

NEW YORK STATE MEDICAL INDEMNITY FUND (MIF) NOTICE OF PRIVACY PRACTICES

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT AN APPLICANT OR ENROLLEE IN THE MIF MAY BE USED AND DISCLOSED AND HOW AN APPLICANT OR ENROLLEE OR HIS OR HER REPRESENTATIVE CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW CAREFULLY.

Why are you receiving this notice? The New York State Medical Indemnity Fund (MIF), which is administered by the New York State Department of Financial Services, is required to keep applicants' and enrollees' Protected Health Information (PHI) confidential. This notice explains the MIF's privacy practices, describes how the MIF may disclose and use an applicant's or enrollee's PHI, and how an applicant or enrollee or his or her representative may access the applicant's or enrollee's PHI. Federal and State law require the MIF to protect the privacy of certain PHI and to make special efforts to protect PHI concerning HIV/AIDS, mental health, and/ or drug and alcohol related health care services.

The MIF processes and maintains applicants' and enrollees' PHI for two main purposes:

- To determine eligibility for the MIF (to the extent that the judgment or court-approved settlement contains PHI); and
- To administer the MIF, as discussed more below.

Who receives this notice: The MIF will provide this notice to an enrollee or his or her representative at least once every three years.

What is PHI? PHI is information about (1) the past, present or future physical or mental health or condition of a person, (2) the provision of health care to a person, or (3) the past, present or future payment of health care costs for a person.

How the MIF Uses and Discloses PHI: The Fund and its business associates use an applicant's or enrollee's PHI for treatment related decisions, payment, and health care operations. Any company or agency that reviews PHI is also required by law to keep it private. These activities include reviewing applications to determine eligibility, paying for services, equipment, medications or other qualifying health care costs, administering the Fund, and collecting data regarding the Fund's operations.

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Examples of How the MIF Uses PHI:

- We may use PHI provided in or attached to a court-approved settlement or judgment to determine eligibility.
- We may use PHI to provide case management to an enrollee.
- We may share PHI with an enrollee's commercial insurer, Medicaid, or other Federal or State government health care-related programs or insurers so that the MIF may determine what qualifying health care costs may be eligible for payment and for coordination of benefits purposes.
- We may share PHI to review the quality of care being provided.
- We may send reminders and provide information to a provider or company to call enrollees or their representatives to explain how to access services.
- We may use PHI to process reviews and complaints.
- We may review health insurance enrollment and coverage information from other sources, providers or insurers for coordination purposes.
- We may share PHI to gather statistics and data for use in shaping public policy and improving the MIF's functions.
- We may share PHI with associated third parties to determine the financial status of the MIFs.

The MIF may also use and disclose PHI as permitted by law, which may include the following circumstances:

- To any other government agencies that provide public benefits or may help determine eligibility and compliance.
- For health oversight such as inspections, audits, reviews, investigations and reporting in order to comply with Federal, State and local law.
- For public health, such as medical safety, disease control, or disaster relief.
- When a law requires that we report information about suspected abuse, neglect or domestic violence.
- To avert a serious threat to the health or safety of an individual or the public.
- When disclosure is required by Federal, State or local law, or judicial proceedings. For example, it may be provided in response to a court order, subpoena, or other legal process, or in relation to a fraud investigation.
- To conduct research of services and reporting for the enhancement of the MIF.
- To the Federal government for national security, protective services, military, or veterans activities.

Disclosure of MIF PHI to other parties or for other reasons: As a general rule, disclosure of PHI other than for treatment, payment, or operational uses described above requires the applicant or enrollee's or his or her representative's written consent. To authorize MIF to provide this disclosure, contact the MIF Privacy Contact, Thomas Zyra, by calling toll-free (855) 696-4333, and ask for an authorization form to release PHI. We will assist you with the information needed to authorize disclosure. If you cannot give your authorization because of an emergency, we may release the PHI if it appears to be in the applicant or enrollee's best interest. You may cancel your authorization at any time by writing to our Privacy Contact at the address listed below.

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Applicants', Enrollees' and Representatives' rights regarding PHI: You have the following rights with respect to applicants' and enrollees' PHI:

- To inspect or obtain a copy of the applicant's or enrollee's PHI maintained by the MIF. Please be aware that the MIF may not be able to provide PHI that is part of ongoing litigation, including psychotherapy notes, or is otherwise not allowed to be disclosed by law. The MIF may charge a processing fee for copying PHI.
- To request that the MIF correct or add to PHI that is wrong or incomplete.
- To change the address and/or phone number for the applicant, enrollee, or his or her representative if contacting that person at his or her present address or phone number would endanger the person or his or her family. This notice is posted on the MIF website at www.dfs.ny.gov or you may contact the Fund at (855) 696-4333.
- To request we limit the use and disclosure of your PHI (Depending on the law that applies, the MIF may not be required to agree with your request.).
- To request a record of when the MIF has disclosed the applicant's or enrollee's PHI. This record may not include disclosure for treatment, payment and health care operations; disclosures that the applicant, enrollee or authorized representative has authorized; or other disclosures if permitted by law. Such a request may include disclosures going back as far as six years (or to October 1, 2011, whichever date is later).

How to exercise your rights regarding your PHI disclosures: If you have questions or wish to make a request regarding the PHI that the MIF currently maintains, or would like another copy of this notice, please call the MIF Privacy Contact, Thomas Zyra, toll free at (855) 696-4333.

How to file a complaint: If you believe your privacy rights have been violated, you may send your written complaint to the Privacy Contact for the MIF, Attention: Thomas Zyra, (855) 696-4333. You cannot be penalized for filing a complaint.

You may also make a complaint to: The Office for Civil Rights, Department of Health and Human Services, Jacob Javits Federal Building, 26 Federal Plaza, Suite 3312, New York, New York 10278, (Telephone) (212) 264-3313 or (800) 368-1019; (Fax) (212) 264-3039 or (TDD) 264-2355.

Our privacy policies are subject to change: Federal law also requires the MIF to provide you with this notice, and for the MIF to follow the terms of this notice. This notice is effective on October 1, 2011. The MIF has the right to change the terms of this notice and our privacy policies and practices at any time. Any changes to our policies and procedures will apply to all PHI that the MIF possesses at the time of the change. If the MIF makes any significant change to our privacy policies and practices, we will send a revised copy of the notice to you within 60 days of the change. The MIF will also post a new notice on our website at www.dfs.ny.gov.