

# ***Gunnison County Employee Benefit Plans Privacy Notice***

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

This Notice Describes:

1. How medical information about you may be used and disclosed; and
2. How you may obtain access to this information.

Please review this information carefully.

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

***This Notice is required by law.*** Gunnison County, Colorado Employee Benefit Plans (Medical, Dental, Vision and Cafeteria 125) are required by law to take reasonable steps to ensure the privacy of your personally identifiable health information and to inform you about:

1. The Plans' uses and disclosures of Protected Health Information (PHI),
2. Your rights to privacy with respect to your PHI,
3. The Plans' duties with respect to your PHI,
4. Your right to file a complaint with the County and with the Secretary of the U.S. Department of Health and Human Services, and
5. The person or office you should contact for further information about Gunnison County, Colorado Employee Benefit Plans' privacy practices.

## **Section 2: Your Protected Health Information**

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

The term "Protected Health Information" (PHI) includes all information related to your past or present health condition that individually identifies you or could reasonably be used to identify you and is transferred to another entity or maintained by the County Employee Benefit Plans in oral, written, electronic or any other form.

PHI refers to your health information held by the County Employee Benefit Plans.

### **When the County Employee Benefit Plans May Disclose Your PHI**

The County has amended its Departmental Documents to protect your PHI as required by federal law. Under the law, the County Employee Benefit Plans may disclose your PHI without your consent or authorization in the following cases:

1. ***At your request.*** If you request it, the County, on behalf of the County Employee Benefit Plans, is required to give you access to certain PHI in order to allow you to inspect it and/or copy it.
2. ***As required by an agency of the government.*** The Secretary of the Department of Health and Human Services may require the disclosure of your PHI to investigate or determine compliance with the privacy regulations.

3. **For treatment, payment or health care operations.**

The County Employee Benefit Plans and Business Associates of the Plans will use PHI without your consent, authorization or opportunity to agree or object in order to carry out:

- Treatment,
- Payment, or
- Health care operations.

The County Employee Benefit Plans do not need your consent or authorization to release your PHI when:

- you request it,
- a government agency requires it, or
- it is used for treatment, payment or health care operations.

<b>Definitions of Treatment, Payment or Health Care Operations</b>	
<b>Treatment</b> is health care.	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. <i>For example:</i> NGS American may disclose your PHI to health care providers who are involved in your care. For example: if you are being treated for a knee injury, NGS American may give your PHI to the people providing your physical therapy to verify coverage terms, limitations or your eligibility for coverage under the Plan.
<b>Payment</b> is paying claims for health care and related activities.	Payment includes but is not limited to making coverage determinations and payment. These actions include billing, claims management, subrogation, reimbursement, reviews for medical necessity and appropriateness of care, utilization review and preauthorization. <i>For example:</i> An employee of Gunnison County may receive your enrollment or premium payment information in the ordinary course of County business. NGS American will receive billings from you or your provider to obtain reimbursement for health care. The claim payer can use or disclose information in order to ensure that your health care services are paid correctly. The stop-loss carrier may require disclosure of PHI before reimbursement of claim expenses can be authorized.
<b>HealthCare Operations</b> keep the operating soundly.	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 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. <i>For example:</i> Gunnison County may use your PHI in order to review plan design or network availability. We may also provide your PHI to our accountants, attorneys, consultants, and others in order to make sure we are obeying the laws that affect the Plan. We may use and disclose PHI in order to place stop loss insurance to protect against unusual losses and protect the financial stability of the Plan. Before we share PHI with other organizations, they must agree to keep your PHI private.

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

The County Employee Benefit Plans are also allowed under federal law to use and disclose your PHI without your consent, authorization or request under the following circumstances:

1. **When required by law.**
2. **Public health purposes.** When permitted for purposes of public health activities. This includes reporting product defects, permitting product recalls and conducting post-marketing surveillance. 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 or a member of your family may be a victim of abuse, neglect or domestic violence.
4. **Oversight activities.** PHI may be given to a public 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 providers) and other activities necessary for appropriate oversight of government benefit programs (for example, to investigate Medicare or Medicaid fraud).
5. **Court proceedings.** When required for judicial or administrative proceedings. For example, your PHI may be disclosed in response to a subpoena or discovery request.
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 law enforcement purposes if the law enforcement official represents that the information is not intended to be used against the individual, the immediate law enforcement activity would be materially and adversely affected by waiting to obtain the individual's agreement and the County in its best judgment determines that disclosure is in the best interest of the individual. Law enforcement purposes include:
  - a. identifying or locating a suspect, fugitive, material witness or missing person, and
  - b. disclosing information about an individual who is or is suspected to be a victim of a crime, but only if the individual agrees to the disclosure or the covered entity is unable to obtain the individual's agreement because of emergency circumstances.
8. **Research.** For research, subject to certain conditions.
9. **Health or safety threats.** When, consistent with applicable law and standards of ethical conduct, the County 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.
10. **Workers' compensation programs.** When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.

*In general*, the County Employee Benefit Plans do not need your consent to release your PHI if required by law or for public health and safety purposes.

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

The County Benefit Plans may disclose protected health information to the sponsor of the plans for use in the administration of the plans. The “plan sponsor” is Gunnison County, Colorado.

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

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

You may request the County, on behalf of the Employee Benefit Plans, to restrict the uses and disclosures of your PHI to carry out treatment, payment or health care operations. The County, however, is not required to agree to your request if the County Attorney’s Office, County Privacy Official or Business Associate designated with such responsibilities determines it to be unreasonable.

In addition, the County, on behalf of the Plans, 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:

Plan Privacy Officer  
Debbie Moore  
County Human Resources  
(970) 641-7623

***Protected Health Information (PHI):*** includes all individually identifiable health information transmitted or maintained by the County Employee Benefit Plans, regardless of the form of the PHI.

#### **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,” for as long as the County Employee Benefit Plans maintain the PHI.

The County or designated Business Associate 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 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. Requests for access to PHI should be made to the following officer:

Plan Privacy Officer  
Debbie Moore  
County Human Resources  
(970) 641-7623

***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 the 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.

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 Gunnison County and the Secretary of the U.S. Department of Health and Human Services.

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

You have the right to request that the County, on behalf of the Plans, 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 County Right to Amend Policy for a list of exceptions. The County has 60 days after receiving your request to act on it. The County is allowed a single 30-day extension if it is unable to comply with the 60-day deadline. If the County denied your request in whole or part, they 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 written request to amend PHI to the following officer:

Plan Privacy Officer  
Debbie Moore  
County Human Resources  
(970) 641-7623

You or your personal representative will be required to complete a form to request amendment of the PHI.

If you disagree with the record of your PHI, you may request to amend it.

If the County denies your request to amend your PHI, you still have the right to have your written statement disagreeing with that denial included in your PHI.

Forms are available for these purposes.

### **You Have the Right to an Accounting of your individual PHI Disclosures**

At your request, the County, on behalf of the Plans, will also provide you with an accounting of disclosures of your PHI by the Plans during the six years before the date of your request and after the compliance date. See the County's Accounting for Disclosure Policy for the contents of an accounting. The County has 60 days to provide the accounting. The County is allowed an additional 30 days if it 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 County will charge a reasonable, cost-based fee for each subsequent accounting.

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

To obtain a paper copy of this Notice, contact the following officer:

Plan Privacy Officer  
Debbie Moore  
County Human Resources  
(970) 641-7623

Each Individual covered under the Plans (“the Individual”) is entitled to the protections set forth in this notice. Whenever the terms “you” and “your” appear in this notification, they refer to each such Individual separately. For purposes of Plan administration and Individual Rights, “Individual” shall mean:

1. In the case of the employee, former employee, surviving spouse or head of any family continuing coverage under COBRA (“Primary Covered Person”), the Primary Covered Person may act as the Individual for purposes of all Individual Rights and may receive PHI, such as claims correspondence and Explanation of Benefit forms on behalf of all covered family members unless a restriction is otherwise requested and accepted by Gunnison County, on behalf of the Plans.
2. In the case of any Individual who has attained the age of 18, the Individual may exercise their own Individual Rights as described in this Notice.
3. In the case of a covered dependent child who has not attained the age of 18, the Primary Covered Person or other parent may request and receive PHI on the dependent child or exercise Individual Rights on behalf of the dependent child unless applicable law requires otherwise.
4. In the case of a valid personal representative appointment on behalf of an Individual, the personal representative shall be treated as the Individual.
5. In the case of a person designated as an Alternate Recipient through a Qualified Medical Child Support Order (QMSCO), that person has these rights to the PHI for the designated Individual(s).
6. Spouses and unemancipated minors may request that the County restrict information that goes to family members as described above at the beginning of Section 3 of this Notice.

### **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 a copy of this form by calling the County Personnel Office.

The County, on behalf of the Plans, 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.

You may designate a personal representative by completing a form that is available from the County Personnel Office.

### **Section 4: The County’s Duties**

#### **Maintaining Your Privacy**

The County, on behalf of the Employee Benefit Plans, is required by law to maintain the privacy of your PHI and to provide you with notice of its legal duties and privacy practices.

This notice is effective beginning on April 14, 2004 and the County

This notice is written to inform you of the County’s obligation to maintain the privacy of your PHI.

is required to comply with the terms of this notice. However, the County reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by the County 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 County Employee Benefit Plans still maintains PHI. The County will provide written notice to all covered individuals mailed to the address of record. Any revised version of this notice will be distributed within 60 days of the effective date of any material change to; the uses or disclosures of PHI; your individual rights; the duties of the County; or other privacy practices stated in this notice.

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

Gunnison County Employee Benefit Plans must limit the uses and disclosures of PHI or requests for PHI to the *minimum necessary* amount to accomplish its purposes.

When using or disclosing PHI or when requesting PHI from another covered entity, the County Employee Benefit Plans 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 U.S. Department of Health and Human Services,
4. Uses or disclosures required by law, and
5. Uses or disclosures required for the County’s compliance with legal 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 County Employee Benefit Plans may use or disclose “summary health information” to the County Sponsor for obtaining premium bids or modifying, amending or terminating the group benefit Plan. Summary information summarizes the claims history, claims expenses or type of claims experienced by individuals for whom the County has provided benefits under a group benefit plan. Identifying information will be deleted from summary health information, in accordance with HIPAA.

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

If you believe that your privacy rights have been violated, you may file a complaint with the County in care of the following officer:

County Privacy Officer  
Matthew Birnie  
200 E. Virginia Ave.  
Gunnison, Colorado 81230

You may also file a complaint with:  
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 County 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:

Plan Privacy Officer  
Debbie Moore  
County Human Resources  
(970) 641-7623

You have the right to file a complaint if you feel your privacy rights have been violated.  
The County may not retaliate against you for filing a complaint.

**Section 7: Conclusion**

PHI use and disclosure by the County is regulated by the federal Health Insurance Portability and Accountability Act, known as HIPAA. You may find these rules at 45 *Code of 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.