

Section 1: PURPOSE

On August 14, 2002, the U.S. Department of Health and Human Services (HHS) published final regulations for Standards for Privacy of Individually Identifiable Health Information (the Privacy Rule). The Rule was established to provide national standards for the protection and privacy of protected health information (PHI).

The purpose of this document is the establishment of Health Insurance Portability and Accountability Act (HIPPA) Policy and Procedures for employees of the City of Manteca. This document provides a comprehensive outline of what City of Manteca employees' responsibilities will be to be in compliance with federal and state HIPPA Privacy Regulations.

Section 2: DEFINITIONS

Whenever used, the following terms have the following meaning unless a different meaning is clearly required by the context:

Authorization: To allow use and disclosure of PHI for purposes other than treatment, payment or health care operations by both the covered entity requesting the information and a third party.

Business Associate: A person (including a vendor or other entity) who is not an employee of a covered entity and who either performs or assists in a function involving the use or disclosure of Individually Identifiable Health Information (IIHI) (including certain insurance functions, such as claims processing, data analysis, utilization review and billing) or provides certain services to the covered entity (including accounting, actuarial, administrative and legal) which includes the receipt or disclosure of IIHI. A covered entity may be a business associate of another covered entity.

Covered Entity: An entity subject to the HIPPA Privacy Rules, which may cover more than just health care components, must ensure it does not disclose protected health information to another component of the entity that would be prohibited from that receiving information.

Individually Identifiable Health Information (IIHI): Identifiable Health information includes the following:

- Information collected from an individual that is created or received by a health care provider, health plan, employer, or health care clearinghouse. (including demographics)
- Information relating to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the

provision of health care to an individual that identifies the individual.

- Information in which there is a reasonable basis to believe can be used to identify the individual.

Health Care Carrier: A health care carrier is an individual or group plan that provides or pays for the cost of medical care. This includes the following in one or any combination: a group health plan, a health insurance issuer, an HMO, Part A or Part B of the Medicare program, the Medicaid program, an issuer of a Medicare supplemental policy, an issuer of a long-term care policy – excluding a nursing home fixed-indemnity policy, an employee welfare benefit plan or any other arrangement that is established or maintained for the purpose of offering or providing health benefits to the employees of two or more employers.

Privacy Officer: An employee of the City of Manteca who has the responsibility of developing and implementing Policy and Procedures to ensure the city's compliance of the Privacy Rule.

Protected Health Information (PHI): Is individually identifiable health information that is transmitted by electronic media, maintained in any electronic medium, or transmitted or maintained in any other form or medium. PHI excludes individually identifiable health information in education records covered by the Family Educational Right and Privacy Act, and employment records held by a covered entity in its role as employer.

Third Party Administrator: An entity that may collect premiums, pay claims and/or provide administrative services to the *City of Manteca's* group benefits program.

Section 3: PRIVACY OFFICER

The Administrative Services Director serves as the Privacy Officer.

The Privacy Officer's primary responsibilities include:

- development of the HIPPA Privacy Policy and Procedures;
- oversight of the Privacy Policy and Procedures implementation;
- preparation and oversight of distribution of the HIPPA Privacy Notice;
- development, coordination and participation of the education and training for managers and Administrative Services Department staff;
- development of an atmosphere to encourage associates to report possible noncompliance by the City of Manteca, health insurance carriers and/or Third Party Administrators (TPA);

- acting on matters related to privacy compliance. This includes the design and coordination of internal reviews and any needed corrective action (e.g., revise Policy and Procedures, institute additional training);
- coordination with the Administrative Services Department for disciplinary sanctions associated with violations of the Privacy Policy and Procedures;
- coordination for mitigating efforts in the event of a violation to the Privacy Rules; and
- periodic revision of the Privacy Policy and Procedures as a result of changes in federal or state law.

Section 4: COMPLAINT PROCESS

City of Manteca is committed to complying with HIPPA federal and state privacy laws and to correct any violations whenever they may occur in the organization. Each individual has the responsibility to report to the City of Manteca's Privacy Officer, and/or to City of Manteca's Health Care Carriers or Third Party Administrators, any activity that violates applicable privacy laws, rules, regulations or the City of Manteca's Privacy Policy and Procedures.

City of Manteca's Privacy Officer, Health Care Carriers and Third Party Administrators will assist individuals who have questions regarding their privacy rights or who want to report a privacy breach. Any individual may contact the City of Manteca's Privacy Officer, or Health Care Carrier's Privacy Office and/or Third Party Administrator's Privacy Officer to file a complaint over a possible breach of privacy regulations. A log will be maintained of reported violations, the nature of any investigation and its results, including mitigation measures taken. Individuals also have the right to report violations to the Secretary of the Department of Health and Human Services.

City of Manteca will make every effort to maintain the confidentiality of the identity of any individual who reports possible violations, although there may be a point at which an individual's identity becomes known or must be revealed as a legal matter.

There will be **no retaliation** against an individual who reports a possible violation of: federal or state privacy regulations, City of Manteca Privacy Policy and Procedures, or his or her privacy rights.

Section 5: MITIGATION PROCEDURES

If a use or disclosure by City of Manteca or City of Manteca's business associate(s) would violate HIPPA Privacy regulations, the City of Manteca will take prompt action to mitigate any damaging effects that the disclosure could have

on a participant(s). City of Manteca employees are required to report any violation that they observe, or learn of, to City of Manteca's Privacy Officer, so that the action to mitigate the damage, if any, can commence promptly.

Section 6: DETECT OFFENSES AND IMPLEMENT CORRECTIVE ACTIONS

The City of Manteca and its business associates will immediately address any possible violations of HIPPA Privacy regulations and/or privacy Procedures.

Investigation and Corrective Actions If the City of Manteca receives a report of noncompliance, or the Privacy Officer or a business associate of City of Manteca discovers credible evidence of a violation, an investigation will immediately ensue. It is the City of Manteca and its business associates' policy to institute corrective action upon identification of a violation.

Systemic Changes to Correct Violations After a problem has been identified and corrected, the Privacy Officer, and if applicable, business associates of the City of Manteca will review the circumstances to determine:

- 1) Whether similar problems have been identified elsewhere;
- 2) Whether modifications to the City of Manteca's Policy and Procedures and/or business associates' Policy and Procedures are necessary to prevent and detect other inappropriate conduct or violations of privacy rules and/or procedures.

The Privacy Officer will work with, if applicable, business associates to avoid future violations.

Section 7: DISCIPLINE

All violators of the Privacy Policy will be subject to disciplinary action. The precise discipline will depend on the nature and severity of the violation. Any employee who fails to comply with City of Manteca's Privacy Policy and Procedures will be subject to discipline as established in the city's Personnel Rules and Regulations.

Section 8: PHYSICAL SAFEGUARDS

The City of Manteca has in place procedures to maintain the confidentiality of protected health information (PHI) that it receives in paper form. The City of Manteca has trained its employees on the Policy and Procedures they are required to follow to assure that they use all reasonable measures to safeguard individuals' PHI.

Section 9: EDUCATION AND TRAINING

All City of Manteca employees with access to PHI have been trained on the City of Manteca HIPPA Privacy Policy and Procedures.

All new employees who have access to PHI will be trained on City of Manteca HIPPA Privacy Policy and Procedures within a reasonable period after orientation.

The City of Manteca will update the HIPPA Privacy Policy and Procedures as needed to be in compliance with Federal and State regulations.

Section 10: HIPPA CHECKLIST FOR NEW EMPLOYEE/OPEN ENROLLMENT

New Hires

The Administrative Services Department has certain responsibilities to ensure HIPPA compliance for newly hired employees. These responsibilities are:

- Providing the initial HIPPA Notice to any employee who is eligible to participate in a group health plan, regardless of whether the employee enrolls or not. This Notice must describe an employee's enrollment rights and the right to receive creditable coverage for any pre-existing condition exclusion that may exist in a group health plan.
- Providing new employees with a copy of the HIPPA Privacy Rules.
- Providing an employee with an updated summary plan description, that contains HIPPA language.