

## **HIPAA NOTICE OF PRIVACY PRACTICES**

Effective September 23, 2013

### **THIS NOTICE DESCRIBES HOW YOUR PROTECTED HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.**

#### **Overview**

Under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the PetSmart, Inc. SmartChoices Benefit Plan, the PetSmart, Inc. Flexible Benefits Plan (collectively, “Plan”) are required to take reasonable steps to ensure the privacy of your Protected Health Information (“PHI”) and to inform you about:

- The Plan’s uses and disclosures of PHI;
- Your privacy rights with respect to your PHI;
- The Plan’s duties with respect to your PHI;
- Your right to file a complaint with the Plan and/or with the Secretary of the Office of Civil Rights of the U.S. Department of Health and Human Services; and
- The person or office to contact for further information about the Plan’s privacy practices.

The term “Protected Health Information” (PHI) is information (including genetic information) in any form (oral, written, or electronic) that is created or received by or on behalf of the Plan that relates to your past, present, or future physical or mental health condition, or the provision of health care services to you, or payment for those health care services and that identifies you or from which there is a reasonable basis to believe the information could be used to identify you.

Health information your employer receives during the course of performing non-health plan functions is not PHI. For example, health information you submit to your employer to document a leave of absence under the Family and Medical Leave Act is not PHI. Similarly, health information you submit to your employer to show that you are eligible for disability leave is not PHI.

#### **Section 1. Notice Of PHI Uses And Disclosures**

Under HIPAA, a Plan may use or disclose your PHI under certain circumstances without your consent, authorization or opportunity to agree or object. Some uses and disclosures fall within the categories described below. Note that every permissible use or disclosure in a category is listed; however, all the ways in which a Plan is permitted to use or disclose PHI will fall within one of the categories:

***Required Disclosures:*** Upon your request, the Plan is required to give you access to certain PHI in order to inspect and copy it. Disclosure of your PHI may be required by the Secretary of the U.S. Department of Health and Human Services to investigate or determine the Plan’s compliance with the privacy regulations. A Plan may also disclose your PHI when required to do so under federal, state or local law.

***Disclosures to Plan Sponsor:*** The Plan also may disclose PHI to certain employees of the Plan Sponsor (PetSmart, Inc.) to enable the Plan Sponsor to carry out certain administrative functions on behalf of the Plan. PetSmart’s employees will only use or disclose such information as necessary to perform administration functions on behalf of the Plan or as otherwise required by HIPAA, unless you have authorized further disclosures. A Plan may disclose any enrollment and disenrollment information it holds to PetSmart. For example, a Plan may tell PetSmart if an individual has dropped from coverage due to fraud or similar improprieties. A Plan may also share summary health information with PetSmart for certain limited purposes. However, the Plans will not disclose your protected health information for any employment purpose or for any other employee benefit plan purpose without your specific authorization.

***Disclosures to Business Associates:*** A Plan may contract with individuals or entities known as Business

Associates to perform various functions on behalf of the Plan or to provide certain types of services. In order to perform these functions or to provide these services, the Business Associates will receive, create, maintain, use and/or disclose your PHI, but only after they agree in writing to implement appropriate safeguards regarding such PHI. For example, a 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.

***Treatment:*** A Plan may use and/or disclose your PHI to help you obtain treatment and/or services from providers. Treatment includes 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 health care providers. For example, the Plan may disclose to a treating orthodontist the name of your treating dentist so that the orthodontist may ask for your dental X-rays from the treating dentist.

***Payment:*** A Plan may use and/or disclose your PHI in order to determine your eligibility for benefits, to facilitate payment of your health claims and to determine benefit responsibility. Payment includes but is not limited to billing, claims management, subrogation, plan reimbursement, reviews for medical necessity and appropriateness of care and utilization review and pre-authorizations). For example, the Plan may tell a doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Plan.

***Health Care Operations:*** A Plan may use and/or disclose your PHI for other Plan operations. These uses and disclosures are necessary to run the Plan. Health Care Operations include but are not limited to quality assessment and improvement, reviewing competence or qualifications of health care professionals, underwriting, premium rating and other activities relating to Plan coverage. It also includes cost 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 Plan may use information about your claims to refer you to a disease management program, project future benefit costs or audit the accuracy of its claims processing functions.

***Treatment Alternatives or Health-Related Benefits and Services:*** We may use and disclose your PHI to send you information about treatment alternatives or other health-related benefits and services that might be of interest to you.

***Public Health Activities:*** A Plan may disclose your PHI when permitted for purposes of public health actions, including when necessary to report child abuse or neglect or domestic violence, to report reactions to drugs or problems with products or devices, and to notify individuals about a product recall. Your 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.

***Health or Safety:*** A Plan may disclose and/or use your PHI when necessary to prevent a serious threat to your health or safety or the health or safety of another individual or the public. Under these circumstances, any disclosure will be made only to the person or entity able to help prevent the threat.

***Health Oversight:*** A Plan may disclose your PHI to a public health oversight agency for oversight activities authorized by law. Oversight activities can include civil, administrative or criminal actions, audits and inspections, licensure or disciplinary actions (for example, to investigate complaints against providers); other activities necessary for appropriate oversight of government benefit programs (for example, to investigate Medicare or Medicaid fraud); compliance with civil rights laws and the health care system in general.

***Lawsuits, Judicial and Administrative Proceedings:*** If you are involved in a lawsuit or similar proceeding, a Plan may disclose your PHI in response to a court or administrative order. A Plan may also disclose your PHI in response to a subpoena, discovery request or other lawful process by another individual involved in the dispute, provided certain conditions are met. One of these conditions is that

satisfactory assurances must be given to the Plan that the requesting party has made a good faith attempt to provide written notice to you, and the notice provided sufficient information about the proceeding to permit you to raise an objection and no objections were raised or were resolved in favor or disclosure by the court or tribunal.

**Law Enforcement:** A Plan may disclose your PHI when required for law enforcement purposes, including for the purposes of identifying or locating a suspect, fugitive, material witness or missing person. If you are an inmate of a correctional institution or are in the custody of law-enforcement officials, we may disclose your PHI to the correctional institution or a law-enforcement official if necessary (1) for the institution to provide you with health care; (2) to protect your health and safety or the health and safety of others; or (3) for the safety and security of the correctional institution.

**Coroners, Medical Examiners and Funeral Directors:** A Plan may disclose your PHI when required to be given to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death or other duties as authorized by law. Also, disclosure is permitted to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent.

**Research:** A Plan may disclose your PHI for research when the individual identifiers have been removed or when the institutional review board or privacy board has reviewed the research proposal and established protocols to ensure the privacy of the requested information, and approves the research.

**Organ and Tissue Donations:** If you are an organ donor, a Plan may disclose your PHI to organizations that handle organ procurement or organ, eye or tissue transplantation or to an organ donation bank, as necessary to facilitate organ or tissue donation and transplantation.

**Workers' Compensation:** A Plan may release your PHI for workers' compensation or similar programs that provide benefits for work-related injuries or illness.

**National Security and Intelligence:** A Plan may release PHI to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized by law.

**Military and Veterans:** If you are a member of the armed forces, a Plan may disclose your PHI as required by military command authorities. A Plan may also release PHI about foreign military personnel to the appropriate foreign military authority.

**Disclosures to Family Members and Personal Representatives:** A Plan may disclose your PHI to family members, other relatives and your close personal friends but only to the extent:

- The information is directly relevant to such individual'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.

A Plan will disclose your PHI to an individual authorized by you, or to an individual designated as your personal representative, provided the Plan has received the appropriate authorization and/or supporting documents.

However, the Plan is not required to disclose information to a personal representative if it has a reasonable belief that (i) you have been, or may be, subjected to domestic violence, abuse or neglect by such person; or (ii) treating such person as your personal representative could endanger you; and (iii) in the exercise of professional judgment, it is not in your best interest to treat such individual as your personal representative.

With only limited exceptions, we will send all mail to the employee. This includes mail relating to the employee's spouse and other family members who are covered under the Plan, and includes mail with

information on the use of Plan benefits by the employee's spouse and other family members and information on the denial of any Plan benefits to the employee's spouse and other family members. If a person covered under the Plan has requested restrictions or confidential communications, and if we have agreed to the request, we will send mail as provided by the request.

***Uses And Disclosures That Require Your Written Authorization:*** Other uses or disclosures of your PHI not described above or permitted by applicable law will only be made with your written authorization. Any authorization you provide to a Plan regarding the use and/or disclosure of your PHI may be revoked at any time by providing written notice to the Privacy Officer. Revocation of your authorization will be effective only for future uses and disclosures. It will not have any effect on PHI that may have been used or disclosed in reliance of your authorization and prior to receiving your written revocation.

Your written authorization generally will be obtained before the Plan will use or disclose psychotherapy notes about you from your psychotherapist. 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. The Plan may use and disclose such notes when needed by the Plan to defend against litigation filed by you.

In addition, a Plan cannot (i) engage in the sale of your PHI; (ii) use or disclose your PHI for marketing purposes or (iii) otherwise receive direct or indirect remuneration for the use or disclose of your PHI without your written authorization.

## **Section 2. Rights of Individuals**

***Right to Request Confidential Communications:*** You have the right to request that a Plan communicate with you about your health and related issues in a particular manner or at a certain location. For instance, you may ask that a Plan contact you at home, rather than work.

The Plan will accommodate reasonable requests if disclosure of all or part of your protected health information could endanger you.

In order to request a type of confidential communication, you must submit your request in writing to the following Privacy Officer: Director of Benefits, 19601 N. 27th Avenue, Phoenix, AZ 85027 or by phone at 1-800-738-1385.

***Right To Request Restrictions:*** On PHI Uses And Disclosures: You may request the Plan to restrict uses and disclosures of your PHI to carry out treatment, payment or health care operations, or to restrict uses and disclosures to family members, relatives, friends or other persons identified by you who are involved in your care or payment for your case.

You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI. Such requests should be made to the following Privacy Officer: Director of Benefits, 19601 N. 27th Avenue, Phoenix, AZ 85027 or by phone at 1-800-738-1385.

If the Plan does agree to the request, it will adhere to the restriction until you agree to or request termination of the restriction or limitation or the Plan notifies you that it no longer agrees to the restriction or limitation. However, if you are in need of emergency medical treatment and the restricted information is needed to provide the emergency treatment, a Plan may disclose the restricted information to a provider so that you can obtain the necessary treatment.

***Right To Inspect And Copy PHI:*** Subject to certain exceptions, you have a right to inspect and obtain a copy of your PHI contained in a "designated record set," that may be used to make decisions about your health care benefits for as long as the Plan maintains the PHI.

Designated Record Set includes the medical records and billing records about individuals maintained by

or for a covered health care provider; 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 individuals. Information used for quality control or peer review analyses and not used to make decisions about individuals is not in the designated record set.

The requested information will be provided within 30 days; however, a single 30-day extension is allowed if the Plan is unable to comply with the deadline. The information will be provided in the form and format you request, if it is readily producible in such form or format, or if not, in such other form or format agreed upon by you and the Plan. Otherwise, the requested information will be provided to you in a readable hard copy form.

The Plan may charge you a reasonable fee for the costs of copying (supplies and/or labor), mailing and summarizing the information (if you have requested or consented to a summary) associated with your request; however, if the information is provided to you electronically, the fee will not exceed the actual labor costs.

If your PHI is in a designated record set maintained by a Business Associate, you may be referred directly to the Business Associate. You or your personal representative will be required to complete a form to request access to the PHI in your designated record set. Requests for access to PHI should be made to the following Privacy Officer: Director of Benefits, 19601 N. 27th Avenue, Phoenix, AZ 85027 or by phone at 1-800-738-1385.

In certain limited circumstances, the Plan may deny your request. In some cases, you have a right to have the denial reviewed by a licensed health care professional. If applicable, the procedures to exercise any such right will be described in the denial.

**Right To Amend PHI:** You have the right to request the Plan to amend your PHI or a record about you in a designated record set that you believe is incomplete or incorrect for as long as the PHI is maintained in the designated record set.

The Plan has 60 days after the request is made to act on the request. A single 30-day extension is allowed if the Plan is unable to comply with the deadline. The Plan may deny your request if the information: (i) is not part of the medical information kept by or for the Plan; (ii) was not created by the Plan, unless the person or entity that created the information is no longer available to make the amendment; (iii) is not part of the PHI available to you for access under HIPAA; or (iv) the Plan determines that the information is complete and correct. If the request is denied in whole or part, the Plan must provide you with a written denial that explains the basis for the denial. 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 your PHI.

You or your personal representative will be required to complete a form to request amendment of the PHI in your designated record set. Requests for amendment of PHI in a designated record set should be made to the following Privacy Officer: Director of Benefits 19601 N. 27th Avenue, Phoenix, AZ 85027 or by phone at 1-800-738-1385.

**The Right To Receive An Accounting Of PHI Disclosures:** At your request, the Plan will also provide you with an accounting of disclosures by the Plan of your PHI during the six years (three years in the case of disclosures from any electronic health records) prior to the date of your request. An accounting is not required to include PHI disclosures made: (1) to carry out treatment, payment or health care operations (unless the disclosure is made from an electronic health record) ; (2) to you or pursuant to your authorization; (3) to family, friends or other persons involved in your care; (4) for national security or intelligence purposes; (5) incidental to otherwise permissible disclosures; (6) as part of a limited data set; and (6) prior to the compliance date (April 14, 2003).

If the accounting cannot be provided within 60 days, an additional 30 days is allowed if the individual is given 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 will charge a reasonable, cost-based fee for each subsequent accounting. However, the Plan will notify you of the cost and provide you with an opportunity to withdraw or modify your request before any costs are incurred.

***The Right to Be Notified of a Breach:*** You have the right to be notified in the event the Plan discovers a breach of involving your unsecured PHI.

***The Right To Receive A Paper Copy Of This Notice Upon Request:*** To obtain a paper copy of this Notice, contact the following Privacy Officer: Director of Benefits. You are entitled to a paper copy of the Notice even if you agreed to receive this Notice electronically.

***A Note About Personal Representatives:*** You may exercise your rights through a personal representative. Your personal representative will be required to produce evidence of his/her authority to act on your behalf before that person will be given access to your PHI or allowed to take any action for you. Proof of such authority may take one of the following forms:

- A power of attorney for health care purposes, notarized by a notary public;
- A court order of appointment of the person as the conservator or guardian of the individual; or
- An individual who is the parent of a minor child.

The Plan 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. This also applies to personal representatives of minors.

### **Section 3. The Plan's Duties**

The Plan is required by law to maintain the privacy of PHI and to provide individuals (participants and beneficiaries) with notice of its legal duties and privacy practices.

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

Any revised version of this Notice will be distributed (by mail, electronically, or by other permitted method) within 60 days of the effective date of any material change to the uses or disclosures, the individual's rights, the duties of the Plan or other privacy practices stated in this Notice.

***Minimum Necessary Standard:*** When using or disclosing PHI or when requesting PHI from another covered entity, the Plan 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;
- Disclosures made to the Secretary of the U.S. Department of Health and Human Services;
- Uses or disclosures that are required by law; and
- Uses or disclosures that are required for the Plan's compliance with legal regulations.

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

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 an individual.

In addition, the Plan may use or disclose “summary health information” to the Plan Sponsor for obtaining premium bids or modifying, amending or terminating the group health plan, which summarizes the claims history, claims expenses or type of claims experienced by individuals for whom the Plan Sponsor has provided health benefits under a group health plan; and from which identifying information has been deleted in accordance with HIPAA. However, the Plan may not use any genetic information for underwriting purposes.

#### **Section 4. 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 complain to the Plan in care of the following Privacy Officer: Director of Benefits, 19601 N. 27th Avenue, Phoenix, AZ 85027 or by phone at 1-800-738-1385. You may file a complaint with the Secretary of the U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201. The Plan will not retaliate against you for filing a complaint.

#### **Section 5. Whom to Contact at the Plan for More Information**

If you have any questions regarding this notice or the subjects addressed in it, you may contact the following Privacy Officer: Director of Benefits at 19601 N. 27th Avenue Phoenix AZ 85027 or by phone at 1-800-738-1385 or by email at [benefits@petsmart.com](mailto:benefits@petsmart.com).