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## MASSACHUSETTS LABORERS' HEALTH AND WELFARE FUND

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### Massachusetts Laborers' Health and Welfare Fund Privacy Notice

A federal law known as the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires the privacy of your personal health information be protected.

The Plan's Privacy Notice, distributed to all Plan participants and dependents, explains what information is considered "Protected Health Information (PHI)." It also tells you when the Plan may use or disclose this information, when your permission or written authorization is required, how you can get access to your information, and what actions you can take regarding your information.

#### Section 1: Purpose of This Notice and Effective Date

**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 Privacy Notice applies to the Fund Office of the Massachusetts Laborers' Health and Welfare Fund (the "Fund"), and the services that the Fund provides through Blue Cross Blue Shield of Massachusetts, The Wellness Corporation, Delta Dental, Express Scripts, Davis Vision and other business associates of the Fund. **Effective date:** The effective date of this Notice is September 23, 2013. It reflects a number of recent changes in HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH Act").*

***This Notice is required by law.*** The Fund is required by law to take reasonable steps to ensure the privacy of your personally identifiable health information and to inform you about:

1. The Fund's uses and disclosures of Protected Health Information (PHI),
2. Your rights to privacy with respect to your PHI,
3. The Fund's duties with respect to your PHI,
4. Your right to file a complaint with the Fund and with the Secretary of the United States Department of Health and Human Services (HHS), and
5. The person or office you should contact for further information about the Fund's privacy practices.

#### Section 2: Your Protected Health Information

##### **Protected Health Information (PHI) Defined**

The term "Protected Health Information" (PHI) includes all individually identifiable health information related to your past, present or future physical or mental health condition or to payment for health care. PHI includes information maintained by the Fund in oral, written, or electronic form.

***Este aviso está disponible en español en el sitio de web [www.mlb.org](http://www.mlb.org)***

## **When the Fund May Disclose Your PHI**

Under the law, the Fund may disclose your PHI without your consent or authorization, or the opportunity to agree or object, in the following cases:

- **For treatment, payment or health care operations.** The Fund and its business associates will use PHI in order to carry out:
  1. Treatment,
  2. Payment, or
  3. Health care operations.

**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.

For example, the Fund may disclose to a treating surgeon the name of your treating physician so that the surgeon may ask for necessary health information.

**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 preauthorizations).

For example, the Fund may tell a doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Fund. If we contract with third parties to help us with payment operations, such as a physician that reviews medical claims, we will also disclose information to them. These third parties are known as “business associates.”

**Health care operations** includes but is 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 Fund may use information about your claims to refer to into a disease management program, a well-pregnancy program, project future benefit costs or audit the accuracy of its claims processing functions.

- **Disclosure to the Fund’s Trustees.** The Fund will also disclose PHI to the Plan Sponsor, the Board of Trustees of the Massachusetts Laborers’ Health and Welfare Fund, for purposes related to treatment, payment, and health care operations, and has amended the Summary Plan Description to permit this use and disclosure as required by federal law. For example, we may disclose information to the Board of Trustees to allow them to decide an appeal or review a subrogation claim.

In addition, the Fund may disclose “summary health information” to the Board of Trustees for obtaining premium bids or modifying, amending or terminating the Fund’s group health plan. Summary information summarizes the claims history, claims expenses or type of claims experience by individuals for whom a Plan Sponsor such as the Board of Trustees has provided health benefits

under a group health plan. Identifying information will be deleted from summary health information, in accordance with federal privacy rules.

- **At your request.** If you request it, the Fund is required to give you access to certain PHI in order to allow you to inspect and/or copy it.
- **When required by applicable law.**
- **As required by HHS.** The Secretary of the United States Department of Health and Human Services may require the disclosure of your PHI to investigate or determine the Fund's compliance with the privacy regulations.
- **Public health purposes.** To an authorized public health authority if required by law or for public health and safety purposes. PHI may also be used or disclosed if you have been exposed to a communicable disease or are at risk of spreading a disease or condition, if authorized by law.
- **Domestic violence or abuse situations.** When authorized by law to report information about abuse, neglect or domestic violence to public authorities if a reasonable belief exists that you may be a victim of abuse, neglect or domestic violence. In such case, the Fund will promptly inform you that such a disclosure has been or will be made unless that notice would cause a risk of serious harm.
- **Health oversight activities.** To a health oversight agency for oversight activities authorized by law. These activities include civil, administrative or criminal investigations, inspections, licensure or disciplinary actions (for example, to investigate complaints against health care providers) and other activities necessary for appropriate oversight of government benefit programs (for example, to the Department of Labor).
- **Legal proceedings.** When required for judicial or administrative proceedings. For example, your PHI may be disclosed in response to a subpoena or discovery request that is accompanied by a court order.
- **Law enforcement health purposes.** When required for law enforcement purposes (for example, to report certain types of wounds).
- **Law enforcement emergency purposes.** For certain law enforcement purposes, including:
  1. identifying or locating a suspect, fugitive, material witness or missing person, and
  2. disclosing information about an individual who is or is suspected to be a victim of a crime.
- **Determining cause of death and organ donation.** When required to be given to a coroner or medical examiner to identify a deceased person, determine a cause of death or other authorized duties. We may also disclose PHI for cadaveric organ, eye or tissue donation purposes.
- **Funeral purposes.** When required to be given to funeral directors to carry out their duties with respect to the decedent.
- **Research.** For research, subject to certain conditions.
- **Health or safety threats.** When, consistent with applicable law and standards of ethical conduct, the Fund in good faith believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and the disclosure is to a person reasonably able to prevent or lessen the threat, including the target of the threat.
- **Workers' Compensation programs.** When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.

Except as otherwise indicated in this Section, uses and disclosures will be made only with your written authorization subject to your right to revoke your authorization.

#### **When the Disclosure of Your PHI Requires Your Written Authorization**

Although the Fund does not routinely obtain psychotherapy notes, it must generally obtain your written authorization before the Fund will use or disclose psychotherapy notes about you. However, the Fund may use and disclose such notes when needed to defend the Fund against litigation filed by you.

*Psychotherapy notes* are separately filed notes about your conversations with your mental health professional during a counseling session. They do not include summary information about your mental health treatment.

#### **Disclosure to Other Benefit Funds.**

On certain occasions, the Fund may need to provide health information for the purpose of evaluating and processing a claim for Accident and Sickness, or Social Security Disability benefits; however, the Fund will obtain your written authorization before it will use or disclose any health information for this purpose.

#### **Marketing Purposes.**

The Fund will request your authorization for any use or disclosure of PHI for marketing, except in situations involving a face-to-face communication or a promotional gift of nominal value. The Fund is not in the business of marketing PHI, and it does not expect to do so in the future.

#### **Sale of PHI.**

The Fund will request your authorization for any disclosure of PHI which constitutes a sale of PHI. Please note, however, that the Fund is not in the business of selling PHI and it does not expect to do so in the future.

#### **When You Can Object and Prevent the Fund from Using or Disclosing PHI**

Disclosure of your PHI to family members, other relatives, your close personal friends, and any other person you choose is allowed under federal law if:

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

#### **Other Uses or Disclosures**

The Fund may contact you to provide you with information about treatment alternatives or other health-related benefits and services that may be of interest to you.

### **Section 3: Your Individual Privacy Rights**

**Note:** To exercise any of the following individual rights, you must contact the Privacy Official, whose contact information is located below, and follow the applicable administrative procedures.

#### **You May Request Restrictions on PHI Uses and Disclosures**

You may request the Fund to:

1. Restrict the uses and disclosures of your PHI to carry out treatment, payment or health care operations, or

2. Restrict uses and disclosures to family members, relatives, friends or other persons identified by you who are involved in your care.

The Fund, however, is not required to agree to your request.

You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI. Make such requests to:

Privacy Official  
Massachusetts Laborers' Health and Welfare Fund  
14 New England Executive Park, Suite 200  
Burlington, MA 01803  
(781) 272-1000 or (800) 342-3792

**You May Request Confidential Communications**

The Fund will accommodate an individual's reasonable request to receive communications of PHI by alternative means or at alternative locations where the request includes a statement that disclosure could endanger the individual.

You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI. Make such requests to the Fund's Privacy Official (at the address listed above).

**You May Inspect and Copy PHI**

You have a right to inspect and obtain a copy of your PHI contained in a "designated record set" (defined below), in hardcopy or electronic form, for as long as the Fund maintains the PHI.

You may request your hardcopy or electronic information in a format that is convenient for you, and the Plan will honor that request to the extent possible. You also may request a summary of your PHI

The Fund must provide the requested information within 30 days. A single 30-day extension is allowed if the Plan is unable to comply with the deadline and if the Plan provides you with a notice of the reason for the delay and the expected date by which the requested information will be provided.

You or your personal representative will be required to complete a form to request access to the PHI in your designated record set. A reasonable fee may be charged. Requests for access to PHI should be made to the Fund's Privacy Official (at the address listed above).

In limited circumstances, access may be denied. If access is denied, you or your personal representative will be provided with a written denial setting forth the basis for the denial, a description of how you may exercise your review rights and a description of how you may complain to the Fund and HHS.

**Designated Record Set:** includes your medical records and billing records that are maintained by or for a covered health care provider. Records include enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a health plan or other information used in whole or in part by or for the covered entity to make decisions about you. Information used for quality control or peer review analyses and not used to make decisions about you is not included.

**You Have the Right to Amend Your PHI**

You have the right to request that the Fund amend your PHI or a record about you in a designated record set for as long as the PHI is maintained in the designated record set subject to certain exceptions. See the Fund's Right to Amend Policy (available on request from the Fund's Privacy Official) for a list of exceptions.

The Fund has 60 days after receiving your request to act on it. The Fund is allowed a single 30-day extension if the Fund is unable to comply with the 60-day deadline. If the Fund denied your request in whole or part, the Fund must provide you with a written denial that explains the basis for the decision. You or your personal representative may then submit a written statement disagreeing with the denial and have that statement included with any future disclosures of that PHI.

You should make your request to amend PHI to the Fund's Privacy Official (at the address listed above). You or your personal representative will be required to complete a form to request amendment of the PHI.

**You Have the Right to Receive an Accounting of the Fund's PHI Disclosures**

At your request, the Fund will also provide you with an accounting of certain disclosures by the Fund of your PHI. We do not have to provide you with an accounting of disclosures related to treatment, payment, or health care operations, or disclosures made to you or authorized by you in writing. However, see the Fund's Accounting for Disclosure Policy (available on request from the Fund's Privacy Official) for a complete list of disclosures for which an accounting is not required.

The Fund has 60 days to provide the accounting. The Fund is allowed an additional 30 days if the Fund gives you 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 Fund will charge a reasonable, cost-based fee for each subsequent accounting.

**You Have the Right to Receive a Paper Copy of This Notice Upon Request**

You have the right to request and receive a paper copy of this Notice at any time, even if you have received the Notice previously or agreed to receive the Notice electronically. To obtain a paper copy of this Notice, contact the Fund's Privacy Official (at the address listed above and in Section 3).

**Your Personal Representative**

You may exercise your rights through a personal representative. Your personal representative will be required to produce evidence of authority to act on your behalf before the personal representative will be given access to your PHI or be allowed to take any action for you. Proof of such authority will be a completed, signed and approved Appointment of Personal Representative form. You may obtain this form by calling the Fund Office.

The Fund 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.

The Fund will recognize certain individuals as personal representatives without you having to complete an Appointment of Personal Representative form. For example, the Fund will automatically consider a spouse, a parent of a member, or an adult child (age 18 or over) of a member to be the personal representative of an individual covered by the plan. In addition, the Fund will consider a parent or guardian as the personal

representative of a dependent covered child, unless applicable law requires otherwise. A spouse, parent or adult child may act on an individual's behalf, including requesting access to their PHI. Spouses and unemancipated minors may, however, request that the Fund restrict information that goes to family members as described above at the beginning of Section 3 of this Notice.

You should also review the Fund's Policy and Procedure for the Recognition of Personal Representatives (available upon request from the Fund's Privacy Official) for a more complete description of the circumstances where the Fund will automatically consider an individual to be a personal representative for purposes of exercising your rights under this Privacy Notice.

## **Section 4: The Fund's Duties**

### **Maintaining Your Privacy**

The Fund is required by law to maintain the privacy of your PHI and to provide you and your eligible dependents with notice of its legal duties and privacy practices. In addition, the Fund is now required to notify you of anything the law defines as a breach of your unsecured PHI, and you have a right to, and will receive, appropriate notifications in the event of any such breach.

The Fund is required to comply with the terms of this Notice. However, the Fund reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by the Fund prior to that date. If a privacy practice is changed, a revised version of this Notice will be provided to you and to all past and present participants and beneficiaries for whom the Fund still maintains PHI.

The Privacy Notice will be provided via first class mail to all named participants. Any other person, including dependents of named participants, may receive a copy upon request.

Any revised version of this notice will be distributed within 60 days of the effective date of any material change to:

1. The uses or disclosures of PHI,
2. Your individual rights,
3. The duties of the Fund, or
4. Other privacy practices stated in this Notice.

### **Disclosing Only the Minimum Necessary Protected Health Information**

When using or disclosing PHI or when requesting PHI from another covered entity, the Fund 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. Uses or disclosures made to you,
3. Disclosures made to the Secretary of the United States Department of Health and Human Services pursuant to its enforcement activities under HIPAA,
4. Uses or disclosures required by law, and
5. Uses or disclosures required for the Fund's compliance with the HIPAA privacy regulations.

This notice does not apply to information that has been de-identified. De-identified information is information that:

1. Does not identify you, and
2. With respect to which there is no reasonable basis to believe that the information can be used to identify you.

In addition, the Fund may use or disclose “summary health information” to the Fund’s Board of Trustees for purposes of obtaining cost bids or modifying, amending or terminating the Fund’s group health plan. Summary information summarizes the claims history, claims expenses, or type of claims experienced by individuals for whom the Fund’s Board of Trustees has provided health benefits under the Fund’s group health plan. Identifying information will be deleted from summary health information, in accordance with HIPAA.

**The Fund will not use or Disclose Genetic Information PHI for Underwriting**

In accordance with the Genetic Information Nondiscrimination Act (“GINA”), the Fund will not use PHI that is genetic information for underwriting purposes. “Underwriting purposes” are broadly defined to include rules for eligibility, enrollment, cost sharing, computation of premium or computation amounts and incentives for participating in wellness programs, as well as activities related to the creation, renewal, or replacement of health insurance or health benefits.

**Section 5: Your Right to File a Complaint with the Fund or the HHS Secretary**

If you believe that your privacy rights have been violated, you may file a complaint with the Fund in care of the following Privacy Official (at the address listed above).

You may also file a complaint with the U.S. Department of Health and Human Services, Office for Civil Rights (OCR), at the following website:

<http://www.hhs.gov/ocr/privacy/hipaa/complaints/index.html>

Alternatively, you can call OCR at 800-368-1019. The Fund will not retaliate against you for filing a complaint.

**Section 6: If You Need More Information**

If you have any questions regarding this notice or the subjects addressed in it, you may contact the Privacy Official at the Fund Office. See Section 3 for contact information.

**Section 7: Conclusion**

PHI use and disclosure by the Fund is regulated by the federal Health Insurance Portability and Accountability Act, known as HIPAA, as amended by HITECH. You may find these rules at 45 *Code of Federal Regulations* Parts 160 and 164. This Notice attempts to summarize the regulations and notify you of your rights. The regulations will supersede this Notice if there is any discrepancy between the information in this Notice and the regulations.

*September 23, 2013*