

The following document is a “Notice of Privacy Practices of PERA’s Self-Insured Plans” being provided to you as a participant in one of PERA’s self-insured health plans administered by Anthem Blue Cross and Blue Shield and Caremark as required by federal law. Please read the notice carefully, and then file it with your important health plan papers. **No action is necessary.**

The notice is lengthy, and includes disclosure and explanations that we are required to provide to you. This notice requirement is part of the privacy provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Federal law describes the various topics that the notice must cover, thus some of the notice may seem inapplicable to your plan with PERA. If you have bank accounts, insurance, or investments, you will recognize that this notice is similar to the privacy notice that financial institutions provide you each year.

The general theme of the privacy notice reinforces PERA’s current privacy and confidentiality policies. PERA treats all of your account information as confidential. State law protects the confidentiality of your financial information at PERA and prohibits PERA staff from disclosing any account information without your consent.

While state statute addresses and provides privacy for all of your PERA account information, this federal law, HIPAA, relates only to “protected health information” that may be part of your record at PERA or PERA’s self-insured health plan. Federal privacy protection is, in some ways, less comprehensive than the privacy protection you already have under state law. Where state law is more strict, federal law usually defers to state law.

The purpose of this notice is to assure you that PERA’s plan has privacy policies in place to protect any “protected health information” in our records. The term “protected health information (PHI),” which is defined in the law, means individually identifiable health information created or received by a “covered entity” or employer. PERA’s self-insured health plans meet the definition of “covered entity,” thus we are required to comply with the law and provide this privacy notice.

“Protected health information” includes records that PERA has and maintains about your health care coverage. It also includes records that PERA’s administrators, Anthem Blue Cross and Blue Shield and Caremark, maintain about your coverage and claims. Anthem Blue Cross and Blue Shield and Caremark are subject to the same privacy standards, and this notice applies to your protected health information maintained by PERA, Anthem Blue Cross and Blue Shield, and Caremark for PERA’s self-insured health plans.

# ***Notice of Privacy Practices of PERA's Self-Insured Health Plans Administered by Anthem Blue Cross and Blue Shield and Caremark***

**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.**

The Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) imposes numerous requirements on health plans concerning the use and disclosure of Protected Health Information. Protected Health Information is information related to your past, present or future health or condition, the provision of health care to you, or payment for the provision of health care to you. This Privacy Notice describes the privacy practices of PERA's self-insured health plans administered by Anthem Blue Cross and Blue Shield and Caremark. These plans are collectively referred to as "the Plan" in this notice, unless specified otherwise.

## **The Plan's duties with respect to health information about you**

The Plan is required by law to maintain the privacy of your health information and to provide you with this Privacy Notice of the Plan's legal duties and privacy practices with respect to your health information. It's important to note that these rules apply to the Plan, not PERA as the plan sponsor—that's how the HIPAA rules work.

## **How the Plan may use or disclose your health information**

The privacy rules allow the use and disclosure of your health information without your authorization for the purposes listed below. The amount of health information used or disclosed by the Plan will be limited to the "Minimum Necessary" as defined by the HIPAA rules.

### ***Treatment***

Includes providing, coordinating, or managing health care by one or more health care providers or doctors. For example, the Plan may share health information about you with physicians who are treating you.

### ***Payment***

Includes activities by this Plan, other plans, or providers to obtain premiums, make coverage and eligibility determinations and provide reimbursement for health care. For example, the Plan may share information about your claim with Anthem Blue Cross and Blue Shield in order to arrange for payment.

### ***Health Care Operations***

Includes activities such as wellness and risk assessment programs, quality assessment and improvement activities, customer service, and internal grievance resolution. For example, the Plan may use information about your claims to review the effectiveness of wellness programs.

### ***Disclosure to Plan Sponsor***

The Plan may disclose your health information without your written authorization to PERA for plan administration purposes.

### ***Treatment Alternatives***

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

### ***As Required or Permitted by Law***

Please see the next section titled "Other allowable uses or disclosures of your health information."

## **Other allowable uses or disclosures of your health information**

Under HIPAA, the Plan also is allowed to use or disclose your health information without your written authorization for the following activities:

### ***Public Health Activities***

- Disclosures made in the good-faith belief that releasing your health information is necessary to prevent or lessen a serious and imminent threat to public or personal health or safety, if made to someone reasonably able to prevent or lessen the threat (including disclosures to the target of the threat).

- Disclosures to public health authorities to prevent or control disease or report child abuse or neglect or for public health investigations.
- Disclosures to the Food and Drug Administration to collect or report adverse events or product defects.

#### ***Victims of Abuse, Neglect, or Domestic Violence***

Disclosures to government authorities, including protected services agencies authorized by law to receive reports of abuse, neglect, or domestic violence, as required by law or if you agree or the Plan believes that disclosure is necessary to prevent serious harm to you or potential victims. (You will be notified of the Plan's disclosure if informing you will not put you at further risk.)

#### ***Judicial and Administrative Proceedings***

Disclosures in response to a court or administrative order, subpoena, discovery request, or other lawful process. (The Plan may be required to notify you of the request, or receive satisfactory assurance from the party seeking your health information that efforts were made to notify you or to obtain a qualified protective order concerning the information.)

#### ***Law Enforcement Purposes***

Disclosures to law enforcement officials required by law or pursuant to legal process, or to identify a suspect, fugitive, witness, or missing person; disclosures about a crime victim if you agree or if disclosure is necessary for immediate law enforcement activity; disclosures about a death that may have resulted from criminal conduct; and disclosures to provide evidence of criminal conduct on the Plan's premises.

#### ***Health Oversight Activities***

Disclosures to health agencies for activities authorized by law (audits, inspections, investigations, or licensing actions) for oversight of the health care system, government benefits programs for which health information is relevant to beneficiary eligibility, and compliance with regulatory programs or civil rights laws.

#### ***Specialized Government Functions***

Disclosures about individuals who are Armed Forces personnel or foreign military personnel under appropriate military command, disclosures to authorized federal officials for national security or intelligence activities, and disclosures to correctional facilities or custodial law enforcement officials about inmates.

#### ***HHS Investigations***

Disclosures of your health information to the Department of Health and Human Services (HHS) to investigate or determine the Plan's compliance with the HIPAA privacy rule. Even though HIPAA permits these disclosures without authorization, PERA is bound by Colorado statute, C.R.S. § 24-51-213, which may require a higher degree of confidentiality than HIPAA requires. When the Colorado statute applies, PERA and the Plan will require you or your personal representative to authorize the disclosures listed previously.

#### **Use or disclosure requiring authorization**

Except as described in this notice, other uses and disclosures of your Protected Health Information will be made only with your written authorization. You may revoke your authorization as allowed under the HIPAA rules. However, you cannot revoke your authorization if the Plan has taken action relying on it. In other words, you cannot revoke your authorization with respect to disclosures the Plan has already made.

#### **Your individual rights under HIPAA**

You have the following rights with respect to your health information the Plan maintains. These rights are subject to certain limitations. This section of the notice describes how you may exercise each individual right.

##### ***Review Your Protected Health Information***

You have the right to inspect and obtain a copy of your health information, except you do not have the right to copies of psychotherapy notes or information compiled for civil, criminal, or administrative proceedings.

##### ***Request to Restrict Your Protected Health Information***

You have the right to ask the Plan to restrict the use and disclosure of your health information for Treatment, Payment, or Health Care Operations, except for uses or disclosures required by law. The Plan is not required to agree to a requested restriction.

##### ***Receive Confidential Communications***

If you think that disclosure of your health information by the usual means (e.g., to your home address) could endanger you in some way, the Plan will comply with your request to send the information to another location or via other means, such as fax, e-mail or voice. With your request, please include a statement that disclosure of all or part of the information could endanger you.

### ***Amend Your Health Information***

You have the right to request that the Plan amend your health information. The Plan may deny your request if the health information is already accurate and complete, was not created by the Plan (unless the person or entity that created the information is no longer available), is not part of the Plan's records, or is not available for inspection (e.g., psychotherapy notes or information compiled for civil, criminal, or administrative proceedings).

### ***Receive an Accounting of Disclosures***

You have the right to a list of certain disclosures the Plan has made of your health information going back six years from the date of your request, but not earlier than April 14, 2003. You do not have a right to receive an accounting of any disclosures made:

- For treatment, payment, or health care operations.
- To you about your own health information.
- Incidental to other permitted or required disclosures.
- Where authorization was provided.
- For national security or intelligence purposes or to correctional institutions or law enforcement officials in certain circumstances.
- As part of a "limited data set" (health information that excludes certain identifying information).

### ***Paper Copy of This Notice***

You are receiving this notice in paper and have the right to obtain a paper copy of this Privacy Notice upon request at any time. This notice will also be posted on the PERA Web site at [www.copera.org](http://www.copera.org).

When exercising these rights, please put your request in writing and send it to the PERA Legal Department, 1301 Pennsylvania Street, Denver, CO 80203-5011. If you have any questions about the Plan's privacy policies or your rights under HIPAA, please write to the PERA Legal Department or call PERA at 303-832-9550 or toll-free at 1-800-759-7372 and ask for PERA's Legal Department at extension 6271.

### ***Notification of a Privacy Breach***

A new federal law, the American Reinvestment and Recovery Act of 2009 (ARRA) has made numerous changes to the rules governing Protected Health Information that is maintained by the Plan and its service providers (business associates). Effective September 23, 2009, any individual whose unsecured Protected Health Information has been, or is reasonably believed to have been used, accessed, acquired or disclosed in an unauthorized manner will receive written notification from the Plan within 60 days of the discovery of the breach. The notice will be provided to you if the breach poses a significant risk of financial, reputational or other harm to you. If the breach involves 500 or more residents of a state, the Plan will notify prominent media outlets in the state. The Plan will maintain a log of security breaches and will report this information to HHS on an annual basis. Immediate reporting from the Plan to HHS is required if a security breach involves 500 or more people.

### **Changes to the information in this notice**

The Plan must abide by the terms of the Privacy Notice currently in effect. This notice takes effect on December 1, 2011. However, the Plan reserves the right to change the terms of its privacy policies as described in this notice at any time and to make new provisions effective for all health information that the Plan maintains. This includes health information that was previously created or received, not just health information created or received after the policy is changed. If changes are made to the Plan's privacy policies described in this notice, you will be provided with a revised Privacy Notice mailed to your home address.

### **Complaints**

If you believe your privacy rights have been violated, you may complain to the Office for Civil Rights. You will not be retaliated against for filing a complaint.

**To file a complaint with the Plan**, please describe your complaint in a letter addressed to the PERA Legal Department, 1301 Pennsylvania Street, Denver, CO 80203-5011 or call PERA at 303-832-9550 or toll-free at 1-800-759-7372 and ask for PERA's Legal Department at extension 6271.

**To file a direct privacy complaint to the Office for Civil Rights**, visit its Web site at [www.hhs.gov/ocr/hipaa](http://www.hhs.gov/ocr/hipaa).