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4.01 Overview

This Section 4.01 summarizes limits imposed by the HIPAA Privacy Rule on the Plan's uses and disclosures of PHI. Sections 4.02 through 4.06 describe Procedures the Plan's Administrator maintains to satisfy the standards when it uses PHI on behalf of the Plan. Insurers and Business Associates will also adopt procedures to meet those standards, and Business Associates will act as described in their Business Associate Agreement (see Section 7.05).

In general, a Participant's PHI can be used or disclosed for a variety of Plan administrative activities. Common examples include paying claims, resolving appeals, managing specialty vendors and helping Participants address problems. The HIPAA Privacy Rule does not prohibit these activities, but it imposes the following guidelines:

Uses and disclosures generally allowed without Authorization. A person's PHI can be used or disclosed without obtaining that person's Authorization as follows:

- If disclosed to the Plan's Administrator for enrollment activities and (where only summary health information is used) for premium bids and Plan Amendment/ termination activities;
- If requested by a Health Care Provider for Treatment;
- If needed for Payment activities such as claims, appeals, and bill collection;
- If needed for Health Care Operations such as audits and wellness and risk assessment programs;
- If disclosed to the Participant, and in certain circumstances, to family members and others acting on the Participant's behalf; and
- If required by law, in connection with public health activities, or in similar situations as listed in Section 10.10.

Details on the types of activities that constitute permissible Treatment, Payment, and Health Care Operations are included in Section 8. In some cases, the Plan will want to use or disclose PHI for other purposes, in which case Authorization will be required. In addition, except in certain limited circumstances, Authorization is required for the use and disclosure of Psychotherapy Notes and for the use and disclosure of PHI for Marketing.

Information is limited to the "Minimum Necessary." The Plan must limit uses and disclosures of PHI to the Minimum Necessary to accomplish the intended purpose. This requirement does not apply to:

- Uses or disclosures for Treatment purposes;
- Disclosures to the Department of Health and Human Services (HHS) for audits of the Plan's compliance with the HIPAA Privacy Rule;
- Disclosures to an individual of his or her own PHI;
- Uses or disclosures required by law;
- Uses or disclosures made pursuant to an Authorization; and
- Uses or disclosures otherwise required for compliance with the HIPAA Privacy Rule.

De-identified Information. The limits in this Manual apply only to health information that is individually identifiable. If information is de-identified, it can then be used or disclosed without restriction. In addition, information that has most of its de-identifiers removed can be disclosed to a person signing a Data Use Agreement (see Section 4.06).

a. Citations

45 CFR § 164.502(b)
45 CFR § 164.502(d)
45 CFR § 164.508
45 CFR § 164.514

4.02 Enrollment, Premium Bids, Amendment/ Termination Activities

The Plan's Administrator will process Participant enrollment and disenrollment elections and transmit the elections to the Plan, its Insurers, and its Business Associates. The Plan, its Insurers and its Business Associates will, without obtaining a Participant's Authorization, disclose certain types of PHI (enrollment/disenrollment information and summary health information) to the Plan's Administrator (or its agents) in the following circumstances:

PHI disclosed	Employer uses of PHI
Enrollment and disenrollment information	<ul style="list-style-type: none"> • Enrollment and disenrollment activities, including processing of annual enrollment elections, payroll processing of elected Participant contribution amounts, new-hire elections, enrollment changes, and responding to Participant questions related to eligibility for Plan enrollment.
Summary health information (see table below)	<ul style="list-style-type: none"> • To obtain premium bids for health insurance coverage under the Plan (if the Plan's Administrator requests the information). • To modify, amend, or terminate the Plan (if the Plan's Administrator requests the information).

Required deletions for Summary Health Information

Summary health information is information that summarizes claims history, expenses, or types of claims of individuals receiving benefits under the Plan from which the following information has been deleted.

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| • Names; | • Vehicle identifiers (serial number or license plate number); | • Health plan beneficiary numbers; |
| • Social Security numbers; | | • Account numbers; |
| • Full face photographic and any comparable images; | • Device identifiers and serial numbers; | • Certificate/license numbers; |
| • Telephone numbers; | • Web Universal Resource Locators (URLs); | • Internet Protocol (IP) address numbers; |
| • Specific dates such as dates of birth and death, and admission/discharge dates. <i>The Plan can use the year of the event, except for the birth year of persons over age eighty-nine (89)</i> | • Fax numbers; | • Biometric identifiers (e.g., finger, iris, or voice prints); and |
| | • E-mail address; | |
| | • Medical record number; | • Geographic identifiers smaller than a state, including street address, city, county, and precinct; but the five (5)-digit zip code may be used. |
| | • Any other unique identifying numbers, or characteristics, or codes, including a particular subsidiaries, divisions, or work locations | |

a. Citations

45 CFR § 164.504(f)(1)

4.03 Treatment, Payment, and Health Care Operations

The HIPAA Privacy Rule permits the Plan's Administrator to receive PHI from the Plan without Authorization only after the Plan's Administrator has amended the Plan and certified that it will limit uses and disclosures of PHI to Plan administrative activities and will otherwise protect PHI as required by the law. The Plan's certification and Amendment are in Sections 7.03 and 7.04. This Section 4.03 describes the Plan's Administrator procedures for using or disclosing PHI for Plan administrative activities without Authorization. In general, the Plan's Administrator will:

- Identify the classes of employees with access to PHI and the categories of information they will use;
- Make reasonable efforts to limit disclosures of and requests for PHI to the Minimum Necessary to accomplish the intended purpose;
- Maintain procedures governing the storage of PHI; and
- If feasible, return or destroy PHI received from the Plan, and maintain procedures governing the retention and destruction of PHI not returned or destroyed.

Procedures governing disclosures and requests made on a routine and recurring basis are described in the following charts. For other disclosures and requests, the Plan's Administrator will review each situation on an individual basis by considering the importance of the request or disclosure; the costs of limiting the request or disclosure; and any other factors the Plan's Administrator believes to be relevant. Any uses or disclosures of PHI not included in these tables but permitted to be made without Authorization in the Notice of Privacy Practices (see Section 7.02) should be made upon consultation with the Privacy Official if feasible.

a. Appeals of Adverse Benefit Determinations

The Board of Trustees process final appeals to adverse benefit determinations for the self funded plans. Process includes collecting information relevant to benefit determination; review and analysis by the Board of Trustees; documenting decision; corresponding with Participant to apprise them of status and final determination; communicating with Business Associates as appropriate. This is a Payment activity.

The Plan's Administrator staff permitted access to PHI	<ul style="list-style-type: none"> • Board of Trustees. • HR employees with responsibility for investigating appeals and recommending decisions to the Committee.
Parties to whom disclosures are permitted	<ul style="list-style-type: none"> • Participant who is the subject of the appeal, and associated individuals as permitted by Section 4.05. • Health care providers involved with treating the Participant. • Business Associates involved in the initial benefit determination. • Business Associates (including health care professionals) assisting with review and analysis of the benefit determination and appeal.
Categories of PHI	<ul style="list-style-type: none"> • Information relating to appeals, including: <ul style="list-style-type: none"> – copies of the denial letter. – documents submitted by the claimant, health care providers, etc. – benefit determinations of Participants receiving similar services. – documents/communications from the Plan's Administrator.
Protocols for meeting Minimum Necessary requirement	<ul style="list-style-type: none"> • Information received from the Plan will be de-identified (e.g., name and location removed) to the extent possible by Business Associates or, by HR employees before the claim is reviewed by the Board of Trustees.
Storage of PHI	<ul style="list-style-type: none"> • Paper records will be maintained in the HR file room and clearly labeled "Plan Appeals." • Electronic records will be retained on the HR file server. • Information will be protected using the procedures in Section 3.02.
Retention/ Destruction	<ul style="list-style-type: none"> • No redundant copies will be retained. • PHI will be destroyed six years after creation.

b. Customer Service

The Plan's Administrator will assist Participants with various eligibility and claims questions. Questions related solely to enrollment and disenrollment will be processed in accordance with Section 4.02. Process involves intake of questions from Participants, collecting information relevant to question; documenting decision; communicating with Participant to apprise them of status and resolution; communicating with Business Associates and Insurers as appropriate. This is a Payment activity.

Individuals permitted access to PHI	<ul style="list-style-type: none"> The Plan's Administrator is responsible for investigating questions and recommending decisions.
Parties to whom disclosures are permitted	<ul style="list-style-type: none"> Participant who is the subject of a question, and associated individuals as permitted by Section 4.05. Health care providers involved with treating the Participant. Business Associates and Insurers involved in benefit determinations. Business Associates Insurers assisting with review and analysis of benefit determinations.
Categories of PHI	<ul style="list-style-type: none"> All PHI relevant to the claim.
Protocols for meeting Minimum Necessary requirement	<ul style="list-style-type: none"> The Plan's Administrator will disclose only PHI that, in their judgment, is directly relevant to the resolution of the question. Questions about the scope of requested disclosures should be directed to the Privacy Official.
Storage of PHI	<ul style="list-style-type: none"> Paper records will be maintained in the HR file room and clearly labeled "Customer Service." Electronic records will be retained on the HR file server. Information will be protected using the procedures in Section 3.02.
Retention/ Destruction	<ul style="list-style-type: none"> No redundant copies will be retained. PHI will be destroyed six years after creation.

c. Data Analysis

The Plan's Administrator will perform plan auditing, rate setting and benefits planning and analysis using claims and appeals information obtained from Business Associates and Insurers. Business Associates perform claim data collection and warehousing services and provide quarterly reports to the Plan for the purpose of performing trending, forecasting, and cost calculations. These are both Health Care Operations activities and Payment activities.

Individuals	<ul style="list-style-type: none"> The Plan's Administrator is responsible for Plan management
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permitted access to PHI	and quality assessment activities.
Parties to whom disclosures are permitted	<ul style="list-style-type: none"> • Business Associates involved in data aggregation. • Business Associates assisting with review and analysis of data.
Categories of PHI	<ul style="list-style-type: none"> • All claims data related to Participants, but excluding any physician notes and underlying claim records.
Protocols for meeting Minimum Necessary requirement	<ul style="list-style-type: none"> • Business Associate will remove obvious identifiers (e.g., name, location, ID number) before providing PHI to the Plan.
Storage of PHI	<ul style="list-style-type: none"> • Paper records will be maintained in the HR file room and clearly labeled "Data Analysis." • Electronic records will be retained on the HR file server. • Information will be protected using the procedures in Section 3.02.
Retention/ Destruction	<ul style="list-style-type: none"> • No redundant copies will be retained. • PHI will be destroyed six years after creation.

d. Citations

45 CFR § 164.506

4.04 When Authorizations are Needed

The Plan's Administrator will obtain a Participant's Authorization for any use or disclosure of PHI not identified in Section 4.01, including any uses for employment-related or non-Plan-related purposes.

PHI will not be used or disclosed on the basis of an Authorization, unless it is verified that the Authorization:

- Has not expired;
- Has not been revoked; and
- Includes all required information.

The requirements for Authorizations are described in Section 7.06.

A copy of each Authorization will be retained for six (6) years from the later of the date the Authorization was created or the last date the Authorization was effective.

a. Citations

45 CFR § 164.508