

SUMMARY OF NOTICE OF PRIVACY PRACTICES

VMware's Notice Of Privacy Practices For Protected Health Information (the "Notice") contains important information about your privacy rights. VMware recognizes that the Notice is lengthy and detailed. You still should read the entire document carefully.

This summary highlights some of the important points in the Notice. However, this summary is not a substitute for the Notice.

- The Notice applies to information about your health care and payment for your health care created or received by, or on behalf of, VMware's group health, dental and vision plans, health care reimbursement flexible spending plan, and employee assistance program. The Notice does not apply to health information in employment records.
- The Notice explains how VMware will use and disclose your health information without your written permission.
- The Notice explains how you can exercise certain rights. These rights include the right to access your health information, the right to amend your health information, and the right to receive an accounting of when and why VMware has disclosed your health information to others.
- The Notice explains how you can file a complaint, either with VMware or with the federal government, if you believe VMware has violated the policies and procedures stated in the Notice.
- The Notice provides contact information for the person who can answer your questions or respond to your complaints about VMware's use and disclosure of your health information.

NOTICE OF PRIVACY PRACTICES FOR PROTECTED HEALTH INFORMATION

THIS NOTICE DESCRIBES HOW HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW THIS NOTICE CAREFULLY.

Introduction

VMware sponsors and administers a group health, dental and vision plan, health care reimbursement flexible spending plan, and employee assistance program. This Notice applies to all of these health plans. This Notice refers to VMware's health plans as the "Plans."

The Plans' Duties

1. Safeguard The Privacy Of Your Protected Health Information ("PHI"). Federal law requires that the Plans safeguard the privacy of your "protected health information" or PHI. "PHI" includes individually identifiable information created, received or maintained by, or on behalf of, the Plans relating to your past, present or future physical or mental health condition, treatment for that condition, or payment for that treatment.
2. Notify You Of The Plans' Privacy Policies. Federal law requires that the Plans notify you of their legal duties and privacy policies and procedures with respect to your PHI. This Notice is intended to satisfy that requirement.
3. Use And Disclose Your PHI Only As Described In This Notice. The Plans will abide by the terms of this Notice as long as it remains in effect. The Plans will use and disclose your PHI without first obtaining your written authorization only as described in this Notice. If the Plans obtain your written authorization for a use or disclosure not described in this Notice, you may revoke or modify that authorization at any time by submitting the appropriate form to the Privacy Official designated on page 5 below. The Privacy Official will provide you with a copy of the form upon request.

How The Plans Will Use And Disclose Your PHI Without Your Authorization

1. Uses And Disclosures For Treatment. The Plans may use and disclose your PHI for "treatment." "Treatment" includes the provision, coordination or management of health care and related services by one or more health care providers. For example, the group health plan may assist in coordinating health care and related benefits.
2. Uses And Disclosures For Payment. The Plans will use and disclose your PHI for "payment." "Payment" includes, but is not limited to, claims processing, claims payment, payroll deductions, eligibility determinations, and claims disputes. For example, the Plans will use your PHI to determine whether you are entitled to benefits, and, if you are, to determine your benefits.
3. Uses And Disclosures For Health Care Operations. The Plans will use and disclose your PHI for "health care operations." "Health care operations" include, but are not limited to, securing or placing a contract for reinsurance of risk relating to claims for health care; arranging for medical review, legal services, and auditing functions; fraud and abuse detection programs; business planning and development; investigating and resolving complaints of privacy violations; and business management and general administrative activities. For example, the Plans may disclose PHI as part of an investigation into a fraudulent claim.

4. Disclosures To The Plans' Sponsor. The sponsor of the Plans is VMware. The Plans will disclose your PHI to VMware employees responsible for "plans administration functions." Plans administration functions include, but are not limited to, claims processing, eligibility determinations, and appeals from denials of coverage. VMware employees are prohibited from using or disclosing your PHI for employment-related decisions.
5. Disclosures To Business Associates. The Plans have contracted with one or more third parties (referred to as a business associate) to use and disclose your PHI to perform services for the Plans. The Plans will obtain each business associate's written agreement to safeguard your PHI.
6. Information-Sharing Among The Plans. VMware's health plans will share PHI with each other, and with business associates, as permitted by state and federal law, to carry out treatment, payment or health care operations.

How The Plans Might Use Or Disclose Your PHI Without Your Authorization

Federal law generally permits the Plans to make certain uses or disclosures of PHI without your permission. Federal law also requires the Plans to list in the Notice each of these categories of uses and disclosures. The listing is below.

1. Uses Or Disclosures Required By Law. The Plans may use or disclose your PHI as required by any statute, regulation, court order or other mandate enforceable in a court of law.
2. Disclosures For Workers' Compensation Purposes. The Plans may disclose your PHI as required or permitted by state or federal workers' compensation laws.
3. Disclosures To Family Members Or Close Friends. The Plans may disclose your PHI to a family member or close friend who is involved in your care or payment for your care if (a) you are present and agree to the disclosure, or (b) you are not present or you are not capable of agreeing, and VMware determines that it is in your best interest to disclose the information.
4. Disclosures For Judicial And Administrative Proceedings. The Plans may disclose your PHI in an administrative or judicial proceeding in response to a subpoena or a request to produce documents. The Plans will disclose your PHI in these circumstances only if the requesting party first provides written documentation that the privacy of your PHI will be protected.
5. Disclosures For Law Enforcement Purposes. The Plans may disclose your PHI for law enforcement purposes to a law enforcement official, such as in response to a grand jury subpoena.
6. Incidental Uses And Disclosures. The Plans may use or disclose your PHI in a manner which is incidental to the uses and disclosures described in this Notice.
7. Disclosures For Public Health Activities. The Plans may disclose your PHI to a government agency responsible for preventing or controlling disease, injury, disability, or child abuse or neglect. The Plans may disclose your PHI to a person or entity regulated by the Food and Drug Administration ("FDA") if the disclosure relates to the quality or safety of an FDA-regulated product, such as a medical device.
8. Disclosures For Health Oversight Activities. The Plans may disclose your PHI to a government agency responsible for overseeing the health care system or health-related government benefit programs.

9. Disclosures About Victims Of Abuse, Neglect, Or Domestic Violence. The Plans may disclose your PHI to the responsible government agency if (a) the Privacy Official reasonably believes that you are a victim of abuse, neglect, or domestic violence, and (b) the Plans are required or permitted by law to make the disclosure. The Plans will promptly inform you that such a disclosure has been made unless the Plans' Privacy Official determines that informing you would not be in your best interests.
10. Uses And Disclosures To Avert A Serious Threat To Health or Safety. The Plans may use or disclose your PHI to reduce a risk of serious and imminent harm to you, another person or to the public.
11. Disclosures To HHS. The Plans may disclose your PHI to the United States Department of Health and Human Services ("HHS"), the government agency responsible for overseeing the Plans' compliance with federal privacy law and regulations regulating the privacy of PHI.
12. Uses And Disclosures For Research. The Plans may use or disclose your PHI for research, subject to conditions. "Research" means systemic investigation designed to contribute to generalized knowledge.
13. Disclosures In Connection With Your Death Or Organ Donation. The Plans may disclose your PHI to a coroner for identification purposes, to a funeral director for funeral purposes, or to an organ procurement organization to facilitate transplantation of one of your organs.
14. Uses And Disclosures For Specialized Government Functions. The Plans may disclose your PHI to the appropriate federal officials for intelligence and national security activities authorized by law or to protect the President or other national or foreign leaders. If you are a member of the U.S. Armed Forces or of a foreign armed forces, the Plans may use or disclose your PHI for activities deemed necessary by the appropriate military commander. If you were to become an inmate in a correctional facility, the Plans may disclose your PHI to the correctional facility in certain circumstances.

If applicable State law does not permit the disclosure described above, the Plans will comply with the stricter State law.

The Plans' Disclosures With Your Prior Authorization

The Plans are required to obtain your authorization in the following circumstances: (a) to use or disclose psychotherapy notes (except when needed for payment purposes or to defend against litigation filed by you); (b) to use your PHI for marketing purposes; (c) to sell your PHI; and (d) to use or disclose your PHI for any purpose not previously described in this Notice. The Plan also will obtain your authorization before using or disclosing your PHI when required to do so by (a) state law, such as laws restricting the use or disclosure of genetic information or information concerning HIV status; or (b) other federal law, such as federal law protecting the confidentiality of substance abuse records.

Prohibition On The Plans' Use And Disclosure Of Your PHI

The Plans are prohibited from using or disclosing your PHI that is genetic information for "underwriting purposes." Underwriting purposes includes determination of eligibility for, or benefits under, any of the Plans; computation of premium or contribution amounts under any of the Plans; application of any pre-existing condition exclusion under any of the Plans; and other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

Your Privacy Rights As A Participant In One Or More Of The Plans

As a participant in one of the Plans, you may exercise the rights described below. The forms referenced below can be obtained from the Company's Individual Rights contact. (the "Individual Rights Official").

1. Right To Access Your PHI. You may ask to review your PHI on file with the Plans, or to receive copies of it in paper or electronic form, by submitting the appropriate form to the Individual Rights Official. The Plans will provide access, or will deliver copies to you, within 30 days of your request. The Plans may extend the deadline by up to an additional 30 days. The Plans will provide you with a written explanation of any denial of your request for access or copies. The Plans may charge you a reasonable, cost-based fee for copies or for delivery. If there will be a charge, the Individual Rights Official will first contact you to determine whether you wish to modify or withdraw your request.
2. Right To Amend Your PHI. You may amend your PHI on file with the Plans by submitting the appropriate request form to the Individual Rights Official. The Plans will respond to your request within 60 days. The Plans may extend the deadline by up to an additional 30 days. If the Plans deny your request to amend, the Plans will provide a written explanation of the denial. You would then have 30 days to submit a written statement explaining your disagreement with the denial. Your statement of disagreement would be included with any future disclosure of the disputed PHI.
3. Right To An Accounting Of Disclosures Of Your PHI. You may request an accounting of the Plans' disclosures of your PHI by submitting the appropriate form to the Individual Rights Official. The Plans will provide the accounting within 60 days of your request. The Plans may extend the deadline by up to an additional 30 days. The accounting will exclude the following disclosures: (a) disclosures for "treatment," "payment," or "health care operations"; (b) disclosures to you or pursuant to your authorization; (c) disclosures to family members or close friends involved in your care or in payment for your care; (d) disclosures as part of a data use agreement; and (e) incidental disclosures. The Plans will provide the first accounting during any 12-month period without charge. The Plans may charge a reasonable, cost-based fee for each additional accounting during the same 12-month period. If there will be a charge, the Individual Rights Official will first contact you to determine whether you wish to modify or withdraw your request.
4. Right To Request Additional Restrictions On The Use Or Disclosure Of Your PHI. You may request that the Plans place restrictions on the use or disclosure of your PHI for "treatment," "payment," or for "health care operations" in addition to the restrictions required by federal law by submitting the appropriate request form to the Individual Rights Official. The Plans will notify you in writing within 30 days of your request whether the Plans will agree to the requested restriction. The Plans are not required to agree to your request.
5. Right To Request Communications By Alternative Means Or To An Alternative Location. The Plans will honor your reasonable request to receive PHI by alternative means, or at an alternative location, if you submit the appropriate request form to the Individual Rights Official.
6. Right To Receive Notice Of A Breach Of Your Unsecured PHI: If the Plans discover a breach of your unsecured PHI, the Plans will notify you of the breach and provide the information required by law.
7. Right To A Paper Copy Of This Notice. You may request at any time that the Individual Rights Official provide you with a paper copy of this Notice.

A Note About Personal Representatives

All of the rights described above may be exercised by your personal representative after the personal representative has provided proof of his or her authority to act on your behalf. Proof of authority may be established by (a) a power of attorney for health care purposes, or a general power of attorney, notarized by a notary public; (b) a court order appointing the person to act as your conservator or guardian; or (c) any other document which the Individual Rights Official, in his or her sole and absolute discretion, deems appropriate.

Your Right To File A Complaint

If you believe that your privacy rights have been violated because any of the Plans has used or disclosed your PHI in a manner inconsistent with this Notice, because any of the Plans has not honored your rights as described in this Notice, or for any other reason, you may file a complaint in one, or both, of the following ways:

1. **Internal Complaint:** Within 180 days of the date you learned of the conduct, you can submit a complaint using the appropriate complaint form to the HIPAA Privacy Official, c/o VMware, 3401 Hillview Avenue, Palo Alto, CA 94304, or call 888-869-2738 and ask for the HIPAA Privacy Official. You can obtain a complaint form from the Privacy Official.
2. **Complaint To HHS:** Within 180 days of the date you learned of the conduct, you may submit a complaint by mail to the Secretary of the U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. 20201.

The Plans' Anti-Retaliation Policy

The Plans will not retaliate against you for submitting an internal complaint, a complaint to HHS, or for exercising your other rights as described in this Notice or under applicable law.

Whom To Contact For More Information About The Plans' Privacy Policies And Procedures

If you have any questions about this Notice, or about how to exercise any of the rights described in this Notice, you should contact the Plans' HIPAA Privacy Official by mail c/o VMware, 3401 Hillview Avenue, Palo Alto, CA 94304, or call 888-869-2738 and ask for the HIPAA Privacy Official.

Revisions To The Privacy Policy And To The Notice

The Plans have the right to change this Notice or the Plans' privacy policies and procedures at any time. If the change to the Plans' privacy policies and procedures would have a material impact on your rights, the Plans will notify you of the change by mailing (either electronically or by U.S. Postal Service) a revised Notice to you, in accordance with applicable regulations, which reflects the change. Any change to the Plans' privacy policies and procedures, or to the Notice, will apply to your PHI created or received before the revision.

Effective Date Of This Notice: September 23, 2013

Updated: April 3, 2019