

# Advantage Administrators HIPAA Privacy Policy

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## Introduction

Advantage Administrators administers various health benefit plans (Plan) for employer sponsors. Members of Advantage Administrators's workforce may have access to the individually identifiable health information of Plan participants (1) on behalf of the Plan itself, or (2) on behalf of employer sponsors, for administrative functions of the Plan.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations restrict Advantage Administrators's ability to use and disclose protected health information (PHI).

***Protected Health Information.*** Protected health information means information that is created or received by the Plan and relates to the past, present, or future physical or mental health or condition of a participant; the provision of health care to a participant; or the past, present, or future payment for the provision of health care to a participant; and that identifies the participant or for which there is a reasonable basis to believe the information can be used to identify the participant. Protected health information includes information of persons living or deceased.

It is Advantage Administrators's policy to comply fully with HIPAA's requirements. To that end, all members of Advantage Administrators's workforce who have access to PHI must comply with this Privacy Policy. For purposes of this Policy, Advantage Administrators's workforce includes individuals who would be considered part of the workforce under HIPAA such as employees, volunteers, trainees, and other persons whose work performance is under the direct control of Advantage Administrators, whether or not they are paid by Advantage Administrators. The term "employee" includes all of these types of workers.

No third party rights (including, but not limited to rights of the Plan participants, beneficiaries, covered dependents, or business associates) are intended to be created by this Policy. Advantage Administrators reserves the right to amend or change this Policy at any time (and even retroactively) without notice. To the extent this Policy establishes requirements and obligations above and beyond those required by HIPAA, the Policy shall be aspirational and shall not be binding upon Advantage Administrators. This Policy does not address requirements under other federal laws or under state laws.

## Policies on Use and Disclosure of PHI

### **I. Use And Disclosure Defined**

Advantage Administrators will use and disclose PHI only as permitted under HIPAA. The terms "use" and "disclose" are defined as follows:

- *Use.* The sharing, employment, application, utilization, examination, or analysis of individually identifiable health information by any person or by a Business Associate (defined below) of the Plan.
- *Disclosure.* For Information that is protected health information, disclosure means any release, transfer, provision of access to, or divulging in any other manner of individually identifiable health information,

### **II. Workforce Must Comply With Company's Policy and Procedures**

All members of Advantage Administrators's workforce (described at the beginning of this Policy and referred to herein as "employees") must comply with this Policy.

### **III. Access to PHI Limited to Certain Employees**

Only employees directly involved with Plan administration shall have access to PHI on behalf of Advantage Administrators for its use in "plan administrative functions." These employees with access may use and disclose PHI for plan administrative functions, and they may disclose PHI to other employees with access for plan administrative functions (but the PHI disclosed must be limited to the minimum amount necessary to perform the plan administrative function). Employees with access may not disclose PHI to employees (other than employees with access) unless an authorization is in place or the disclosure otherwise is in compliance with this Policy.

### **IV. Permitted Uses and Disclosures: Payment and Health Care Operations**

PHI may be disclosed for a Plan's own payment purposes, and PHI may be disclosed to another covered entity for the payment purposes of that covered entity.

*Payment.* Payment includes activities undertaken to obtain Plan contributions or to determine or fulfill a Plan's responsibility for provisions of benefits under the Plan, or to obtain or provide reimbursement for health care. Payment also includes:

- eligibility and coverage determinations including coordination of benefits and adjudication or subrogation on health benefit claims;

- risk adjusting based on enrollee status and demographic characteristics; and
- billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop-loss insurance and excess loss insurance) and related health care data processing.

PHI may be disclosed to another covered entity for purpose of the other covered entity's quality assessment and improvement, case management, or health care fraud and abuse detection programs, if the other covered entity has (or had) a relationship with the participant and the PHI requested pertains to that relationship.

#### **V. No Disclosure of PHI for Non-Health Plan Purposes**

PHI may not be used or disclosed for the payment or operations of "non-health" benefits (e.g., disability, worker's compensation, life insurance, etc.), unless the participant has provided an authorization for such use or disclosure (as discussed in "Disclosure Pursuant to and Authorization") or such use or disclosure is required by applicable state law and particular requirements under HIPAA are met.

#### **VI. Mandatory Disclosures of PHI to Individual and DOL**

A participant's PHI must be disclosed as required by HIPAA in two situations:

- The disclosure is to the individual who is the subject of the information; and
- The disclosure is made to the Secretary of Health and Human Services for purposes of enforcement of HIPAA.

#### **VII. Permissive Disclosure of PHI When Additional Requirements Are Met**

PHI may be disclosed in the following situations without a participant's authorization, when specific requirement are satisfied. The permissive disclosures are:

- disclosures to family and friends;
- disclosures about victims of abuse, neglect or domestic violence;
- disclosures for judicial and administrative proceedings;
- disclosures for law enforcement purposes;
- disclosures for public health activities;
- disclosures for health oversight activities;
- disclosures is about decedents;
- disclosures for cadaveric organ, eye or tissue donation purposes;
- disclosures for certain limited research purposes;

- disclosures to avert a serious threat to health or safety;
- disclosures for specialized government functions;
- disclosures that relate to workers' compensation programs; and
- disclosures for limited marketing activities.

#### **VIII. Disclosure of PHI Pursuant to an Authorization**

PHI may be disclosed for any purpose if an authorization that satisfies all of HIPAA's requirements for a valid authorization is provided by the participant. All uses and disclosures made pursuant to a signed authorization must be consistent with the terms and conditions of the authorization.

#### **IX. Complying With the "Minimum Necessary" Standard**

HIPAA requires that when PHI is used or disclosed, the amount disclosed generally must be limited to the "minimum necessary" to accomplish the purpose of the use or disclosure.

The "minimum necessary" standard does not apply to any of the following:

- uses or disclosures made to the individual;
- uses or disclosures made pursuant to a valid authorization;
- disclosures made to the DOL;
- uses or disclosures required by law;
- uses or disclosures required to comply with HIPAA.

#### **X. Disclosures of De-Identified Information and Limited Data Sets**

Advantage Administrators may freely use and disclose de-identified information. De-identified information is health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify and individual.

The Plan may use or disclose a "limited data set" to another entity for purposes of research, public policy, or health care operations if Advantage Administrators obtains satisfactory assurance, in the form of a data use agreement, that the limited data set recipient will only use or disclose the protected health information for limited purposes.

#### **XI. Requests for Restrictions on Uses and Disclosures of Protected Health Information**

A participant may request restrictions on the use and disclosure of the participant's PHI. It is Advantage Administrators's policy to attempt to honor such requests if, in the sole discretion of Advantage Administrators, the requests are reasonable.