwards, Mayor                      Date