

## Health Insurance Portability and Accountability Act

The Health Insurance Portability and Accountability Act (“HIPAA”) was enacted in 1996 to improve the efficiency and effectiveness of the nation’s health care system. The *Standards for Privacy for Individually Identifiable Health Information* (“Privacy Rule”) established a set of national standards for the protection of certain health information. The U.S. Department of Health and Human Services issued the Privacy Rule to implement HIPAA.

In general, the HIPAA privacy regulations:

1. Give individuals the right to access their medical records;
2. Limit the use and disclosure of individually identifiable health information;
3. Restrict most disclosures of information to the minimum needed for the intended purpose; and
4. Provide civil and criminal penalties if these privacy rights are violated.

Enrollees may request a copy of NYSHIP’s Notice of Privacy Practice by contacting the Employee Benefits Division or by accessing the website at: [www.cs.state.ny.us](http://www.cs.state.ny.us)

### Protected Health Information (PHI):

HIPAA covers Protected Health Information (PHI) which is individually identifiable health information relating to:

1. Past, present, or future physical or mental health or condition of an individual;
2. Provision of health care to an individual; or
3. The past, present, or future payment for health care provided to an individual.

*Please note that the following information relates to Participating Agencies in NYSHIP only.* If the Participating Agency offers other health insurance plans to employees, the Agency should consult with legal counsel regarding how the provisions of HIPAA affect the Agency in relation to those plans. Also, this information pertains only to HIPAA privacy regulations.

### Participating Agencies and HIPAA:

As a result of the Employee Benefits Division’s review of the HIPAA privacy regulations it has been determined that, within the context of NYSHIP participation, a Participating Agency is subject to some HIPAA privacy requirements. HIPAA has the effect of restricting the flow of certain types of information related to the health care of the employer’s employees and restricts the circumstances under which those types of information can be disclosed to the employer by the Plan and the Plan’s insurers.

NYSHIP and the Empire Plan insurers may disclose to a Participating Agency information on whether an employee is enrolled in, or has disenrolled from, the Empire Plan. Additionally,

NYSHIP and the Empire Plan insurers may disclose summary health information to a Participating Agency if the Agency requests the summary health information for one of the following purposes:

1. To obtain premium bids from other plans;
2. To provide health insurance coverage under the Participating Agency's group health plan; or
3. To modify, amend or terminate the Participating Agency's group health plan.

NYSHIP provides Participating Agencies with enrollment information and summary health information upon request, and will continue to do so as long as the information, for the purposes described above, is consistent with HIPAA privacy requirements. NYSHIP does not disclose individual-specific health information to Participating Agencies in the absence of a signed authorization by the individual, and will continue to follow that practice, consistent with HIPAA privacy requirements. Therefore, if an employee requests assistance from agency staff in resolving a NYSHIP claims problem that involves the disclosure of protected health information, such authorization will be required.

#### HIPAA Compliance:

Since a NYSHIP Participating Agency may receive and use only enrollment information and summary health information, NYSHIP Participating Agencies are not subject to most HIPAA privacy implementation requirements. However, the Participating Agency is subject to the following HIPAA privacy requirements:

1. A Participating Agency may not intimidate, discriminate against, or take other retaliatory action against an individual as a consequence of the individual having exercised any right he or she may have pursuant to HIPAA, or as a consequence of an individual having participated in any process established by the HIPAA regulations.
2. A Participating Agency may not require any individual to waive their right to file a complaint with the Secretary of Health and Human Services concerning a potential violation of HIPAA privacy requirements.