



Effective January 2022

## NEW YORK STATE HEALTH INSURANCE PROGRAM (NYSHIP) 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.**

### Who Will Follow This Notice

NYSHIP provides health benefits through The Empire Plan, various Health Maintenance Organizations (HMOs), the New York State Dental Plan, the New York State Vision Plan, and the Student Employee Health Plan (SEHP). NYSHIP is administered by the Employee Benefits Division (EBD) of the New York State Department of Civil Service (DCS), and other select staff of DCS. This Notice describes NYSHIP's policies and practices regarding safeguarding your PHI.

Each of the insurers, third party administrators, and HMOs that participate in NYSHIP maintain their own Notice of Privacy Practices describing how they may use and disclose your PHI and are required to provide you with a copy of their Notice. Any questions or comments about the privacy practices of an insurer, third party administrator or HMO should be directed to the address provided on this Notice.

### Our Pledge Regarding PHI

NYSHIP understands that PHI about you is personal. We are committed to protecting health information about you. We create a record of information about you to enroll you in the various NYSHIP health benefit programs. We need this record to provide you with quality services and to comply with certain legal requirements. Additionally, we may review claims information solely for the purposes of assessing the performance of certain NYSHIP programs and conducting program audits. This Notice applies to all the records of your enrollment and participation in NYSHIP maintained by DCS, whether generated by DCS personnel, by staff in your employer's personnel office, or by the NYSHIP insurers, third party administrators, and HMOs.

This Notice will tell you about the ways in which we may use and disclose PHI about you. It also describes your rights and certain obligations we have regarding the use and disclosure of PHI.

We are required by law to:

- Advise you that certain uses and disclosures of PHI require an individual authorization, including uses and disclosures for marketing purposes; disclosures that constitute a "sale" of PHI; and most uses and disclosures of psychotherapy notes;
- Advise you that no uses or disclosures may be made without an individual authorization for a purpose that is not explicitly described in the Notice;
- Advise you that individuals who receive fundraising communications have the right to opt out of receiving any further such communications;
- Advise you that no use or disclosure of genetic information may be made for insurance underwriting purposes;
- Make sure that PHI that identifies you is kept private;
- Maintain this Notice of our legal duties and privacy practices with respect to PHI about you;
- Notify you if you are affected by a breach of unsecured health information; and
- Follow the terms of the Notice that is currently in effect.

## How We May Use and Disclose PHI About You

The following categories describe different ways that NYSHIP uses and discloses PHI. For each category of uses and disclosures, we will explain what we mean and try to give some examples. Not every use or disclosure in a category will be listed. However, all the ways we are permitted to use and disclose information will fall within one of the categories.

- **For Treatment.** As a health plan, NYSHIP may release PHI about you for treatment purposes. Enrollment information, such as your name, address, plan name and coverage dates may be released to insurers or organizations responsible for delivering or administering a portion of your health care.
- **For Payment.** We may use and disclose your PHI to obtain payment of premiums for your coverage and determine or fulfill our responsibility to provide coverage for you and your dependents. For example, information may be released to the New York State Office of the State Comptroller for use in collecting health insurance premiums. We may also release enrollment and premium information to your employer for the purposes of performing administrative duties.
- **For Health Care Operations.** We may use and disclose PHI about you to perform health care operation functions necessary to run NYSHIP. For example, we may use or disclose information for auditing claims payment and customer service performance of NYSHIP administrators and HMOs and for investigating grievances, analyzing plan performance and investigating fraud and abuse cases.
- **To Persons Involved in Your Care.** We may release PHI about you to a person involved in your care, such as family member, when you are incapacitated or in an emergency, or when permitted by law.
- **To Your Employer as Plan Sponsor of Your Health Plan.** Information about your participation in NYSHIP may be disclosed to your employer so that it can monitor, audit, and otherwise administer its employee health plan. For example, NYSHIP or a NYSHIP insurer may disclose PHI to a Plan Sponsor for the purpose of obtaining premium bids for the provision of health insurance coverage. Your employer is not permitted to use the information we disclose for any purpose other than administration of your employer's health plan.
- **To Business Associates.** We may disclose your PHI to companies with whom we contract, if they need it to perform services we have requested. For example, we will release your information to vendors to ensure you receive benefit cards and information about your benefits. When we enter into these types of arrangements, we obtain written agreement to protect your confidentiality prior to releasing your information.
- **Research.** Under certain circumstances, we may use and disclose PHI about you for research purposes, subject to strict legal restrictions.
- **As Required by Law.** We will disclose PHI about you when required to do so by federal, state, or local law.
- **To Avert a Serious Threat to Health or Safety.** We may use and disclose PHI about you when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person. Any disclosure, however, would only be to someone able to help prevent the threat.
- **Military and Veterans.** If you are a member of the armed forces or reserves, we may release PHI about you as required by military command authorities.
- **Workers' Compensation.** We may release PHI about you for Workers' Compensation or similar programs.
- **Public Health Risks.** We may provide PHI about you to prevent or control disease, injury, or disability, such as to report reactions to medications.
- **Health Oversight Activities.** We may disclose PHI to a health oversight agency for activities authorized by law, such as audits, investigations, inspections, and licensure.
- **Child Immunization Proofs.** We may disclose PHI about you or your child as proof of immunization to schools.

- **Lawsuits and Disputes.** If you are involved in a lawsuit or dispute, we may disclose PHI about you in response to a court or administrative order. We may also disclose PHI about you in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if efforts have been made to tell you about the request or to obtain an order protecting the information requested.
- **Decedent Information.** We may enable access to decedent information to “family members” or others for 50 years following your date of death, at which point the information is no longer protected.
- **Law Enforcement.** We may release PHI if asked to do so by a law enforcement official:
  - In response to a court order, subpoena, warrant, summons, or similar process;
  - To identify or locate a suspect, fugitive, material witness, or missing person;
  - About the victim of a crime if, under certain limited circumstances, we are unable to obtain the person’s agreement;
  - About a death we believe may be the result of criminal conduct;
  - About criminal conduct associated with NYSHIP; and
  - In emergency circumstances, to report a crime; the location of the crime or victims; or the identity, description, or location of the person who committed the crime.
- **National Security and Intelligence Activities.** We may release PHI about you to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized by law.
- **Protective Services for the President and Others.** We may disclose PHI about you to authorized federal officials so they may provide protection to the President, other authorized persons or foreign heads of state, or conduct special investigations.
- **For other Purposes the Secretary of Health and Human Services Deems Necessary and Appropriate.** We may disclose PHI when the Secretary of the U.S. Department of Health and Human Services deems it necessary and appropriate.

## Your Rights Regarding PHI About You

You have the following rights regarding protected health information we maintain about you:

- **Right to Inspect and Copy.** You have the right to inspect and copy PHI we maintain about you. Your request must be made in writing. If you request a copy of the information, we may charge a fee for the costs of retrieving, copying, and mailing your records. You have the right to receive electronic copies. We may deny your request to inspect and/or obtain a copy in certain very limited circumstances. If you are denied access to PHI, you may request that the denial be reviewed. The Department of Civil Service will assign a person to review your request and the denial. The person conducting the review will not be the person who denied your request. We will comply with the outcome of the review.
- **Right to an Accounting of Disclosures.** You have the right to receive a list of any disclosures we or our business associates make of your PHI, for up to six years before the date of your request. The first list you request within a 12-month period will be free. For additional lists, we may charge you for the costs of providing the list.
- **Right to Amend.** If you feel that PHI we have about you is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as the information is kept by or for NYSHIP. All requests to amend or correct information in your health records must be made in writing. In addition, you must provide a reason that supports your request. We may deny your request for an amendment if it is not in writing or does not include a reason to support this request. In addition, we may deny your request if you ask us to amend information that:
  - was not created by us;
  - is not part of the PHI kept by NYSHIP;
  - is not part of the information which you would be permitted to inspect and copy; or
  - is accurate and complete.

- **Right to Request Restriction.** You have the right to request a restriction or limitation on the PHI we use or disclose about you for treatment, payment, or health care operations. You have the right to restrict disclosures on the PHI to a health plan where you paid out-of-pocket in full. You also have the right to request a limit on the PHI we disclose about you to someone involved in your care, such as a friend or family member. We are not required to agree to your request. If we do agree, we will comply with your request unless the information is needed to provide you with emergency treatment. All requests to restrict or limit disclosure of your PHI must be made in writing. In your request, you must tell us: (1) what information you want to limit; (2) whether you want to limit our use, disclosure, or both; and (3) to whom you want the limits to apply, for example, disclosures to your spouse.
- **Right to Request Confidential Communications.** You have the right to request that we communicate with you about your PHI by a different method or at a certain location. For example, you can ask that we only contact you at home or by mail. To request confidential communications, you must make your request in writing and state that the information could endanger you if it is not communicated by a different method or at a different location. Your request must specify how or where you wish to be contacted. We will accommodate your request if it is reasonable, if the request states that the information could endanger you if it is not provided by a different method or at a different location, and if it specifies the new method/location of contact.
- **Right to a Paper Copy of this Notice.** You have the right to receive a copy of this Notice upon request. To obtain a paper copy of this Notice, contact the Employee Benefits Division at (518) 457-5754 (Albany area) or 1-800-833-4344 (U.S., Canada, Puerto Rico, Virgin Islands), visit our website at [www.cs.ny.gov](http://www.cs.ny.gov), or write to the EBD Privacy Officer at the address provided below.

## Exercising Your Rights or Obtaining More Information

To exercise your rights described in this Notice, please write to:

EBD Privacy Officer  
New York State Department of Civil Service  
Albany, New York 12239

Or, for more information, contact the Employee Benefits Division at (518) 457-5754 (Albany area) or 1-800-833-4344 (U.S., Canada, Puerto Rico, Virgin Islands), or visit our website at [www.cs.ny.gov](http://www.cs.ny.gov).

## Other Uses of PHI

Other uses and disclosure of PHI not covered by this Notice or the laws that apply to us will be made only with your written permission. If you provide us permission to use or disclose PHI about you, you may revoke that permission, in writing, at any time.

## Changes to This Notice

NYSHIP reserves the right to change this Notice and make the revised or changed Notice effective for PHI we already have about you as well as any information we receive in the future. We will post a copy of the current Notice on our website and provide you with a paper copy of the revised Notice upon request.

## Complaints

If you believe your privacy rights have been violated, you may file a complaint with the Department of Civil Service or the Secretary of the U.S. Department of Health and Human Services. To file a complaint with the Department of Civil Service, contact the Department's HIPAA Complaint Officer at (518) 473-2880 to request a form. You may also print the form from our website at [www.cs.ny.gov](http://www.cs.ny.gov). Your complaint must be submitted in writing and should be filed within 180 days of when you learned of the problem. You will not be penalized for filing a complaint.