

# 3 Members' Rights & Privacy Information

## MEMBERS' RIGHTS AND RESPONSIBILITIES

Empire is committed to respecting members' rights to confidentiality and to quality of care and service. Members are encouraged to share responsibility for their healthcare with their physicians by actively participating in any decisions regarding their health. To ensure compliance with the Empire BlueCross BlueShield Quality Program, physicians must be advised of members' rights and responsibilities. Please see below.

### Members have the RIGHT to:

- receive medically necessary care, as described in their Handbook, Certificate, Riders and/or Evidence of Coverage (EOC).
- expect Empire and their network providers to provide thoughtful and courteous care that takes into account their personal privacy and human dignity.
- participate in the decision-making process regarding their healthcare.
- a candid discussion of appropriate or medically necessary treatment options for their condition, regardless of the cost or their benefit coverage.
- receive information about diagnosis, treatment plan, risks, available options and prognosis in a language that they can understand.
- refuse treatment and be told the consequences of their refusal.
- expect that their healthcare records will be confidential, except when law requires their release.
- file a complaint, grievance or appeal and get a timely, thorough response in accordance with applicable regulatory and processing guidelines.
- receive information about Empire's plans, its services, network physicians and member rights and responsibilities, on a regular, consistent basis.
- offer suggestions to improve their healthcare plan's policies and procedures and make recommendations regarding Empire's Members' Rights and Responsibilities.
- review their own medical records, in accordance with applicable federal and state laws.
- their choice of a qualified contracting primary physician and contracting hospital. (Note: Member Services can let them know if a specific physician is not accepting new patients at this time. Their physician can discuss with them the hospital that best fits their needs in the event of needing network hospital services.)
- timely access to their primary care physician and referral to specialists when medically necessary.
- exercise these rights regardless of their race, physical or mental ability, ethnicity, gender, sexual orientation, creed, age, religion, national origin, cultural or educational background, economic or health status, English proficiency, reading skills, or source of payment for their care. Expect these rights to be upheld by both the Plan and contracting providers.
- extend their rights regarding medical care to any person legally authorized by them to represent them.

- know the names and qualifications of physicians and healthcare professionals involved in their medical treatment.
- information regarding how medical treatment decisions and payments are made by Empire or other entity to which it delegates medical treatment decisions.
- reasonable continuity of care and to know in advance the time and location of an appointment, as well as the physician providing care.
- be advised if a physician proposes to engage in experimentation affecting their care or treatment. They also have the right to refuse to participate in any research projects. (Some research projects may not be covered benefits.)
- be informed of continuing healthcare requirements following discharge from inpatient or outpatient facilities.
- a timely resolution of requests for payment of covered services. (Members have a right to an explanation as to the reasoning behind denial of payment for service.)
- information about their medications — what they are, how to take them and any possible side effects.
- receive as much information about any proposed treatment or procedure as they may need in order to give an informed consent or refusal to a course of treatment. Except in cases of emergency services, this information shall include a description of the procedure or treatment, any medically significant risks involved, any alternative course of treatment or non-treatment, and the risks involved in each, plus the name of the person who will carry out the procedure or treatment. If the member is not capable of understanding the information, the explanation will be provided to his or her next of kin or guardian and documented in the member's medical record, in accordance with applicable privacy laws.
- have a choice of specialists from their plan's network following an authorized referral, which is subject to the specialist's availability to accept new patients.
- obtain assistance and referral to providers with experience in treating patients with chronic disabilities.
- be free from balance billing by network providers for medically necessary services authorized or covered by Empire's HMO, except as permitted for co-payments in their contract.

- receive prompt notification of termination or changes in benefits, services or physician network by Empire.

### Members have a **RESPONSIBILITY** to:

- choose a Primary Care Physician PCP from the network and establish themselves as patients before seeking care from a specialist.
- identify themselves as an Empire member when they call or visit their PCP or other network provider and be sure to show their member ID cards each time they receive healthcare services.
- make and keep appointments with their PCP for non-emergency medical care. If they must cancel an appointment, they must give their PCPs enough notice.
- be thoughtful and courteous to network physicians and their staff.
- give complete information about their health to their PCP or other network physicians.
- understand their health problems and participate in developing mutually agreed upon treatment goals to the degree possible by them.
- follow the prescribed treatment plan and care instructions that they have agreed upon with their physician(s).
- read all Empire membership materials sent to them.
- coordinate all routine (non-emergency) care through their PCP.
- behave in a manner that supports the care provided to other patients and the general functioning of the facility.
- accept the financial responsibility for any co-payment associated with covered services received while under the care of a physician or while a patient at a facility.
- ask questions of their PCP or of Empire.
  - If they have suggestions, concerns or payment issues, we recommend that they call Empire Member Services.

## **AMERICANS WITH DISABILITIES ACT**

The Americans with Disabilities Act is a comprehensive civil rights law that prohibits discrimination on the basis of disability and includes a requirement that all facili-

ties and services be accessible to individuals with disabilities. All providers are required to comply with the Americans With Disabilities Act in order to participate in Empire's provider networks.

## PATIENT'S SELF-DETERMINATION ACT

Members have the RIGHT to:

- make medical decisions.
- accept or refuse treatment, including the right to refuse life-sustaining medical and surgical treatment.
- make advance directives about their medical care in the event they cannot make decisions.

Members can learn more about their rights and responsibilities, and their rights under the Patient's Self-Determination Act by calling Member Services at the telephone number located on the back of their member identification card.

## ASSISTANCE FOR NON-ENGLISH SPEAKING MEMBERS

Empire strives to ensure that our HMO members who speak a language other than English are able to obtain assistance from our Member Services department. We do this by providing translation services to our members via an AT&T Language Line translator.

When a Member Services representative receives a call from someone who speaks a language other than English, the representative puts the caller on hold and calls the AT&T Language Line. The AT&T Language Line operator links the Member Services Representative and the caller to an interpreter in the appropriate language. Through a three-way connection, the interpreter facilitates the member's inquiry.

## CONFIDENTIALITY POLICY

In recognition of the need for member privacy, and in compliance with federal and state laws and regulations, Empire has a policy on the confidentiality of member medical information.

- Empire has in place and enforces appropriate safeguards to protect the confidentiality, security and integrity of member medical information, which is used, disclosed, exchanged or transmitted orally, in writing or electronically.

- Confidential member medical information is accessible only to those Empire employees and authorized third persons who need it to perform their jobs. All persons are required to comply with Empire policies and procedures and federal and state laws and regulations concerning the request for, the use, disclosure, transmission, security, storage and destruction of confidential member medical information.
- Empire does not disclose member nonpublic personal information, including member medical information, to any of our affiliates or to nonaffiliated third parties, except as permitted by law to allow us to conduct our business.
- Disclosure of confidential information to external vendors for purposes of payment or healthcare operations is made only in accordance with appropriate confidentiality agreements and contractual arrangements. Data shared with external entities for measurement purposes or research is released only in accordance with appropriate confidentiality agreements and contractual arrangements or in an aggregate form that does not allow for direct or indirect member identification.
- Member medical information is not shared with the member's employer, unless permitted or required by law. Because Empire is not a provider of medical services, it generally does not maintain medical records created by the member's provider of service. If a member requires access to his or her provider's medical records, the member should contact his or her provider to arrange access.
- Empire contractually requires all of its network practitioners and providers to comply with all state and federal laws regarding confidentiality of member records to ensure the privacy and to protect the confidentiality of members' medical information.
- When a member becomes covered under an Empire health benefit plan, the member agrees that Empire, or its designee, may use and/or disclose the member's confidential medical information for purposes of payment and healthcare operations as permitted or required by law or regulation. In addition, each Empire member agrees that any healthcare provider, healthcare pay or government agency shall furnish to Empire or its designee all records pertaining to medical history, services rendered and payments made for use and/or disclosure by Empire to administer the terms of the health benefit plan.

- A member may request access to information that is maintained by or for Empire by calling Customer Service to arrange access. A member may request an amendment of records maintained by and for Empire, or a member may request an accounting of disclosures as permitted by law. Members can call Customer Service for more information.
- Generally, under state and federal law (e.g., the Health Insurance Portability and Accountability Act (HIPAA) Privacy Regulations), the use and disclosure of member medical information for purposes of treatment, payment and healthcare operations that occur between a provider and a health plan, clearinghouse, another provider, or other insurance carrier is permitted without the necessity of seeking an authorization from the member. For example, under HIPAA, determinations of medical necessity, appropriateness of care, justification of charges and utilization review activities are included within the definition of payment; and conducting quality assessment and improvement activities, reviewing the qualifications of healthcare providers and conducting fraud and abuse detection and compliance programs are included within the definition of healthcare operations.
- Except as stated above and as may be permitted or required by law, Empire does not release confidential member medical information to anyone outside Empire without a specific “written authorization” to release authorized by the member or member’s designee, which may be revoked at any time. The authorization must be signed and dated and must specify:
  1. the information that can be disclosed and to whom
  2. what the information will be used for
  3. the time period for which the authorization applies

## NOTICE OF PRIVACY PRACTICES

### Overview

Empire respects the privacy and confidentiality of our member’s medical information. Below is Empire’s Notice of Privacy Practices, which summarizes Empire’s Privacy Policy regarding our members. It is directed to, and was distributed to, our members in order to inform them of how information about them may be used and disclosed by Empire. This includes, but is not limited to, uses and disclosures for treatment, payment activities

and healthcare operations. Empire encourages you and anyone in your practice that handles our members’ health information to read the notice in order to become familiar with our privacy practices.

### Notice of Privacy Practices (directed towards our members)

At Empire, we respect the confidentiality of your medical information and will protect that information in a responsible manner. We have a comprehensive privacy program in place that meets the requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Regulations, the government legislation that sets standards for the privacy of medical information.

Empire follows all state privacy laws to which we are subject that do not conflict with the HIPAA Privacy Regulations. However, if a state privacy law conflicts with the HIPAA Privacy Regulations yet provides greater privacy rights or protections than the HIPAA Privacy Regulations, we will follow that state law.

We must follow the privacy practices that are described in this notice while it is in effect. We reserve the right to change our privacy practices and the terms of this notice at any time, as long as the changes are permitted by law. Before we make a significant change to our privacy practices, we will change this notice and send the new one to our current subscribers. This new notice will be effective for all medical information that we maintain, including medical information we created or received before the changes were made.

Additionally, please know that Empire is required by law to maintain the privacy of your medical information and to give you this notice regarding your rights, our privacy practices and legal duties concerning your medical information.

### Definition of Medical Information

When Empire refers to medical information in this notice, we mean information that is individually identifiable health information. This includes demographic information collected from you or created or received by a healthcare provider, a health plan, your employer or a healthcare clearinghouse.

This information may relate to:

1. your past, present or future physical or mental health or condition;
2. the provision of healthcare to you or
3. past, present or future payments for the provision of healthcare to you.

## Uses and Disclosures of Medical Information

This section provides you with a general description and examples of the ways your medical information is used and disclosed. Empire's uses and disclosures are not limited to these examples.

**Treatment:** Your medical information may be disclosed to a physician or other healthcare provider in order for them to provide you with treatment.

**Payment:** Your medical information may be used or disclosed

- for billing, claims management and collections activities.
- to pay claims from physicians, hospitals and other providers for services delivered to you that are covered by your health plan.
- to determine your eligibility for benefits.
- to conduct risk adjustment activities.
- to coordinate benefits.
- to determine medical necessity.
- to conduct utilization reviews.
- to obtain premiums.
- to issue explanations of benefits to the person who subscribes to the health plan in which you participate.
- to a healthcare provider or entity so they can obtain payment or engage in payment activities.

**Healthcare Operations:** Your medical information may be used and disclosed in connection with our healthcare operations, including

- underwriting, premium rating and other activities relating to the creation, renewal or replacement of benefit coverage.
- case management and care coordination.
- contacting healthcare providers and patients with information about treatment alternatives, disease management or wellness programs and related functions that do not include treatment.
- population-based activities relating to improving health or reducing healthcare costs.
- quality assessment and improvement activities and protocol development.
- reviewing the competence or qualifications of healthcare professionals, evaluating practitioner and provider performance, conducting training programs, accreditation, certification, licensing or credentialing activities.

- conducting or arranging for medical review, legal services, auditing and fraud and abuse detection and compliance programs.
- business planning and development, such as formulary development and administration.
- business management and general administrative activities, including management activities relating to privacy, customer service and resolution of internal grievances.

**Additional Disclosures:** Your medical information may be disclosed

- to another entity that has a relationship with you for their healthcare operations relating to quality assessment and improvement activities, reviewing the competence or qualifications of healthcare professionals, or detecting or preventing health-care fraud and abuse.
- to other persons or entities that assist us in conducting our payment, healthcare operations and business activities. Please know that we will not disclose your medical information to those persons or entities unless they agree to keep it protected.

**Health-Related Services:** Your medical information may be used to send you appointment reminders or to communicate with you in order to encourage you to purchase or use a health-related product or service (or payment for such product or service), that is provided by, or included in, an Empire health plan.

This includes communications about

- the entities participating in a healthcare provider network or health plan network;
- the replacement of, or enhancements to, a health plan;
- any health-related products or services available only to a health plan enrollee that add value to, but are not part of, a benefit plan, for purposes of treatment, case management or care coordination, or to direct or recommend alternative treatments, therapies, healthcare providers or settings of care.

**To Your Family and Friends:** Your medical information may be disclosed to a family member, friend or other person to the extent necessary to help with your healthcare or with payment for your healthcare.

Your name, location and general condition or death may be used or disclosed to notify or assist in the notification of (including identifying or locating) a person involved in your care.

We will provide you with an opportunity to object to such uses or disclosures, unless, based on professional

judgment, we may reasonably infer from the circumstances that you do not object to such uses and disclosures.

If you are not present, or in the event of your incapacity or an emergency, we will use our professional judgment in deciding whether disclosing your medical information would be in your best interest.

**If You Are a Member of a Group Health Plan:**

Your medical information, and the medical information of others enrolled in your group health plan, may be disclosed to your employer or the organization that sponsors your group health plan (the “plan sponsor”) in order to permit the plan sponsor to perform plan administrative functions. Please see your plan documents for an explanation of these limited uses and disclosures.

Summary information about the enrollees in your group health plan may also be disclosed to the plan sponsor so they may obtain premium bids for health insurance coverage or in order to decide whether to modify, amend or terminate your group health plan. The information we may disclose summarizes claims history and expenses or types of claims experienced by the enrollees in your group health plan. This summary information will be stripped of demographic information but the plan sponsor may still be able to identify you or other enrollees.

**Disaster Relief:** We may use or disclose your medical information to a public or private entity authorized by its charter or by law to assist in disaster relief efforts.

**For the Public Benefit:** Your medical information may be used or disclosed as authorized by law for the following purposes:

- as required by law
- for public health activities, including disease and vital statistic reporting, child abuse reporting, FDA oversight and to employers regarding work-related illness or injury
- to report adult abuse, neglect or domestic violence
- to health oversight agencies in response to court and administrative orders and other lawful processes
- to law enforcement officials pursuant to subpoenas and other lawful processes concerning crime victims, suspicious deaths, crimes on our premises, reporting crimes in emergencies and for purposes of identifying or locating a suspect or other person
- to coroners, medical examiners and funeral directors

- to organ procurement organizations
- to avert a serious threat to health or safety
- in connection with certain research activities
- to the military and to federal officials for lawful intelligence, counterintelligence and national security activities
- to correctional institutions regarding inmates as authorized by state workers’ compensation law

**Marketing:** Your medical information may be used or disclosed by us to encourage you to purchase or use a product or service by face-to-face communication or to provide you with promotional gifts of nominal value.

**Fundraising:** Your demographic information and the dates of healthcare services provided to you may be used in order to contact you for fundraising. We may disclose information to a business associate or foundation to assist us in our fundraising activities. We will provide you with fundraising materials and a description of how you may opt out of receiving future fundraising communications.

**Times When Your Written Authorization Is Required:**

Other uses and disclosures of your medical information that are not described above will only be made with your written authorization. You may give us written authorization to use or to disclose your medical information to anyone for any purpose.

You may revoke your authorization at any time. However, your revocation will not affect any use or disclosure that you permitted prior to your revocation.

## Your Individual Rights

**Access to Your Information:** You have the right to inspect or obtain a copy of the medical information about you that is contained in a “designated record set” except for psychotherapy notes and certain other information. A “designated record set” generally contains medical and billing records as well as other records that are maintained by or for us, or used by or for us to make decisions about you.

We may ask you to submit your request in writing and to provide us with the specific information we need in order to fulfill your request. We reserve the right to charge a reasonable fee for the cost of producing and mailing the copies to you. In certain situations, we may deny your request to inspect or obtain a copy of the requested information. If we deny your request, we will notify you in writing and may provide you with an opportunity to have the denial reviewed.

**Accounting of Disclosures:** You have the right to receive a list of instances in which we or our business associates disclosed your medical information for purposes other than treatment, payment, healthcare operations or those authorized by you as well as for certain other activities that occurred up to six years before the date of your request. However, you will not be able to obtain a list of disclosure instances that occurred prior to April 14, 2003, the date this notice is effective. Any list we send you will include the date(s) of the disclosure, to whom it was made, their address, if known, a brief description of the information disclosed and the purpose of the disclosure. If you request this accounting list more than once in a 12-month period, we may charge you a reasonable administration fee for these additional requests.

**Restrictions on Use or Disclosure:** You have the right to request that we restrict the use or disclosure of your medical information in connection with treatment, payment and healthcare operations. You also have the right to request that we restrict disclosures to persons involved in your healthcare or payment for your healthcare. We may ask you to submit your request in writing. We will review your request, but we are not required to comply with it.

**Confidential Communication:** You have the right to request that we communicate with you about your medical information by a different means or location. You must make your request in writing and state that the information could endanger you if it is not communicated by a different means or location. We must accommodate your request if it is reasonable and specifies the new means or location of contact. It must also allow us to collect premiums and pay claims. This includes issuing explanations of benefits to the subscriber of the health plan in which you participate.

An explanation of benefits issued to the subscriber about the subscriber or others covered by the health plan in which you participate, may contain sufficient information to reveal that you obtained healthcare for which we paid, even though we communicated with you in the confidential manner you requested. Once your request for confidential communications is in effect, all of your medical information will be communicated in accordance with your instructions.

**Amending Your Medical Information:** If you believe that the medical information contained in your “designated record set” is not correct or complete, you have the right to request that we amend it. We may require your request be in writing and that it explains why the

information should be changed. If we make the amendment, we will notify you. In addition, if we make the change, we will make reasonable efforts to inform others, including people you name, of the amendment and to include the changes in any future disclosures of that information.

If your request is denied, you will be notified in writing of the reason for the denial and the letter will explain how to file a written statement of disagreement. Empire has the option to rebut your statement. You have the right to ask that your original request, our denial and your statement of disagreement be included with any future disclosures of your information.

## Additional Copies, Questions or Complaints

### Requests for Additional Copies and Questions Regarding Privacy and Individual Rights:

- You may request a copy of our notice at any time.
- If you view this notice on our website or receive it by e-mail, you are also entitled to receive it in written form.
- You may request more detailed information about your rights and privacy protections or learn how to exercise those individual rights as described in this notice.

Please contact Empire Member Services at the phone number listed on the back of your member identification card or write to us at PO Box 1407, Church Street Station, New York, NY 10008-1407.

**Complaints:** If you believe that Empire has violated your privacy rights, write to our Privacy Office at PO Box 1407, Church Street Station, New York, NY 10008-1407 or call Empire Member Services at the phone number listed on the back of your member identification card.

You also may file a complaint with the Secretary of the U.S. Department of Health and Human Services. Complaints filed directly with the Secretary must: (1) be in writing; (2) contain the name of the entity against which the complaint is lodged; (3) describe the relevant problems; and (4) be filed within 180 days of the time you became or should have become aware of the problem. We will provide you with this address upon request. We will not retaliate in any way if you choose to file a complaint with us or with the U.S. Department of Health and Human Services. We support your right to the privacy of your medical information.