

SHEET METAL WORKERS LOCAL NO. 46 HEALTH FUND

“CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION”

A federal law, the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), requires that health plans protect the confidentiality of your Protected Health Information (“PHI”) effective April 14, 2004. A summary of your rights under HIPAA can be found in the Plan’s privacy notice, which *was* distributed to you in accordance with HIPAA and which is available from the Plan’s Privacy Official, Joseph Leone, Administrator.

This Plan, and the Plan Sponsor (the Plan Sponsor for HIPAA purposes is the Board of Trustees of the Sheet Metal Workers Local No. 46 Health Fund), will not use or disclose your PHI except as necessary for treatment, payment, health care operations and plan administration, or as permitted or required by law.

“Payment” includes activities undertaken by the Plan to determine or fulfill its responsibility for coverage and the provision of plan benefits that relate to an individual to whom health care is provided. The activities include, but are not limited to, the following:

- (a) determination of eligibility, coverage and cost sharing amounts (for example, cost of a benefit, plan maximums and co-payments as determined for a participant’s claim);
- (b) coordination of benefits;
- (c) adjudication of health benefit claims (including appeals and other payment disputes);
- (d) subrogation of health benefit claims;
- (e) *Establishing contributions to the Plan, including, but not limited to, COBRA contributions;*
- (f) risk adjusting amounts due based on enrollee health status and demographic characteristics;
- (g) billing, collection activities and related health care data processing;

- (h) claims management and related health care data processing, including auditing payments, investigating and resolving payment disputes and responding to participant inquiries about payments;
- (i) obtaining payment under a contract for reinsurance (including stop-loss and excess of loss insurance);
- (j) medical necessity reviews or reviews of appropriateness of care or justification of charges;
- (k) utilization review, including pre-certification, preauthorization, concurrent review and retrospective review;
- (l) disclosure to consumer reporting agencies related to reimbursement (the following PHI may be disclosed for payment purposes: name and address, date of birth, Social Security number, payment history, account number and name and address of the provider and/or health plan); and
- (m) reimbursement to the plan.

“Health Care Operations” include, but are not limited to, the following activities:

- (a) quality assessment;
- (b) population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, disease management, contacting health care providers and patients with information about treatment alternatives and related functions;
- (c) rating provider and plan performance, including accreditation, certification, licensing or credentialing activities;
- (d) *underwriting, premium rating, and other activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess loss insurance);*
- (e) conducting or arranging for medical review, legal

services and auditing functions, including fraud and abuse detection and compliance programs;

- (f) business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the Plan, including formulary development and administration, development or improvement of payment methods or coverage policies;
- (g) business management and general administrative activities of the Plan, including, but not limited to:
 - i. management activities relating to the implementation of and compliance with HIPAA's administrative simplification requirements
 - ii. *customer service, including the provision of data analyses for policy holders, Plan sponsors, or other customers*
- (h) resolution of internal grievances; and
- (i) due diligence regarding a merger with a potential successor in interest, if the potential successor in interest is a "covered entity" under HIPAA or, following completion of the merger, will become a covered entity.

Only the employees of the Sheet Metal Workers Local No. 46 Health Fund who assist in the Plan's administration and the Board of Trustees of the Sheet Metal Workers Local No. 46 Health Fund will have access to your PHI. These individuals may only have access to use and disclose your PHI for plan administration functions. This Plan provides a complaint mechanism for resolving noncompliance matters. If these individuals do not comply with the above rules, they will be subject to disciplinary sanctions.

By law, the Plan has required all of its business associates to also observe HIPAA's privacy rules.

The Plan will not, without your authorization, use or disclose your PHI

for employment related actions and decisions or in connection with any other benefit or employee benefit plan of the Plan Sponsor.

HIPAA provides that this Plan may disclose your PHI to the Plan Sponsor only upon receipt of a Certification by the Plan Sponsor that it agrees to the following: (a) not use or further disclose the information other than as permitted or required by the plan documents or as required by law; (b) ensure that any agents, including a subcontractor, to whom it provides PHI received from this Plan agree to the same restrictions and conditions that apply to the Plan Sponsor with respect to such information; (c) not use or disclose the information for employment related actions and decisions unless authorized by you; (d) not use or disclose the information in connection with any other benefit or employee benefit plan of the Plan Sponsor unless authorized by you; (e) report to this Plan any use or disclosure of the information that is inconsistent with the uses or disclosures provided for of which it becomes aware; (f) make PHI available to you in accordance with HIPAA's access requirements; (g) make PHI available for amendment and incorporate any amendments to PHI in accordance with HIPAA; (h) make available the information required to provide an accounting of disclosures; (i) make its internal practices, books, and records relating to the use and disclosure of PHI received from this Plan available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining compliance by this Plan with HIPAA; (j) if feasible, return or destroy all PHI received from this Plan that the Plan Sponsor still maintains in any form and retain no copies of such information when no longer needed for the purpose for which the disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and (k) maintain adequate separation between the Plan and the Plan Sponsor. The Plan Sponsor has made such Certification to the Plan.

Under HIPAA, you have certain rights with respect to your PHI, including certain rights to see and copy the information, receive an accounting of certain disclosures of the information and, under certain circumstances, amend the information. You also have the right to file a complaint with this Plan or with the Secretary of the U.S. Department of Health and Human Services if you believe your rights under HIPAA have been violated.

This Plan's privacy notice provides a summary of your rights under HIPAA's privacy rules. Please contact Joseph Leone, the Fund's

Privacy Official and Administrator at (585) 458-0400 if: (a) you wish to obtain a copy of the notice; (b) you have questions about the privacy of your health information; or (c) you wish to file a complaint under HIPAA.

Effective April 20, 2006, the Plan Sponsor will:

- (a) implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains or transmits on behalf of the Plan;*
- (b) ensure that the adequate separation between the Plan and the Plan Sponsor, as required by HIPAA, with respect to electronic protected health information, is supported by reasonable and appropriate security measures;*
- (c) ensure that any agent, including a subcontractor, to whom it provides electronic protected health information agrees to implement reasonable and appropriate security measures to protect the information; and*
- (d) report to Plan any security incident of which it becomes aware concerning electronic protected health information.*
- (e) appoint Joseph Leone as the HIPAA Security official.”*

THIS IS TO CERTIFY that the foregoing Amendment was adopted by the Trustees at a meeting held on the 15th day of September, 2005, to be effective as of the 20th day of April, 2006.

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