BaylorScott&White HEALTH

Member Confidentiality

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Department:	Compliance Department		
Last Review Date:		**Last Revision Date:**	
Approver:	Pamela L. O'Bannon	**Original Approval:**	6/26/2014
CEO:	Marinan R. Williams		
Keywords:			

SCOPE

Company:
☒ **ICSW** ☒ **SWHP**

Line of Business:
- ☒ Individual PPO
- ☒ Individual Short Term PPO
- ☒ Consumer Choice
- ☒ MA-PD
- ☒ D-SNP
- ☒ Senior Care
- ☒ Medicare Part-D
- ☒ Individual HMO
- ☒ Group HMO
- ☒ Group Health Savings Account (HSA)
- ☒ Medicaid
- ☒ Health Exchanges

POLICY

A. Scott & White Health Plan (SWHP) protects the confidentiality of Members' medical information and records, in accordance with Federal and State statutes.

B. Confidentiality policies and the practices regarding the collection, use and disclosure of medical information is reviewed as needed by the Executive Compliance Committee.

C. SWHP staff should not release identifiable information, obtained from medical records or other sources, for any purpose other than treatment, payment, or health care operations, in any manner, without the Member's expressed written authorization or specific legal authority.

D. SWHP manages security access to sensitive information by having in place secure access to physical facilities, protections for electronic access to sensitive information, media and device controls, physical safeguards of workstations, and employee role-based access to sensitive information.

E. Members are afforded the opportunity to authorize or deny the release of identifiable medical or other information by SWHP, except when law requires such release, for research approved

by the Institutional Review Board (IRB) or for treatment, payment or health care operations purposes.

F. SWHP has procedures in place to identify, report, and take action upon impermissible uses and disclosures of sensitive information.

G. Member identifiable medical information should not be shared with employers or plan sponsors without certification that the plan sponsor's documents have been amended to incorporate the following provisions and the plan sponsor agrees to:

1. Not use or disclose PHI, other than as permitted by plan documents or required by law
2. Ensure that agents and subcontractors of the employer or plan sponsor agree to the same restrictions and conditions as the employer or plan sponsor, with regard to PHI
3. Prohibit the use of PHI by the employer or plan sponsor for employment or other benefit-related decisions
4. Notify the organization of any use or disclosure of PHI that is inconsistent with use and disclosure established in plan documents
5. Allow member access to PHI, including access to amend PHI
6. Make necessary information available to the organization in order to provide individuals with accountings of disclosure.
7. Procedures for return, destruction and restriction of further use of PHI by employers or plan sponsors.
8. Identify the sponsor or employer staff who have access to PHI
9. Include provisions for taking action if the sponsor or employer staff inappropriately use or disclose PHI.

H. Authorization for non-routine uses of data should be obtained. SWHP considers the purpose of the non-routine use of the data and seeks advice from legal counsel to ensure that the action taken is consistent with state and federal law. This process also applies to obtaining special authorization for those who lack the ability to give authorization.

I. Uses of Personal Health Information:

1. SWHP may permit the use of personal health information for treatment, payment, or health care operations needs including but not limited to the following:
   a. Treatment

b. Coordination of Care (Utilization Management/Case Management)

c. Quality Assessment and Measurement, including surveys of Members

d. Accreditation

e. Billing

f. Research

2. In the use of data for these purposes, personal information may be transmitted to people or organizations outside SWHP. The use of aggregated data in which an individual's personal information is not identifiable is not subject to privacy restrictions.

J. Internal Protection of PHI

1. All meeting minutes should be documented in a way that de-identifies Members.

2. All written information and paper documents containing confidential information &/or member PHI should be kept within the SWHP building, which is a locked building with restricted access, and in a locked area within the relevant department when not in use.

3. SWHP employees are not to discuss confidential information, including member's protected health information, in common or high traffic areas of the SWHP building. Employees should take precautionary measures to confine such conversations that include PHI to secure areas.

4. SWHP employees are not to discuss member's protected health information, outside of the SWHP building unless for a specific job-related reason. In such instance, employees should take precautionary measures to confine such conversations to secure areas.

5. In all instances, SWHP employees are to be discreet and aware of their surroundings to ensure member's confidential information is protected and that such discussions are within the course and scope of SWHP employee's job responsibilities.

6. SWHP employees are to lock or log off from their computers when not at their desk

7. When PHI is not in use, SWHP employees are to store it in a locked desk, locked office, or locked file cabinet.

8. SWHP employees are to remove documents containing PHI or confidential information from faxes and copiers as soon as possible.

9. SWHP employees are not to take files or documents containing PHI out of the SWHP building unless for a specific job-related function.

10. SWHP employees are to shred PHI when documents or files are no longer needed

K. Accountability and Responsibility

1. In the event of a potential impermissible disclosure of sensitive information, the following shall occur:

   a. SWHP Compliance Officer is informed of the disclosure and, if necessary, the Privacy Officer is notified.

   b. Any Covered Entity or Business Associate involved with the impermissible disclosure is notified and involved in mitigating the adverse consequences of such disclosure and preventing future disclosures.

   c. Any other entity to which notification is legally required is so notified.

   d. It is determined if the disclosure requires any employment action.

2. Impermissible disclosures are identified through the following:

   a. Reports from staff, Covered Entities, Business Associates, individuals, hotline calls; and

   b. Audits of access to sensitive information from workstations

L. Physical and Electronic Access to Sensitive Information

1. SWHP has in place the following Secure processes to limit access to sensitive information:

   a. Encryption of laptop computers and smartphones

   b. Secure access to work areas through use of electronic device

   c. Visitors are required to check in with reception desk, wear a visitor badge, and are accompanied by staff while visiting non-public areas of SWHP

   d. Password protected screensavers on workstations.

   e. E-mails containing sensitive information must be encrypted

   f. Documents and devices containing sensitive information are shredded or destroyed when discarded.

   g. Sensitive information is not to be transferred to portable storage devices, including but not limited to USB drives, disks & CDs

   h. Employee access to sensitive information is assigned based upon that employee's job duties. Upon termination of an employee, that individual's access to sensitive information is removed.

i. Unique identifiers are assigned to workstations so as to identify when and what sensitive information is accessed from a given workstation.

M. Employee Education:

1. New employees should be given a personnel handbook that contains information on the policy regarding confidentiality.
2. New employees should sign a confidentiality statement that is kept in the employees' personnel files.
3. Confidentiality policy/practice should be covered in organization and department level orientations.

N. Transmission Of PHI Data To Another Organization

When PHI data is transmitted electronically to another organization, as permitted by law, the information is protected through encryption or other methods in compliance with HIPAA regulations.

O. Contracts:

Contracts with practitioners and providers should explicitly state expectations about the confidentiality of Member information and records.

P. Communication of PHI Use and Disclosure:

1. SWHP informs Members of policies and practices related to the collection, use and disclosure of medical information at enrollment and through an annual publication. Communication should include how SWHP routinely uses and discloses PHI, uses authorizations, who has access to PHI, internal protection of oral, written and electronic PHI across the organization and the protection of information disclosed to plan sponsors.
2. A standard notification of privacy practices should be provided at enrollment.
3. Members have access to confidentiality policies on the SWHP web site or by requesting a copy from Customer Service.

Q. Member Concerns Regarding Confidentiality:

1. The existing complaint and appeals process is used to address Member concerns regarding confidentiality of data.
2. Complaint files should be kept within the Health Plan, which is a locked building with restricted access, and locked in Member Relations and Health Services when not in use.

R. Protection for PHI Sent to Plan Sponsors:
   1. When SWHP receives a request for PHI from a Plan Sponsor, written certification is requested (See Attachment A). No PHI information should be shared until such certification is obtained.
      a. Exceptions include:
         i. For products managed by third-party administrators
         ii. For products sponsored by state or federal government (e.g. Medicare)
         iii. For services that the organization delegates to other entities
   2. It is not necessary to ensure that the required provisions in the certification are in plan documents when PHI is shared with plan sponsors for the purpose of obtaining premium bids or modifying, amending or terminating the group health plan.

S. Web Site:

The SWHP web site should display what data is collected by the site and how that information is used.

APPLICATION

This document applies to all employees and vendors at Scott & White Health Plan.

DEFINITIONS

A. Protected Health Information – Information that is a subset of health information, including demographic information collected from an individual and which
   1. Identifies the individual (explicit) or there is a reasonable basis to believe that the information can be used to identify the individual (implicit)
   2. Is transmitted by electronic media or transmitted or maintained in any other form or medium - includes medical records, claims, benefits and other administrative data that are personally identifiable

B. Plan Sponsor refers to the employer, employee organization or the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

PLAN SPONSOR
CERTIFICATION OF HIPAA COMPLIANCE

I hereby certify that the plan documents for _____
Employer Name (Plan Sponsor)

comply with the requirements of 45 C.F.R. Section 164.504(f)(2) and that Plan Sponsor will safeguard and limit the use and disclosure of protected health information (PHI) that the Plan Sponsor may receive from Scott and White Health Plan to perform the plan administration functions.

Specifically, Plan Sponsor certifies that:

- PHI will not be used or disclosed other than as permitted by plan documents or required by law;
- Any agents and subcontractors of plan sponsor have agreed as part of their contracts with Plan Sponsor to the same restrictions and conditions with regard to use of PHI;
- PHI shall not be used for employment or benefit-related decisions;
- Plan sponsor shall notify SWHP of any use or disclosure of PHI that is inconsistent with the use and disclosure established in the plan documents;
- Plan Sponsor will allow member access to PHI, including access to amend PHI;
- Plan Sponsor will provide SWHP with necessary information to provide individuals with accountings of disclosures;
- Plan Sponsor has procedures for the return, destruction and restriction of further use of PHI;
- Plan Sponsor will identify staff who have access to PHI; and,
- Plan Sponsor shall take appropriate action should any employee or agent of Plan Sponsor inappropriately use or disclose PHI. Plan Sponsor shall immediately notify SWHP of same.

Prior to SWHP's release of PHI to Plan Sponsor, Plan Sponsor shall provide SWHP with the following:

- A copy of your HIPAA Notice of Privacy Practices; and,
- A list of employees, and their titles, who are authorized to receive Private Health Information

_____ _____
Signature Date

_____
Printed Name & Title