

## **NOTICE OF PRIVACY PRACTICES**

### **City of Henderson Group Benefit Plan**

#### **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.**

This is the Notice of Privacy Practices (“Notice”) for the City of Henderson Group Benefit Plan (the “Plan”). This Notice is being provided in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Among other things, this Notice describes how your protected health information may be used or disclosed to carry out treatment, payment, or health care operations, and for other purposes that are permitted or required by law. The Plan may share health information to carry out treatment, payment and health care operations. The Notice is provided by the Plan, not by the City of Henderson, Kentucky, as employer.

HIPAA protects certain medical information known as “protected health information.” Generally, protected health information is individually identifiable health information, including demographic information, collected from you and created or received by a health care provider, a health care clearinghouse, a health plan, or your employer, that relates to (1) your past, present or future physical or mental health or condition; (2) the provision of health care to you; or (3) the past, present or future payment for the provision of health care to you, and that identifies you, or there is a reasonable basis to believe the information can be used to identify you.

If you have any questions about this Notice, please call or write the Privacy Officer, City of Henderson, PO Box 673, 222 First St., Henderson, Kentucky 42419-0673. The Privacy Officer is referred to in this Notice as the Contact Person, and the Contact Person can be reached at (270) 831-1200, extension 2233. This Notice is effective July 10, 2015.

#### **The Plan’s Responsibilities**

The Plan is required by law to:

- maintain the privacy of your protected health information;
- notify you of a breach of your unsecured protected health information;
- provide you with a copy of this Notice of the Plan’s legal duties and privacy practices with respect to your protected health information; and
- follow the terms of the Notice that is currently in effect.

The Plan reserves the right to change this Notice and its privacy policies at any time. Also, the Plan may at any time make new notice provisions effective for all protected health information that it maintains, including health information that was previously created or received. If the Plan makes any material change to this Notice and you are still covered by the Plan, the Plan will provide you with a copy of the revised Notice of Privacy Practices within 60 days of the revision.

## **How the Plan May Use and Disclose Your Protected Health Information**

Under the law, the Plan may use or disclose your protected health information under certain circumstances without your permission. The following categories describe different ways that the Plan uses and discloses your protected health information.

**For Treatment.** The Plan may use and disclose your protected health information to facilitate medical treatment or services by providers. The Plan may disclose medical information about you to providers, including doctors, nurses, technicians, medical students, or other personnel who are involved in taking care of you. For example, the Plan might disclose information about your prior prescriptions to a pharmacist to determine if prior prescriptions contraindicate a pending prescription.

**For Payment.** The Plan may use and disclose your protected health information to determine your eligibility for Plan benefits, to facilitate payment for treatment and services you receive from health care providers, to determine benefit responsibility under the Plan, to obtain premiums or your share of the costs, or to coordinate Plan coverage. For example, the Plan may tell your health care provider about your medical history to determine whether a particular treatment is experimental, investigational, or medically necessary or to determine whether the Plan will cover the treatment. The Plan may also share medical information with a utilization review or precertification service provider. Likewise, the Plan may share medical information with another entity to assist with the adjudication or subrogation of health claims or to another health plan to coordinate benefit payments.

**For Health Care Operations.** The Plan may use and disclose your protected health information for Plan operations, such as the following: conducting quality assessment and improvement activities; underwriting, premium rating, and other activities relating to Plan coverage; submitting claims for stop-loss (or excess loss) coverage; conducting or arranging for medical review, internal review and grievance resolution; customer service; wellness and risk assessments; legal services; audit services; fraud and abuse detection programs; vendor evaluations; business planning and development such as cost management; and business management and general Plan administrative activities.

**To Business Associates.** The Plan may contract with individuals or entities, known as Business Associates, to perform various functions on the Plan's behalf or to provide certain types of services. In order to perform these functions or to provide these services, Business Associates will receive, create, maintain, use and/or disclose your protected health information, but only after they agree in writing with the Plan to implement appropriate safeguards regarding your protected health information. For example, the Plan may disclose your protected health information to a Business Associate to administer claims or to provide support services, such as utilization management, pharmacy benefit management or subrogation, but only after the Business Associate enters into a Business Associate Agreement with the Plan.

**As Required By Law.** The Plan will disclose your protected health information when required to do so by federal, state or local law. For example, the Plan may disclose your protected health information when required by national security laws or public health disclosure laws.

**To Avert a Serious Threat to Health or Safety.** Consistent with applicable federal and state laws, the Plan may use and disclose your protected health information to prevent or lessen 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.

**To Plan Sponsors.** For the purpose of administering the Plan, the Plan may disclose protected health information to certain employees of the City of Henderson, the Plan sponsor. However, those employees

will use or disclose that information only as necessary to perform Plan administration functions or as otherwise permitted or required by HIPAA or its implementing regulations, unless you have authorized further disclosures. Your protected health information cannot be used for employment-related actions or decisions or in connection with any other benefit or employee benefit plan of the Plan sponsor.

### **Special Situations**

In addition to the above, the following categories describe other possible ways that the Plan may use and disclose your protected health information.

**Organ and Tissue Donation.** If you are an organ donor, the Plan may disclose your protected health information to organ procurement organizations or other entities to facilitate organ, eye or tissue donation and transplantation after death.

**Military; National Security and Protective Services.** If you are a member of the armed forces, including foreign military, the Plan may disclose protected health information as deemed necessary by appropriate military command authorities. The Plan may also disclose protected health information to authorized federal officials for national security, intelligence and counterintelligence activities, for the provision of protective services to the President or other persons, or for the conduct of investigations authorized by 18 USC §§ 871 or 879.

**Workers' Compensation.** The Plan may release your protected health information for workers' compensation or similar programs. These programs provide benefits for work-related injuries or illness.

**Public Health Risks, Abuse, Neglect and Domestic Violence.** The Plan may disclose your protected health information for public health activities. These actions generally include the following: preventing or controlling disease, injury or disability; reporting births and deaths; reporting child abuse or neglect; reporting reactions to medications or problems with products; notifying people of recalls of products they may be using; and notifying a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition. The Plan may also disclose protected health information to your school or your child's school, if the information is limited to proof of immunization and the school is required by law to have such proof prior to admitting you or your child. The Plan will obtain and document your agreement to such disclosures. The Plan may disclose your protected health information to government authorities, including social services agencies, authorized by law to receive reports of abuse, neglect or domestic violence. Additionally, as required by law, the Plan may disclose your information to a government entity authorized to receive such information if the Plan believes that disclosure is necessary to prevent serious harm to you or potential victims (you'll be notified of the Plan's disclosure if informing you won't put you at further risk).

**Health Oversight Activities.** The Plan may disclose your protected health information to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, inspections, and licensure. These activities are necessary for the government to monitor the health care system, government programs, and compliance with regulatory programs and civil rights laws.

**Legal Proceedings.** The Plan may disclose your protected health information in response to a court or administrative order, subpoena, discovery request, or other lawful process.

**Law Enforcement and Inmates/Persons in Custody.** The Plan may disclose your protected health information if asked to do so by a law enforcement official: (1) in response to a court order, subpoena, warrant, summons or similar process; (2) to identify or locate a suspect, fugitive, material witness, or

missing person; (3) about the victim of a crime if the Plan obtains the victim's agreement or, under certain limited circumstances, if the Plan is unable to obtain the victim's agreement; (4) about a death the Plan believes may be the result of criminal conduct; (5) about criminal conduct; and (6) 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. The Plan may disclose protected health information about inmates to correctional facilities or about individuals in lawful custody to a law enforcement official so they may provide health care to the inmates/individuals or for the inmates'/individuals' health and safety and the health and safety of others, including for the safety of the correctional institution, or for law enforcement on the premises, or for the administration and maintenance of the safety, security and good order of the institution.

**Coroners, Medical Examiners and Funeral Directors.** The Plan may disclose your protected health information to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or to determine the cause of death. The Plan may also release medical information about Plan participants to funeral directors to carry out their duties.

**Research.** The Plan may disclose your protected health information to researchers without your authorization when: (1) the Plan obtains specific representations from the researcher regarding a review preparatory to research; (2) the Plan obtains specific representations and documentation from the researcher for a review of deceased individuals' records; or (3) an institutional review board or privacy board has reviewed the research proposal and approved an alteration or waiver of individual authorization normally required for such a proposal.

### **Required Disclosures**

The following is a description of disclosures of your protected health information that the Plan is required to make.

**Government Audits.** The Plan is required to disclose your protected health information to the Secretary of the Department of Health and Human Services when the Secretary is investigating or determining the Plan's compliance with the HIPAA administrative simplification rules.

**Disclosures to You.** When you request, the Plan is required to disclose to you the portion of your protected health information that contains medical records, billing records, and any other records used to make decisions regarding your health care benefits. As explained below, the Plan is also required, when requested, to provide you with an accounting of some disclosures of your protected health information as detailed below.

### **Other Uses and Disclosures**

**Family Members, Personal Representatives and Others.** Unless you object, the Plan may disclose your protected health information to a family member, close friend, or other person you identify who is involved in your care or payment for your care. If you are not present or able to agree to these disclosures, then the Plan may, based on professional judgment, determine whether the disclosure is in your best interest. In the event of a disaster, information describing your location, general condition, or death may be provided to a similar person (or to a public or private entity authorized to assist in disaster relief efforts). Note: Under the HIPAA privacy rule, the Plan does not have to disclose information to a personal representative if the Plan has a reasonable belief that: (1) you have been, or may be, subjected to domestic violence, abuse or neglect by such person or treating such person as your personal representative could endanger you; and (2) in the exercise or professional judgment, it is not in your best interest to treat the person as your personal representative. If you are deceased, the Plan may disclose protected health

information about you to a friend or family member who was involved in your medical care or the payment of your medical care prior to your death, limited to information relevant to that person's involvement, unless doing so would be inconsistent with wishes you expressed to the Plan during your life.

**Authorization Required.** Certain uses and disclosures of your protected health information require that the Plan obtains your prior authorization. These include:

- Psychotherapy Notes. If Psychotherapy Notes are created for your treatment, most uses and disclosures of these notes will require your prior written authorization. "Psychotherapy Notes" means notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's medical record. "Psychotherapy Notes" excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.
- Marketing. If the Plan uses or discloses your medical information for marketing purposes, the Plan must first obtain your written authorization to do so, except if the communication is face-to-face by the Plan to you, or is a promotional gift of nominal value.
- Sale of your Medical Information. If a disclosure of your medical information would constitute a sale of it, the Plan must first obtain your written authorization to do so.

**Prohibited use and disclosure.** The Plan is prohibited from using or disclosing protected health information that is genetic information for underwriting purposes.

**State law restrictions on information regarding certain conditions.** Kentucky has more stringent laws than the HIPAA Privacy Rule with respect to HIV/AIDS status and mental health and chemical dependency (the Plan is allowed to disclose this information only under certain limited circumstances and/or to specific recipients), and the disclosure of genetic test information (may require your prior written authorization). In situations in which these laws apply to the Plan and information held by the Plan, the Plan will comply with these more stringent laws.

**Authorizations.** Other uses or disclosures of your protected health information not described above will only be made with your written authorization. You may revoke a written authorization at any time, so long as the revocation is in writing. Once the Plan receives your written revocation, it will only be effective for future uses and disclosures. It will not be effective for any information that may have been used or disclosed in reliance upon the written authorization and prior to receiving your written revocation.

## **Your Rights**

You have the following rights with respect to your protected health information:

**Right to Inspect and Copy.** You have the right to inspect and copy certain protected health information that may be used to make decisions about your health care benefits. To inspect and copy such protected health information, you must submit your request in writing to the Contact Person. The Plan may deny your request to inspect and copy in certain very limited circumstances. If you are denied access to your medical information, you may request that the denial be reviewed by submitting a written request to the Contact Person. If the information is maintained electronically and if you request an electronic copy, the

Plan will provide you with an electronic copy in the form and format requested by you, if it is readily producible in that form or format (if it is not, then the Plan will agree with you on a readable electronic form and format). You can direct the Plan to transmit the copy directly to another person if you submit a signed written request to the Contact Person that identifies the person to whom you want the copy sent and where to send it. If you request copies, the Plan may charge a reasonable cost-based fee for the labor involved in copying the information, the supplies for creating the paper copy or the cost of the portable media, postage and providing a summary of your records, if you request a summary.

**Right to Amend.** If you feel that the protected health information that the Plan has about you is incorrect or incomplete, you may ask the Plan to amend the information. You have the right to request an amendment for as long as the information is kept by or for the Plan. To request an amendment, your request must be made in writing and submitted to the Contact Person. In addition, you must provide a reason that supports your request. The Plan may deny your request for an amendment if it is not in writing or it does not include a reason to support the request. In addition, the Plan may deny your request if you ask the Plan to amend information that (1) is not part of the medical information kept by or for the Plan; (2) was not created by the Plan, unless the person or entity that created the information is no longer available to make the amendment; (3) the Plan determines is not part of the information that you would be permitted to inspect and copy; or (4) the Plan determines is already accurate and complete. If the Plan denies your request, you have the right to file a statement of disagreement with the Plan and any future disclosures of the disputed information will include your statement.

**Right to an Accounting of Disclosures.** You have the right to request a list of certain disclosures of your protected health information. This is referred to as an “accounting.” You do not have a right to receive an accounting of any disclosures made: (1) for purposes of treatment, payment, or health care operations; (2) to you; (3) pursuant to your authorization; (4) to persons involved in your care or for other notification purposes, or to disaster relief authorities; (5) for national security and intelligence purposes; (6) incidental to otherwise permissible or required disclosures; (7) as part of a “limited data set” (health information that excludes certain identifying information); or (8) to correctional institutions or law enforcement officials. To request this list or accounting of disclosures, you must submit your request in writing to the Contact Person. Your request must state a time period of not longer than six years immediately prior to the date of your request. The first list you request within a 12-month period will be provided free of charge. For additional lists, the Plan may charge you fees for providing the list. The Plan will notify you of the fees involved and you may choose to withdraw or modify your request at that time before any fees are incurred.

**Right to Request Restrictions.** You have the right to request a restriction or limitation on your protected health information that the Plan uses or discloses for treatment, payment, or health care operations, except for uses and disclosures required by law. You also have the right to request a limit on your protected health information that the Plan discloses to someone who is involved in your care or the payment for your care, like a family member or friend. For example, you could ask that the Plan not use or disclose information about a surgery you had. The Plan is not required to agree to such requests. However, if the Plan agrees to the request, the Plan will honor the restriction until you revoke it, or the Plan notifies you, or you need emergency treatment. To request restrictions, you must make your request in writing to the Contact Person. In your request, you must tell the Plan (1) what information you want to limit; (2) whether you want to limit the Plan’s 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 the Plan communicates with you about medical matters, in a certain way or at a certain location. For instance, you can ask that the Plan only contact you at work or by mail. To request confidential communications, you must make your request in writing to the Contact Person. Your request must specify how or where you

wish to be contacted. The Plan will accommodate reasonable requests if you clearly provide information that the disclosure of all or part of your protected information could endanger you.

**Right to Paper Copy of This Notice.** You have the right to a paper copy of the Notice at any time. If you agreed to receive this Notice electronically, you are still entitled to a paper copy. You should notify the Contact Person in writing if you wish to receive a copy of the Notice.

### **Complaints**

If you believe your privacy rights have been violated, you may file a complaint with the Plan or with the Secretary of Health and Human Services. To file a complaint with the Plan, you should send the complaint to Privacy Officer, City of Henderson, PO Box 673, 222 First St., Henderson, Kentucky 42419-0673, Attn: HIPAA Privacy Officer/Benefits Coordinator. The telephone number is (270) 831-1200, extension 2233. All complaints must be in writing. A complaint to the Secretary of Health and Human Services should be sent to Office for Civil Rights, U.S. Department of Health and Human Services, Sam Nunn Atlanta Federal Center, Suite 16T70, 61 Forsyth Street, S.W., Atlanta, GA 30303-8909. You will not be penalized, or retaliated against, for filing a complaint with the Secretary of Health and Human Services or with the Plan.

## **NOTICE OF PRIVACY PRACTICES**

### **City of Henderson Flexible Spending Plan –**

#### **Health Care Spending Account Health Care Component**

### **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.**

This is the Notice of Privacy Practices (“Notice”) for the City of Henderson Flexible Spending Plan - Health Care Spending Account Health Care Component (the “Plan”). This Notice is being provided in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Among other things, this Notice describes how your protected health information may be used or disclosed to carry out treatment, payment, or health care operations, and for other purposes that are permitted or required by law. The Plan may share health information to carry out treatment, payment and health care operations. The Notice is provided by the Plan, not by the City of Henderson, Kentucky, as employer.

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- notify you of a breach of your unsecured protected health information;
- provide you with a copy of this Notice of the Plan’s legal duties and privacy practices with respect to your protected health information; and
- follow the terms of the Notice that is currently in effect.

The Plan reserves the right to change this Notice and its privacy policies at any time. Also, the Plan may at any time make new notice provisions effective for all protected health information that it maintains, including health information that was previously created or received. If the Plan makes any material change to this Notice and you are still covered by the Plan, the Plan will provide you with a copy of the revised Notice of Privacy Practices within 60 days of the revision.

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**For Health Care Operations.** The Plan may use and disclose your protected health information for Plan operations, such as the following: conducting quality assessment and improvement activities; underwriting, premium rating, and other activities relating to Plan coverage; submitting claims for stop-loss (or excess loss) coverage; conducting or arranging for medical review, internal review and grievance resolution; customer service; wellness and risk assessments; legal services; audit services; fraud and abuse detection programs; vendor evaluations; business planning and development such as cost management; and business management and general Plan administrative activities.

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**As Required By Law.** The Plan will disclose your protected health information when required to do so by federal, state or local law. For example, the Plan may disclose your protected health information when required by national security laws or public health disclosure laws.

**To Avert a Serious Threat to Health or Safety.** Consistent with applicable federal and state laws, the Plan may use and disclose your protected health information to prevent or lessen 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.

**To Plan Sponsors.** For the purpose of administering the Plan, the Plan may disclose protected health information to certain employees of the City of Henderson, the Plan sponsor. However, those employees

will use or disclose that information only as necessary to perform Plan administration functions or as otherwise permitted or required by HIPAA or its implementing regulations, unless you have authorized further disclosures. Your protected health information cannot be used for employment-related actions or decisions or in connection with any other benefit or employee benefit plan of the Plan sponsor.

### **Special Situations**

In addition to the above, the following categories describe other possible ways that the Plan may use and disclose your protected health information.

**Organ and Tissue Donation.** If you are an organ donor, the Plan may disclose your protected health information to organ procurement organizations or other entities to facilitate organ, eye or tissue donation and transplantation after death.

**Military; National Security and Protective Services.** If you are a member of the armed forces, including foreign military, the Plan may disclose protected health information as deemed necessary by appropriate military command authorities. The Plan may also disclose protected health information to authorized federal officials for national security, intelligence and counterintelligence activities, for the provision of protective services to the President or other persons, or for the conduct of investigations authorized by 18 USC §§ 871 or 879.

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**Public Health Risks, Abuse, Neglect and Domestic Violence.** The Plan may disclose your protected health information for public health activities. These actions generally include the following: preventing or controlling disease, injury or disability; reporting births and deaths; reporting child abuse or neglect; reporting reactions to medications or problems with products; notifying people of recalls of products they may be using; and notifying a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition. The Plan may also disclose protected health information to your school or your child's school, if the information is limited to proof of immunization and the school is required by law to have such proof prior to admitting you or your child. The Plan will obtain and document your agreement to such disclosures. The Plan may disclose your protected health information to government authorities, including social services agencies, authorized by law to receive reports of abuse, neglect or domestic violence. Additionally, as required by law, the Plan may disclose your information to a government entity authorized to receive such information if the Plan believes that disclosure is necessary to prevent serious harm to you or potential victims (you'll be notified of the Plan's disclosure if informing you won't put you at further risk).

**Health Oversight Activities.** The Plan may disclose your protected health information to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, inspections, and licensure. These activities are necessary for the government to monitor the health care system, government programs, and compliance with regulatory programs and civil rights laws.

**Legal Proceedings.** The Plan may disclose your protected health information in response to a court or administrative order, subpoena, discovery request, or other lawful process.

**Law Enforcement and Inmates/Persons in Custody.** The Plan may disclose your protected health information if asked to do so by a law enforcement official: (1) in response to a court order, subpoena, warrant, summons or similar process; (2) to identify or locate a suspect, fugitive, material witness, or

missing person; (3) about the victim of a crime if the Plan obtains the victim's agreement or, under certain limited circumstances, if the Plan is unable to obtain the victim's agreement; (4) about a death the Plan believes may be the result of criminal conduct; (5) about criminal conduct; and (6) 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. The Plan may disclose protected health information about inmates to correctional facilities or about individuals in lawful custody to a law enforcement official so they may provide health care to the inmates/individuals or for the inmates'/individuals' health and safety and the health and safety of others, including for the safety of the correctional institution, or for law enforcement on the premises, or for the administration and maintenance of the safety, security and good order of the institution.

**Coroners, Medical Examiners and Funeral Directors.** The Plan may disclose your protected health information to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or to determine the cause of death. The Plan may also release medical information about Plan participants to funeral directors to carry out their duties.

**Research.** The Plan may disclose your protected health information to researchers without your authorization when: (1) the Plan obtains specific representations from the researcher regarding a review preparatory to research; (2) the Plan obtains specific representations and documentation from the researcher for a review of deceased individuals' records; or (3) an institutional review board or privacy board has reviewed the research proposal and approved an alteration or waiver of individual authorization normally required for such a proposal.

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### **Other Uses and Disclosures**

**Family Members, Personal Representatives and Others.** Unless you object, the Plan may disclose your protected health information to a family member, close friend, or other person you identify who is involved in your care or payment for your care. If you are not present or able to agree to these disclosures, then the Plan may, based on professional judgment, determine whether the disclosure is in your best interest. In the event of a disaster, information describing your location, general condition, or death may be provided to a similar person (or to a public or private entity authorized to assist in disaster relief efforts). Note: Under the HIPAA privacy rule, the Plan does not have to disclose information to a personal representative if the Plan has a reasonable belief that: (1) you have been, or may be, subjected to domestic violence, abuse or neglect by such person or treating such person as your personal representative could endanger you; and (2) in the exercise or professional judgment, it is not in your best interest to treat the person as your personal representative. If you are deceased, the Plan may disclose protected health

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- Marketing. If the Plan uses or discloses your medical information for marketing purposes, the Plan must first obtain your written authorization to do so, except if the communication is face-to-face by the Plan to you, or is a promotional gift of nominal value.
- Sale of your Medical Information. If a disclosure of your medical information would constitute a sale of it, the Plan must first obtain your written authorization to do so.

**Prohibited use and disclosure.** The Plan is prohibited from using or disclosing protected health information that is genetic information for underwriting purposes.

**State law restrictions on information regarding certain conditions.** Kentucky has more stringent laws than the HIPAA Privacy Rule with respect to HIV/AIDS status and mental health and chemical dependency (the Plan is allowed to disclose this information only under certain limited circumstances and/or to specific recipients), and the disclosure of genetic test information (may require your prior written authorization). In situations in which these laws apply to the Plan and information held by the Plan, the Plan will comply with these more stringent laws.

**Authorizations.** Other uses or disclosures of your protected health information not described above will only be made with your written authorization. You may revoke a written authorization at any time, so long as the revocation is in writing. Once the Plan receives your written revocation, it will only be effective for future uses and disclosures. It will not be effective for any information that may have been used or disclosed in reliance upon the written authorization and prior to receiving your written revocation.

### **Your Rights**

You have the following rights with respect to your protected health information:

**Right to Inspect and Copy.** You have the right to inspect and copy certain protected health information that may be used to make decisions about your health care benefits. To inspect and copy such protected health information, you must submit your request in writing to the Contact Person. The Plan may deny your request to inspect and copy in certain very limited circumstances. If you are denied access to your medical information, you may request that the denial be reviewed by submitting a written request to the Contact Person. If the information is maintained electronically and if you request an electronic copy, the

Plan will provide you with an electronic copy in the form and format requested by you, if it is readily producible in that form or format (if it is not, then the Plan will agree with you on a readable electronic form and format). You can direct the Plan to transmit the copy directly to another person if you submit a signed written request to the Contact Person that identifies the person to whom you want the copy sent and where to send it. If you request copies, the Plan may charge a reasonable cost-based fee for the labor involved in copying the information, the supplies for creating the paper copy or the cost of the portable media, postage and providing a summary of your records, if you request a summary.

**Right to Amend.** If you feel that the protected health information that the Plan has about you is incorrect or incomplete, you may ask the Plan to amend the information. You have the right to request an amendment for as long as the information is kept by or for the Plan. To request an amendment, your request must be made in writing and submitted to the Contact Person. In addition, you must provide a reason that supports your request. The Plan may deny your request for an amendment if it is not in writing or it does not include a reason to support the request. In addition, the Plan may deny your request if you ask the Plan to amend information that (1) is not part of the medical information kept by or for the Plan; (2) was not created by the Plan, unless the person or entity that created the information is no longer available to make the amendment; (3) the Plan determines is not part of the information that you would be permitted to inspect and copy; or (4) the Plan determines is already accurate and complete. If the Plan denies your request, you have the right to file a statement of disagreement with the Plan and any future disclosures of the disputed information will include your statement.

**Right to an Accounting of Disclosures.** You have the right to request a list of certain disclosures of your protected health information. This is referred to as an “accounting.” You do not have a right to receive an accounting of any disclosures made: (1) for purposes of treatment, payment, or health care operations; (2) to you; (3) pursuant to your authorization; (4) to persons involved in your care or for other notification purposes, or to disaster relief authorities; (5) for national security and intelligence purposes; (6) incidental to otherwise permissible or required disclosures; (7) as part of a “limited data set” (health information that excludes certain identifying information); or (8) to correctional institutions or law enforcement officials. To request this list or accounting of disclosures, you must submit your request in writing to the Contact Person. Your request must state a time period of not longer than six years immediately prior to the date of your request. The first list you request within a 12-month period will be provided free of charge. For additional lists, the Plan may charge you fees for providing the list. The Plan will notify you of the fees involved and you may choose to withdraw or modify your request at that time before any fees are incurred.

**Right to Request Restrictions.** You have the right to request a restriction or limitation on your protected health information that the Plan uses or discloses for treatment, payment, or health care operations, except for uses and disclosures required by law. You also have the right to request a limit on your protected health information that the Plan discloses to someone who is involved in your care or the payment for your care, like a family member or friend. For example, you could ask that the Plan not use or disclose information about a surgery you had. The Plan is not required to agree to such requests. However, if the Plan agrees to the request, the Plan will honor the restriction until you revoke it, or the Plan notifies you, or you need emergency treatment. To request restrictions, you must make your request in writing to the Contact Person. In your request, you must tell the Plan (1) what information you want to limit; (2) whether you want to limit the Plan’s 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 the Plan communicates with you about medical matters, in a certain way or at a certain location. For instance, you can ask that the Plan only contact you at work or by mail. To request confidential communications, you must make your request in writing to the Contact Person. Your request must specify how or where you

wish to be contacted. The Plan will accommodate reasonable requests if you clearly provide information that the disclosure of all or part of your protected information could endanger you.

**Right to Paper Copy of This Notice.** You have the right to a paper copy of the Notice at any time. If you agreed to receive this Notice electronically, you are still entitled to a paper copy. You should notify the Contact Person in writing if you wish to receive a copy of the Notice.

### **Complaints**

If you believe your privacy rights have been violated, you may file a complaint with the Plan or with the Secretary of Health and Human Services. To file a complaint with the Plan, you should send the complaint to Privacy Officer, City of Henderson, PO Box 673, 222 First St., Henderson, Kentucky 42419-0673, Attn: HIPAA Privacy Officer/Benefits Coordinator. The telephone number is (270) 831-1200, extension 2233. All complaints must be in writing. A complaint to the Secretary of Health and Human Services should be sent to Office for Civil Rights, U.S. Department of Health and Human Services, Sam Nunn Atlanta Federal Center, Suite 16T70, 61 Forsyth Street, S.W., Atlanta, GA 30303-8909. You will not be penalized, or retaliated against, for filing a complaint with the Secretary of Health and Human Services or with the Plan.

## **NOTICE OF PRIVACY PRACTICES**

### **City of Henderson Employee Assistance Program**

#### **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.**

This is the Notice of Privacy Practices (“Notice”) for the City of Henderson Employee Assistance Program (the “Plan”). This Notice is being provided in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Among other things, this Notice describes how your protected health information may be used or disclosed to carry out treatment, payment, or health care operations, and for other purposes that are permitted or required by law. The Plan may share health information to carry out treatment, payment and health care operations. The Notice is provided by the Plan, not by the City of Henderson, Kentucky, as employer.

You should know that virtually all the protected health information regarding the Plan is kept by the Provider engaged to provide employee assistance services under the Plan and is almost never shared with the Plan or the City of Henderson, Kentucky as Plan sponsor. However, to the extent the information is shared with the Plan or the Plan sponsor, this Notice will be followed.

HIPAA protects certain medical information known as “protected health information.” Generally, protected health information is individually identifiable health information, including demographic information, collected from you and created or received by a health care provider, a health care clearinghouse, a health plan, or your employer, that relates to (1) your past, present or future physical or mental health or condition; (2) the provision of health care to you; or (3) the past, present or future payment for the provision of health care to you, and that identifies you, or there is a reasonable basis to believe the information can be used to identify you.

If you have any questions about this Notice, please call or write the Privacy Officer, City of Henderson, PO Box 673, 222 First St., Henderson, Kentucky 42419-0673. The Privacy Officer is referred to in this Notice as the Contact Person, and the Contact Person can be reached at (270) 831-1200, extension 2233. This Notice is effective July 10, 2015.

#### **The Plan’s Responsibilities**

The Plan is required by law to:

- maintain the privacy of your protected health information;
- notify you of a breach of your unsecured protected health information;
- provide you with a copy of this Notice of the Plan’s legal duties and privacy practices with respect to your protected health information; and
- follow the terms of the Notice that is currently in effect.

The Plan reserves the right to change this Notice and its privacy policies at any time. Also, the Plan may at any time make new notice provisions effective for all protected health information that it maintains, including health information that was previously created or received. If the Plan makes any material

change to this Notice and you are still covered by the Plan, the Plan will provide you with a copy of the revised Notice of Privacy Practices within 60 days of the revision.

### **How the Plan May Use and Disclose Your Protected Health Information**

Under the law, the Plan may use or disclose your protected health information under certain circumstances without your permission. The following categories describe different ways that the Plan uses and discloses your protected health information.

**For Treatment.** The Plan may use and disclose your protected health information to facilitate medical treatment or services by providers. The Plan may disclose medical information about you to providers, including doctors, nurses, technicians, medical students, or other personnel who are involved in taking care of you. For example, the Plan might disclose information about your prior prescriptions to a pharmacist to determine if prior prescriptions contraindicate a pending prescription.

**For Payment.** The Plan may use and disclose your protected health information to determine your eligibility for Plan benefits, to facilitate payment for treatment and services you receive from health care providers, to determine benefit responsibility under the Plan, to obtain premiums or your share of the costs, or to coordinate Plan coverage. For example, the Plan may tell your health care provider about your medical history to determine whether a particular treatment is experimental, investigational, or medically necessary or to determine whether the Plan will cover the treatment. The Plan may also share medical information with a utilization review or precertification service provider. Likewise, the Plan may share medical information with another entity to assist with the adjudication or subrogation of health claims or to another health plan to coordinate benefit payments.

**For Health Care Operations.** The Plan may use and disclose your protected health information for Plan operations, such as the following: conducting quality assessment and improvement activities; underwriting, premium rating, and other activities relating to Plan coverage; submitting claims for stop-loss (or excess loss) coverage; conducting or arranging for medical review, internal review and grievance resolution; customer service; wellness and risk assessments; legal services; audit services; fraud and abuse detection programs; vendor evaluations; business planning and development such as cost management; and business management and general Plan administrative activities.

**To Business Associates.** The Plan may contract with individuals or entities, known as Business Associates, to perform various functions on the Plan's behalf or to provide certain types of services. In order to perform these functions or to provide these services, Business Associates will receive, create, maintain, use and/or disclose your protected health information, but only after they agree in writing with the Plan to implement appropriate safeguards regarding your protected health information. For example, the Plan may disclose your protected health information to a Business Associate to administer claims or to provide support services, such as utilization management, pharmacy benefit management or subrogation, but only after the Business Associate enters into a Business Associate Agreement with the Plan.

**As Required By Law.** The Plan will disclose your protected health information when required to do so by federal, state or local law. For example, the Plan may disclose your protected health information when required by national security laws or public health disclosure laws.

**To Avert a Serious Threat to Health or Safety.** Consistent with applicable federal and state laws, the Plan may use and disclose your protected health information to prevent or lessen 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.

**To Plan Sponsors.** For the purpose of administering the Plan, the Plan may disclose protected health information to certain employees of the City of Henderson, the Plan sponsor. However, those employees will use or disclose that information only as necessary to perform Plan administration functions or as otherwise permitted or required by HIPAA or its implementing regulations, unless you have authorized further disclosures. Your protected health information cannot be used for employment-related actions or decisions or in connection with any other benefit or employee benefit plan of the Plan sponsor.

### **Special Situations**

In addition to the above, the following categories describe other possible ways that the Plan may use and disclose your protected health information.

**Organ and Tissue Donation.** If you are an organ donor, the Plan may disclose your protected health information to organ procurement organizations or other entities to facilitate organ, eye or tissue donation and transplantation after death.

**Military; National Security and Protective Services.** If you are a member of the armed forces, including foreign military, the Plan may disclose protected health information as deemed necessary by appropriate military command authorities. The Plan may also disclose protected health information to authorized federal officials for national security, intelligence and counterintelligence activities, for the provision of protective services to the President or other persons, or for the conduct of investigations authorized by 18 USC §§ 871 or 879.

**Workers' Compensation.** The Plan may release your protected health information for workers' compensation or similar programs. These programs provide benefits for work-related injuries or illness.

**Public Health Risks, Abuse, Neglect and Domestic Violence.** The Plan may disclose your protected health information for public health activities. These actions generally include the following: preventing or controlling disease, injury or disability; reporting births and deaths; reporting child abuse or neglect; reporting reactions to medications or problems with products; notifying people of recalls of products they may be using; and notifying a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition. The Plan may also disclose protected health information to your school or your child's school, if the information is limited to proof of immunization and the school is required by law to have such proof prior to admitting you or your child. The Plan will obtain and document your agreement to such disclosures. The Plan may disclose your protected health information to government authorities, including social services agencies, authorized by law to receive reports of abuse, neglect or domestic violence. Additionally, as required by law, the Plan may disclose your information to a government entity authorized to receive such information if the Plan believes that disclosure is necessary to prevent serious harm to you or potential victims (you'll be notified of the Plan's disclosure if informing you won't put you at further risk).

**Health Oversight Activities.** The Plan may disclose your protected health information to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, inspections, and licensure. These activities are necessary for the government to monitor the health care system, government programs, and compliance with regulatory programs and civil rights laws.

**Legal Proceedings.** The Plan may disclose your protected health information in response to a court or administrative order, subpoena, discovery request, or other lawful process.

**Law Enforcement and Inmates/Persons in Custody.** The Plan may disclose your protected health information if asked to do so by a law enforcement official: (1) in response to a court order, subpoena, warrant, summons or similar process; (2) to identify or locate a suspect, fugitive, material witness, or missing person; (3) about the victim of a crime if the Plan obtains the victim's agreement or, under certain limited circumstances, if the Plan is unable to obtain the victim's agreement; (4) about a death the Plan believes may be the result of criminal conduct; (5) about criminal conduct; and (6) 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. The Plan may disclose protected health information about inmates to correctional facilities or about individuals in lawful custody to a law enforcement official so they may provide health care to the inmates/individuals or for the inmates'/individuals' health and safety and the health and safety of others, including for the safety of the correctional institution, or for law enforcement on the premises, or for the administration and maintenance of the safety, security and good order of the institution.

**Coroners, Medical Examiners and Funeral Directors.** The Plan may disclose your protected health information to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or to determine the cause of death. The Plan may also release medical information about Plan participants to funeral directors to carry out their duties.

**Research.** The Plan may disclose your protected health information to researchers without your authorization when: (1) the Plan obtains specific representations from the researcher regarding a review preparatory to research; (2) the Plan obtains specific representations and documentation from the researcher for a review of deceased individuals' records; or (3) an institutional review board or privacy board has reviewed the research proposal and approved an alteration or waiver of individual authorization normally required for such a proposal.

### **Required Disclosures**

The following is a description of disclosures of your protected health information that the Plan is required to make.

**Government Audits.** The Plan is required to disclose your protected health information to the Secretary of the Department of Health and Human Services when the Secretary is investigating or determining the Plan's compliance with the HIPAA administrative simplification rules.

**Disclosures to You.** When you request, the Plan is required to disclose to you the portion of your protected health information that contains medical records, billing records, and any other records used to make decisions regarding your health care benefits. As explained below, the Plan is also required, when requested, to provide you with an accounting of some disclosures of your protected health information as detailed below.

### **Other Uses and Disclosures**

**Family Members, Personal Representatives and Others.** Unless you object, the Plan may disclose your protected health information to a family member, close friend, or other person you identify who is involved in your care or payment for your care. If you are not present or able to agree to these disclosures, then the Plan may, based on professional judgment, determine whether the disclosure is in your best interest. In the event of a disaster, information describing your location, general condition, or death may be provided to a similar person (or to a public or private entity authorized to assist in disaster relief efforts). Note: Under the HIPAA privacy rule, the Plan does not have to disclose information to a personal representative if the Plan has a reasonable belief that: (1) you have been, or may be, subjected to

domestic violence, abuse or neglect by such person or treating such person as your personal representative could endanger you; and (2) in the exercise or professional judgment, it is not in your best interest to treat the person as your personal representative. If you are deceased, the Plan may disclose protected health information about you to a friend or family member who was involved in your medical care or the payment of your medical care prior to your death, limited to information relevant to that person's involvement, unless doing so would be inconsistent with wishes you expressed to the Plan during your life.

**Authorization Required.** Certain uses and disclosures of your protected health information require that the Plan obtains your prior authorization. These include:

- **Psychotherapy Notes.** If Psychotherapy Notes are created for your treatment, most uses and disclosures of these notes will require your prior written authorization. "Psychotherapy Notes" means notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's medical record. "Psychotherapy Notes" excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.
- **Marketing.** If the Plan uses or discloses your medical information for marketing purposes, the Plan must first obtain your written authorization to do so, except if the communication is face-to-face by the Plan to you, or is a promotional gift of nominal value.
- **Sale of your Medical Information.** If a disclosure of your medical information would constitute a sale of it, the Plan must first obtain your written authorization to do so.

**Prohibited use and disclosure.** The Plan is prohibited from using or disclosing protected health information that is genetic information for underwriting purposes.

**State law restrictions on information regarding certain conditions.** Kentucky has more stringent laws than the HIPAA Privacy Rule with respect to HIV/AIDS status and mental health and chemical dependency (the Plan is allowed to disclose this information only under certain limited circumstances and/or to specific recipients), and the disclosure of genetic test information (may require your prior written authorization). In situations in which these laws apply to the Plan and information held by the Plan, the Plan will comply with these more stringent laws.

**Authorizations.** Other uses or disclosures of your protected health information not described above will only be made with your written authorization. You may revoke a written authorization at any time, so long as the revocation is in writing. Once the Plan receives your written revocation, it will only be effective for future uses and disclosures. It will not be effective for any information that may have been used or disclosed in reliance upon the written authorization and prior to receiving your written revocation.

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