

**CLAYTON COUNTY BOARD OF COMMISSIONERS
IMPORTANT NOTICE**

NOTICE OF PRIVACY PRACTICES

**THIS NOTICE DESCRIBES HOW PROTECTED HEALTH INFORMATION (PHI) ABOUT YOU MAY
BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION.
PLEASE REVIEW IT CAREFULLY.**

In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rules, this Notice is provided to you to establish the permitted and required uses and disclosures of protected health information (PHI) on behalf of:

**Clayton County Board of Commissioners Medical Plan (Kaiser Permanente HMO)
Clayton County Board of Commissioners Self-Funded Medical Plan
Clayton County Board of Commissioners Self-Funded Dental Plan
Clayton County Board of Commissioners Medical Plan (Kaiser Sr. Advantage)
Clayton County Board of Commissioners Medical Plan (Humana Medicare Advantage)
Clayton County Board of Commissioners Davis Vision Plan
Clayton County Board of Commissioners Employee Assistance Plan (EAP)**

The Plans comprise an "Affiliated Covered Entity," treated as a single plan for purposes of this Notice and the required privacy rules. For purposes of this Notice, we refer to these Plans as a single "Plan" (The Plan) and refer to companies that provide various services to the plans as "Vendors".

The Plan participates in what the federal privacy rules call an "Organized Health Care Arrangement" (the Arrangement) The purpose of that participation is that it allows PHI to be shared between the members of the Arrangement, without authorization by the persons whose PHI is shared, for health care operations. Primarily, the designation is useful to the Plan because it allows the insurers who participate in the Arrangement to share PHI with the Plan for purposes such as shopping for other insurance bids.

The members of the Organized Health Care Arrangement are:

**Clayton County Board of Commissioners Medical Plan (Kaiser Permanente HMO)
Clayton County Board of Commissioners Self-Funded Medical Plan
Clayton County Board of Commissioners Self-Funded Dental Plan
Clayton County Board of Commissioners Medical Plan (Kaiser Sr. Advantage)
Clayton County Board of Commissioners Medical Plan (Humana Medicare Advantage)
Clayton County Board of Commissioners Davis Vision Plan
Clayton County Board of Commissioners Employee Assistance Plan (EAP)**

Effective Date of Notice: February 8, 2011

The Plan is required by law to take reasonable steps to ensure the privacy of your personally identifiable health information and to inform you about:

- The Plan's uses and disclosures of Protected Health Information (PHI);
- Your privacy rights with respect to your PHI;
- The Plan's duties with respect to your PHI;
- Your right to file a complaint with the Plan and to the Secretary of the U.S. Department of Health and Human Services (HHS); and
- The person or office to contact for further information about the Plan's privacy practices.

The term "Protected Health Information" (PHI) includes all individually identifiable health information transmitted or maintained by the Plan, regardless of form (oral, written, electronic). This includes demographic or other health information about your past, present, or future health or condition, the provision of health care to you, or payment for the health care that the Plan will use and disclose specifically for purposes related to health care treatment, payment for health care and health care operations.

Section 1. Notice of PHI Uses and Disclosures

Required PHI Uses and Disclosures

Upon your request, the Plan is required to give you access to certain PHI in order to inspect and copy it.

Use and disclosure of your PHI may be required by the Secretary of the Department of Health and Human Services to investigate or determine the Plan's compliance with the privacy regulations.

Uses and disclosures to carry out treatment, payment, and health care operations

The Plan, its Vendors and business associates will use PHI without your consent, authorization, or opportunity to agree or object to carry out treatment, payment, and health operations. The Plan also will disclose PHI to Clayton County Board of

Commissioners (the Plan Sponsor) for purposes related to treatment, payment, and health care operations. The Plan Sponsor has amended its plan documents to protect your PHI as required by law.

Treatment is the provision, coordination, or management of health care and related services. It also includes but is not limited to consultations and referrals between one or more of your providers, such as doctors, nurses, hospitals, emergency medical technicians, pharmacists and other health care professionals where the disclosure is for your medical treatment.

For example, if you are injured in an accident, and it is important for your treatment team to know your blood type, the Plan could disclose that PHI to the team in order to allow it to more effectively provide treatment to you. In addition, if you have a specific disease and the Plan has a program that attempts to manage your treatment or medications associated with the disease, your medical information will be shared with such a Vendor.

Payment includes but is not limited to actions to make coverage determinations and payment (including billing, claims management, subrogation, plan reimbursement, reviews for medical necessity and appropriateness of care and utilization review and pre-authorizations).

For example, the Plan may tell a doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Plan. Alternatively, should you be covered by more than one healthcare plan, The Plan may share PHI with the other plan to coordinate payment of your claims.

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. It also includes 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 Plan may provide information relative to your enrollment, effective dates, etc to Vendors providing a service (such as ID cards), or may use information about your claims to refer you to a disease management program, project future benefit costs or audit the accuracy of its claims processing functions.

Uses and disclosures that require that you be given an opportunity to agree or disagree prior to the use or release

Disclosure of your PHI to family members, other relatives and your close personal friends is allowed if:

- The information is directly relevant to the family or friend's involvement with your care or payment for that care; and
- You either agreed to the disclosure or been given an opportunity to object and have not objected.

The Plan may also share PHI with these people to notify them about your location, general condition, or death. However, the Plan may disclose your PHI only if it informs you about the disclosure in advance and you do not object. In the event of an emergency and you cannot be given your opportunity to object, disclosure may be made if it is consistent with any prior expressed wishes and disclosure is determined to be in your best interest. In this case, you must be informed and given an opportunity to object to further disclosure as soon as you are able to do so.

For example, if you, the employee, call the Plan about a claim for your spouse or adult child, the Plan cannot talk to you about that claim without the person's authorization, unless that person cannot be located and it appears that it is in his or her best interest for the Plan to deal with you regarding the claim.

Uses and disclosures for which consent, authorization, or opportunity to object is not required

Use and disclosure of your PHI is allowed without your consent, authorization or request under the following circumstances;

1. When required by law to report information related to suspected abuse, neglect or domestic violence, or relating to suspected criminal activity, or in response to a court order. It must also disclose PHI to authorities who monitor compliance with these privacy requirements.
2. When permitted for purposes of public health activities, the Plan is required to collect information about disease or injury, or to report vital statistics to the public health authority.
3. The Plan may disclose your PHI to a public health oversight agency for oversight activities authorized by law. This includes uses or disclosures in civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions (for example, to investigate complaints against providers) and other activities necessary for appropriate oversight of government benefit programs (for example, to investigate Medicare or Medicaid fraud).
4. When relating to an individual's death, The Plan may disclose PHI to a coroner, medical examiner, or funeral director for identifying a deceased person, determining a cause of death or other duties as authorized by law. In addition, The Plan may disclose PHI to organ procurement organizations relating to organ, eye, or tissue donations or transplants.
5. In some circumstances, and under strict supervision of a privacy board, the Plan may disclose PHI to assist medical and psychiatric research.
6. In order to avoid a serious threat to health or safety, the Plan may disclose PHI as necessary to law enforcement or other persons who can reasonably prevent or lessen the threat of harm
7. The Plan may disclose PHI to the Clayton County Board of Commissioners, who sponsor (The Sponsor) or maintain the Plan for the benefit of employees and dependents. However, the PHI may only be used for limited purposes, and may not be used for purposes of employment-related actions or decisions or in connection with any other benefit or employee benefit plan of the employers. PHI may be disclosed to: The Human Resources Department or Human Resources Insurance Benefits division, for purposes of enrollments and cancellations, census, claim resolutions, and other matters related to Plan administration; Finance department for the purposes of ensuring appropriate payroll deductions and other payments by plan participants for coverage and for purposes of reconciling payments of premiums to and benefits from the Plan and other matters related to Plan administration; Information Technology, as needed for preparation of data compilations and reports related to Plan administration; legal counsel to assist with resolution of claim, coverage and other disputes related to the Plan's provision of benefits; auditors for purposes of confirming financial transactions, third party administrators, utilization

review and pre-certification firms, excess insurance carriers, Centers for Medicare and Medicaid and, in some cases, benefit consultants.

8. When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.
9. The Plan may disclose PHI of military personnel and veterans in certain situations, to correctional facilities in certain situations, to government programs relating to eligibility and enrollment, and for national security reasons.

For uses and disclosures beyond treatment, payment, and operations purposes, except as otherwise indicated in this notice or to the extent, the Plan has already undertaken an action in reliance upon your authorization, uses and disclosures will be made only with your written authorization subject to your right to revoke such authorization.

Section 2. Rights of Individuals

Right to Request Restrictions on PHI Uses and Disclosures

You may request the Plan to restrict uses and disclosures of your PHI to carry out treatment, payment, or health care operations, or to restrict uses and disclosures to family members, relatives, friends or other persons identified by you who are involved in your care or payment for your care. However, the Plan is not required to agree to your request.

The Plan will accommodate reasonable requests to receive communications of PHI by alternative means or at alternative locations (alternative address).

You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI. Such requests should be made to P. Renee Bright, Director - Clayton County Human Resources Department, 770-477-3241, 112 Smith Street, Jonesboro, GA 30236.

Right to Inspect and Copy PHI

Unless your access is restricted for clear and documented treatment reasons, you have a right to inspect and obtain a copy of your PHI in the possession of the Plan or its Vendors for as long as the Plan or Vendors maintains the PHI. "Protected Health Information" (PHI) includes the medical records, billing records about individuals maintained by or for a covered health care provider. It also includes enrollment, payment, billing, claims determinations and case management records maintained by or for The Plan or its Vendors; or other information used in whole or in part by or for the Plan or its Vendors to make decisions about individuals. Your written request must be directed to Theodis Locke, Assistant Director, Clayton County Human Resources, Benefits Division, 134 Spring Street, Jonesboro, GA 30236. The Plan, or someone on behalf of the Plan, will respond to your request within 30 days if the information is maintained on site or within 60 days if the information is maintained offsite. A single 30-day extension is allowed if the Plan is unable to comply with the deadline. If access is denied, you or your personal representative will be provided with a written denial stating the reasons for the denial, a description of how you may exercise those review rights and a description of how you may complain to the Secretary of the U.S. Department of Health and Human Services.

Right to Amend PHI

If you believe there is a mistake or missing information in a record of your PHI held by the Plan or its Vendors, you may request, in writing, The Plan correct or supplement the record. The Plan has 60 days after the request is made to act on the request. A single 30-day extension is allowed if the Plan is unable to comply with the deadline. If the request is denied in whole or part, the Plan must provide you with a written denial that explains the reasons for the denial. You or your personal representative may then submit a written statement disagreeing with the denial and have that statement included with any further disclosures of your PHI. Direct all requests for amendment of PHI to Theodis Locke, Assistant Director, Clayton County Human Resources, Benefits Division, 134 Spring Street, Jonesboro, GA 30236.

The Right to Receive an Accounting of PHI Disclosures

At your request, the Plan will also provide you with an accounting of disclosures by the Plan of your PHI during the six years prior to the date of your request. However, such accounting need not include PHI disclosures made; (1) to carry out treatment, payment or health care operations; (2) to individuals about their own PHI; (3) prior to the April 14, 2003; or (4) based on your written authorization. If the accounting cannot be provided within 60 days, an additional 30 days is allowed if the individual is given a written statement of the reasons for the delay and the date by which the accounting will be provided. If you request more than one accounting within a 12-month period, the Plan will charge a reasonable fee for each subsequent request.

The Right to Receive a Paper Copy of This Notice Upon Request

To obtain a paper copy of this Notice contact the Clayton County Human Resources Insurance Benefits Department, 134 Spring Street, Jonesboro, GA 30236 or call 770-477-3590.

A Note About Personal Representatives

You may exercise your rights through a personal representative. Your personal representative will be required to produce evidence of his/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. One of the following represents evidence of such authority: (1) a power of attorney for health care purposes, notarized by a notary public; (2) a court order of appointment of the person as the conservator or guardian of the individual; or (3) an individual who is the parent of a minor child. The Plan retains 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.

Section 3. The Plan's Duties

The Plan is required by law to maintain the privacy of PHI and to provide individuals (participants and beneficiaries) with notice of its legal duties and privacy practices.

Minimum Necessary Standard

When using or disclosing PHI or when requesting PHI, the Plan will make reasonable efforts not to use, disclose or request more than the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request, taking into consideration practical and technological limitations. However, the minimum necessary standard will not apply in the following situations: (1) disclosures to or requests by a health care provider for treatment; (2) disclosures made to the Secretary of the U.S. Department of Health and Human Services; (3) uses or disclosures that are required by law; and (4) uses or disclosures that are required for the Plan's compliance with legal regulations. This notice does not apply to information that does not identify an individual and to which there is no reasonable basis to believe that the information can be used to identify an individual. In addition, the Plan may use or disclose "summary health information" to the Plan Sponsor for obtaining premium bids or modifying, amending or terminating the group health plan, which summarizes the claims history, claims expenses or type of claims experienced by individuals for whom The Plan Sponsor has provided health benefits under a group health plan; and from which identifying information has been deleted in accordance with HIPAA.

The Plan will conform to the following provisions as it relates to the use or disclosure of PHI:

1. not to use or further disclose other than as permitted or required by the Plan documents or as required by law;
2. to ensure that any agents, business associates, Vendors, to which the Plan Sponsor provides group health plan PHI agree to the same restrictions and conditions that apply to the Plan Sponsor;
3. not to use or disclose PHI for employment-related actions and decisions;
4. not to use or disclose PHI in connection with any other benefit or employee benefit plan of the Plan Sponsor;
5. to report to the group health plan any PHI use or disclosure inconsistent with HIPAA's requirements that the Plan Sponsor becomes aware of;
6. to adhere to all rights of the individual stated in Section 2 above and to abide by the terms of this current notice;
7. to make available to HHS the Plan Sponsor's internal practices, books and records relating to the use and disclosure of PHI received from the group health plan to determine the plan's compliance with HIPAA;
8. if feasible, to return or destroy all PHI received from the group health plan that the Plan Sponsor still maintains in any form, and to destroy PHI copies when they are no longer needed for the disclosure purpose. If return or destruction is not feasible, agree to limit further uses and disclosures those purposes that make the return or destruction infeasible; and
9. to maintain established policies and procedures specifically designed to protect your PHI when it is in electronic and paper format. This includes administrative, physical and technical safeguards to ensure that your PHI can not be inappropriately accessed while it is stored or transmitted to the Plan Vendors and other business associates that support The Plan;
10. to extend certain protections to your PHI, and to give you this Notice about its privacy practices explaining how, when and why the Plan may use or disclose your PHI. The Plan reserves the right to change the practices and terms of this Notice at any time and to apply the revised notice to all PHI that it maintains. The Plan will make available to you the revised Notice either by hand delivery, mail delivery to your last known address, or some other fashion. This Notice, any material revisions of it, and other information describing the benefits available to the employees and dependents is also available on the Clayton County Board of Commissioners Web site at www.co.clayton.ga.us/human_resources/index.htm

Breach of PHI Notification

One of the major requirements added to HIPAA by the American Recovery and Reinvestment Act (ARRA) of 2009 is the specific obligation for HIPAA covered group health plans to notify individuals when a breach of their unsecured PHI occurs. Based on the timetable mandated by ARRA's Health Information Technology for Economic and Clinical Health (HITECH) Act, group health plans must notify individuals of breaches or unsecured PHI that were discovered on or after September 23, 2009. Group health plans that access, maintain, retain, modify, record, store, destroy or otherwise hold, use or disclose "unsecured" PHI will be required to notify affected individuals within 60 days when a "breach" occurs involving this information. The HITECH Act defines "breach" and "unsecured protected health information" as follows:

- **Breach** is an unauthorized acquisition, access, use or disclosure of PHI that compromises the information's security or privacy. August 2009 rules added the condition that the use or disclosure violates HIPAA's privacy rules.
- **Unsecured PHI** is PHI that is not secured by a technology or methodology specified by HHS.

A breach is treated as discovered as of the first day on which the Plan or Vendor finds out the breach occurred, or reasonably should have known that it occurred. The discovery time clock begins; when any employee, officer or other agent of The Plan know or should reasonably know of the breach (other than the individual committing the breach). If The Plan or a Vendor discovers the breach, they must contact the affected individuals without unreasonable delay within another 60 days. In cases where the Plan does not have an individual's current address and where 10 or more such individuals are affected, the Plan must either post a conspicuous notice on the Clayton County Board of Commissioners home page of its Web site for 90 days or provide notice in major print or broadcast media where the individuals likely reside. In addition, if it is determined that PHI misuse may be imminent, the Plan or Vendor may contact affected individuals by phone or other means, as appropriate. Notice or posting may be delayed if a law enforcement official determines that the action would impede a criminal investigation or cause damage to national security. To the extent possible, the notice provided to the affected individual must include the following:

1. a description of what happened, including the date of the breach and the date of its discovery);
2. the types of PHI involved;
3. the steps that the individuals should take to protect themselves from harm;
4. a brief description of the steps the Plan is taking to investigate, mitigate losses and protect against further breaches; and
5. contact information for follow-up questions

Section 4. Your Right to File a Complaint With the Plan or the HHS Secretary

If you believe that your privacy rights have been violated, you may complain to the Plan in writing to Theodis Locke, Assistant Director, Clayton County Human Resources, Benefits Division, 134 Spring Street, Jonesboro, GA 30236 or call 770-477-4505.

You may file a complaint with the Secretary of the U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201.

The Plan will not retaliate against you for filing a complaint.

Section 5. Whom to Contact at the Plan for More Information

If you have any questions regarding this notice or the subjects address in it, you may contact the following officers:

The Plan's Privacy Official, the person responsible for ensuring compliance with this Notice is:

Eldrin A. Bell
Chairman, Clayton County Board of Commissioners
Clayton County Administration, Annex 1
112 Smith Street
Jonesboro, GA 30236
770-477-3208

The Plan's Deputy Privacy Official is:

Michael L. Smith
Chief Staff Attorney
Clayton County Administration, Annex 1
112 Smith Street
Jonesboro, GA 30236
770-477-3219

Deputy as it relates to Employee Assistance Plan only is:

P. Renee Bright
Director, Clayton County Human Resources
120 Smith Street
Jonesboro, GA 30236
770-477-3241

Deputy as it relates to Self-funded Medical, Self-funded Dental, Human Medicare Advantage, Kaiser HMO, and Kaiser Sr. Advantage Plan is:

Theodis Locke
Assistant Director, Clayton County Human Resources
Benefits Division
134 Spring Street
Jonesboro, GA 30236
770-477-4505

The Plan's Security Officer as it relates to any computer security issues is:

Brett Lavender
Director, Information Technology
1383 Government Circle
Jonesboro, GA 30236
770-477-3730

Section 6. Conclusion

PHI use and disclosure by the Plan is regulated by a federal law known as The Health Insurance Portability and Accountability Act (HIPAA). You may find these rules at 45 Code of Federal Regulations Parts 160 and 164. This notice attempts to summarize the regulations. The regulations will supersede any discrepancy between the information in this notice and the regulations.