

The Monmouth University Healthcare Flexible Spending Account (FSA) Plan

The Monmouth University Health Reimbursement Account (HRA) Plan

Notice of Privacy Practices

Section 1: Purpose of This Notice and Effective Date

THIS NOTICE APPLIES TO THE HEALTHCARE FLEXIBLE SPENDING ACCOUNT AND THE HEALTH REIMBURSEMENT ACCOUNT AND DOES NOT APPLY TO ANY OTHER EMPLOYEE BENEFIT PLANS PROVIDED BY MONMOUTH UNIVERSITY SUCH AS THE DEPENDENT CARE PROGRAM WHICH IS ALSO PROVIDED UNDER THE FLEXIBLE SPENDING ACCOUNT 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.

Original Effective date. The original effective date of this Notice is April 14, 2004.

Revision date. This revised notice is effective January 1, 2018.

The Healthcare Flexible Spending Account Plan (“the FSA Plan”) and the Health Reimbursement Account Plan (“the HRA Plan”) is sponsored by Monmouth University (“the Plan Sponsor”). For the purposes of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Monmouth University is a hybrid covered entity and this notice applies only to the Healthcare Flexible Spending Account and the Health Reimbursement Account and the administrative departments of the University that may provide legal, billing, auditing, technology, or other administrative support for this Plan(s). These offices include but are not limited to the Office of Human Resources, Office of Payroll, Office of the Controller, Office of Internal Audit, Information Management and the Office of the General Counsel.

This Notice is required by law. The **Monmouth University Healthcare Flexible Spending Account Plan the Health Reimbursement Account Plan** 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 Plan’s uses and disclosures of Protected Health Information (PHI),
2. Your rights to privacy with respect to your PHI,
3. The Plan’s duties with respect to your PHI,
4. Your right to file a complaint with the Plan 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 Plans’ privacy practices.

This Notice applies to your health information held by the Monmouth University Healthcare Flexible Spending Account Plan the Health Reimbursement Account Plan. The Plan(s) provide flexible health reimbursement benefits to you as described in the Summary Plan Descriptions. The Plan(s) receives and maintains your PHI in the course of providing medical reimbursement benefits to you. The Plan(s) utilize business associates to help it provide these benefits to you. These business associates also receive and maintain your PHI in the course of providing services to the Plan.

You will receive a separate Privacy Notice from the insurer of your medical/prescription plan, your dental plan and your vision plan as these plans are fully insured. Such notices are also available on each insurer's individual website. Please share all Notices with your covered family members, as their health information is also protected under federal law.

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; to the provision of healthcare to an individual; or to the payment for health care. This includes, but is not limited to, your home address, phone number and social security number. PHI includes information maintained by the Plan in oral, written, or electronic form.

When the Plan May Disclose Your PHI

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

- *At your request.* If you request it, the Plan(s) is required to give you access to certain PHI in order to allow you to inspect and/or copy it.
- *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 Plan's compliance with the privacy regulations.
- *For treatment, payment or health care operations.* The Plan(s) and its business associates will use PHI in order to carry out treatment, payment, or health care operations.

Treatment is the provision, coordination, or management of health care and related services. While the Plan(s) generally does not use or disclose your PHI to health care providers for treatment purposes, the Plan(s) are permitted to do so if necessary. For example, the Plan(s) may disclose PHI to a physician who is treating you.

Payment includes but is not limited to actions to make coverage determinations and payment. For example, the Plan(s) may use health information to pay claims from the Flexible Spending Account and/or Health Reimbursement Account. If the University contracts with third parties to help with payment operations, such as third party claims administrators, your PHI may be disclosed to them so they may conduct these activities on your behalf. These third parties are known as "business associates."

Health care operations includes but is not limited to quality assessment and improvement, underwriting, premium rating and other insurance activities related 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.

- *Disclosure to Business Associates.* The Plan will disclose PHI to business associates the Plan hires to assist the Plan. Each business associate of the Plan must agree in writing to ensure the continuing confidentiality and security of your medical information. For example, WageWorks, the third party administrator of the Plan, is a business associate and is required to sign a Business

Associate Agreement agreeing to comply with the HIPAA Privacy and Security Regulations and to provide appropriate safeguards to protect the privacy of your medical information.

- *Disclosure to the Plan Sponsor.* The Plan(s) will also disclose PHI to certain designated employees of the Plan Sponsor, Monmouth University, for purposes related to treatment, payment, and health care operations, and has amended the Plan Document to permit this use and disclosure as required by federal law. For example, the Plan(s) may disclose information to certain designated employees of the University to allow them to decide appeals of eligibility determinations, negotiate renewals of insurance contracts or audit the accuracy of health care payments. These designated employees must agree to comply with the HIPAA Privacy and Security Regulations and may be subject to sanctions for non-compliance.

In addition, the Plan(s) may use or disclose “summary health information” to individuals within the University for the purpose of obtaining premium bids or modifying, amending or terminating the group health Plan. Summary information summarizes the claims history, claims expenses or type of claims experienced by individuals for whom the University has provided health benefits but does not disclose your name or other distinguishing characteristics.

Use of Psychotherapy Notes

The Plan(s) does not routinely obtain psychotherapy notes. If it is necessary to use or disclose them, it must obtain your written authorization unless certain exceptions apply (e.g. disclosure is required by law or to avert a serious threat to health or safety). The Plan(s) may also use and disclose such notes when needed by the Plan(s) to defend itself 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.

Use or Disclosure of Your PHI to Family Members

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 are present, either in person or on the telephone and give the Plan(s) permission to talk to the other person, or
- You sign an authorization form allowing the Plan(s) to discuss any information about you or claims filed under your account with the Plan.

Use or Disclosure of Your PHI For Which Consent, Authorization or Opportunity to Object Is Not Required

The Plan(s) is allowed under federal law to use and disclose your PHI without your consent or authorization under the following circumstances:

1. ***When required by applicable law.*** The Plan(s) will disclose PHI when required to do so by federal, state or local law. For example, the Plan(s) must allow the U.S. Department of Health and Human Services to audit Plan records if requested.

2. **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.
3. **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 Plan(s) will promptly inform you that such a disclosure has been or will be made unless that notice would cause a risk of serious harm.
4. **Health oversight activities.** To a health oversight agency for oversight activities authorized by law. These activities include audits; civil, administrative or criminal investigations, proceedings or actions; inspections; licensure or disciplinary actions (for example, to investigate complaints against health care providers) and other activities necessary for appropriate oversight of benefit programs (for example, to the Department of Labor).
5. **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.
6. **Law enforcement health purposes.** When required for law enforcement purposes (for example, to report certain types of wounds).
7. **Law enforcement emergency purposes.** For certain law enforcement purposes, including identifying or locating a suspect, fugitive, material witness or missing person, and disclosing information about an individual who is or is suspected to be a victim of a crime.
8. **Determining cause of death and for 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. The Plan(s) may also disclose PHI for cadaveric organ, eye or tissue donation purposes.
9. **Funeral purposes.** When required to be given to funeral directors to carry out their duties with respect to the decedent.
10. **Research.** For research, subject to certain conditions.
11. **Health or safety threats.** When, consistent with applicable law and standards of ethical conduct, the Plan(s) 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.
12. **Workers' compensation programs.** When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.
13. **Specialized Government Functions.** When required, to military authorities under certain circumstances, or to authorized federal officials for lawful intelligence, counterintelligence and other national security activities.

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

Other Uses or Disclosures

The Plan(s) may contact you to provide you information about treatment alternatives or other health-related benefits and services that may be of interest to you.

Section 3: Your Individual Privacy Rights

All requests under this section with respect to information about the Monmouth University Healthcare Flexible Spending Account and the Monmouth University Health Reimbursement Account should be addressed to:

**Privacy Official
Monmouth University
Director of Human Resources
400 Cedar Avenue
West Long Branch, NJ 07764
(732) 263-5228**

If a form is required, it will be available from the Privacy Official.

Requests with respect to PHI held by an insurer should be directed to the insurer at the address indicated on its Privacy Notice. If an outside company holds the PHI, please contact the Privacy Official for the correct address.

You May Request Restrictions on PHI Uses and Disclosures

You may request the Plan(s) 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 healthcare or payment related to your healthcare.

The Plan(s), however, are not required to agree to your request if the Plan Administrator or Privacy Official determines it to be unreasonable or where use or disclosure of PHI is permitted by law.

You May Request Confidential Communications

The Plan(s) 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.

You May Inspect and Copy PHI

Generally, you have a right to inspect and obtain a copy of your PHI contained in a “designated record set,” for as long as the Plan maintains the PHI.

The Plan(s) must provide the requested information within 30 days if the information is maintained on site or within 60 days if the information is maintained offsite. A single 30-day extension is allowed if the Plan(s) are unable to comply with the deadline.

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.

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 Plan and HHS.

Designated Record Set: includes enrollment, payment, claims adjudication and other information used to make decisions about payment for care. 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 Request an Amendment to Your PHI

You have the right to request that the Plan(s) 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.

The Plan(s) have 60 days after receiving your request to act on it. The Plan(s) are allowed a single 30-day extension if the Plan(s) is unable to comply with the 60-day deadline. If the Plan(s) denied your request in whole or part, the Plan(s) 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 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 Plan’s PHI Disclosures

At your request, the Plan(s) will also provide you with an accounting of certain disclosures by the Plan(s) of your PHI. The Plan(s) 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. The Plan(s) have 60 days to provide the accounting. The Plan(s) are allowed an additional 30 days if the Plan(s) give 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 Plan(s) will charge a reasonable, cost-based fee for each subsequent accounting.

Receive a Paper Copy of This Notice

You have the right to obtain a paper copy of this Notice upon request.

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 or other form acceptable under state or federal law.

The Plan(s) 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.

Section 4: The Plans' Duties

Maintaining Your Privacy

The Plan(s) are 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.

This notice is effective beginning on April 14, 2004 and revised effective December 1, 2010. The Plan(s) are required to comply with the terms of this notice. However, the Plan(s) reserve the right to change its privacy practices and to apply the changes to any PHI received or maintained by the Plan(s) prior to that date. If a privacy practice is changed, a revised version of this notice will be provided to you within 60 days of such change.

When using or disclosing PHI or when requesting PHI from another covered entity, the Plan(s) 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:

- Disclosures to or requests by a health care provider for treatment,
- Uses or disclosures made to you or pursuant to your written authorization,
- Disclosures made to the Secretary of the United States Department of Health and Human Services pursuant to its enforcement activities under HIPAA,
- Uses or disclosures required by law, and
- Uses or disclosures required for the Plans' compliance with the HIPAA privacy regulations.

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

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

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

If you believe that your privacy rights have been violated, you may file a complaint with the Plan(s) in care of the following person:

**Privacy Official
Monmouth University
Director of Human Resources
400 Cedar Avenue
West Long Branch, NJ 07764
(732) 263-5228**

Contact the Privacy Official for more information about how to file a complaint. The Plan(s) will not retaliate against you for filing a complaint.

You may also file a complaint with the Secretary of the U.S. Department of Health and Human Services (“HHS”). Please contact the nearest office of the Department of Health and Human Services listed in your telephone directory or visit the HHS website at www.hhs.gov.

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.

Section 7: Conclusion

PHI use and disclosure by the Plan(s) is regulated by the federal Health Insurance Portability and Accountability Act, known as HIPAA. You may find these rules at Title 45 of the Code of the Federal Regulations, Parts 160 and 164. This notice attempts to summarize the regulations. The regulations will supersede this notice if there is any discrepancy between the information in this notice and the regulations.