

# **Mason Tenders' District Council Welfare Fund**

## **NOTICE OF PRIVACY PRACTICES**

This Notice is effective as revised January 1, 2022.

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, AND SHARE IT WITH YOUR SPOUSE AND OTHER DEPENDENTS WHO ARE COVERED UNDER THE MASON TENDERS' DISTRICT COUNCIL WELFARE FUND (THE "FUND").

THIS NOTICE APPLIES TO THE OFFICES OF THE FUND AND TO THE SERVICES THAT THE FUND PROVIDES THROUGH AETNA AND OTHER BUSINESS ASSOCIATES OF THE FUND. THIS NOTICE DOES NOT APPLY TO ANY INSURED BENEFITS PROVIDED TO YOU THROUGH THE FUND (IF ANY); EACH INSURER IS REQUIRED TO SEND YOU A NOTICE OF ITS PRIVACY PRACTICES, WHICH WILL APPLY TO THE BENEFITS PROVIDED BY THAT INSURER.

### **INTRODUCTION**

During the course of providing you with health coverage, the Fund will have access to information about you that has been deemed to be Protected Health Information ("PHI") under the Health Insurance Portability and Accountability Act of 1996, commonly known as "HIPAA." This Notice describes the medical information privacy practices of the Fund, and explains our obligations and your rights regarding the use and disclosure of your PHI. This Notice also applies to Aetna and other business associates that assist in the administration of the Fund.

If you have any questions about this Notice, please contact the Fund's Privacy Officer at the address and phone number listed at the end of this Notice.

### **OUR PLEDGE REGARDING MEDICAL INFORMATION**

We understand that medical information about you and your health is personal information. We are committed to protecting your medical information. Under HIPAA, your PHI includes any individually identifiable information that relates to your past, present or future physical or mental health, the health care that you have received or payment for your health care, including your name, address, date of birth and Social

Security number. This Notice covers any such PHI that is maintained by the Fund. Your personal physician or health care provider may have different policies or notices regarding their use and disclosure of your PHI.

We are required by law to:

- Make sure that your PHI is kept private;
- Provide you with this Notice of our legal duties and privacy practices with respect to your PHI;
- Notify affected individuals following a breach of unsecured PHI; and
- Follow the terms of the Notice (as currently in effect or as subsequently amended).

## **HOW WE MAY USE AND DISCLOSE YOUR PHI**

### **I. Uses and Disclosures for Treatment, Payment and Health Care Operations**

The Fund may use or disclose your PHI in connection with your receiving treatment from a health care provider, our payment for such treatment, and for our health care operations.

**For Treatment:** Although the Fund does not provide treatment, we may use or disclose your PHI to support the provision, coordination or management of your health care treatment. This includes that we may disclose your PHI to your health care providers, including doctors, nurses, technicians or other hospital personnel who are involved in taking care of you. For example, if in the event of an emergency you are unable to give your doctor your medical history, the Fund may share that history (if known to the Fund) with an emergency room physician so that the physician can most appropriately provide medical services to you.

**For Payment:** "Payment" generally means activities in connection with processing claims for your health care (including billing, claims management, subrogation, reviews for medical necessity and appropriateness of care, and utilization review and preauthorizations). We may use or disclose your PHI for payment purposes, such as to determine your eligibility for Fund benefits, to facilitate the payment for treatment or services you receive from your health care providers, to determine benefit responsibility under the Fund, or to coordinate your Fund coverage with another health plan. For example, we may disclose your PHI to your health care provider to determine whether a particular treatment is medically necessary, or to determine whether the Fund will

cover the treatment. We may also share PHI with a utilization review or precertification service provider. Additionally, we may share PHI with another entity to assist in the adjudication or subrogation of claims.

**For Health Care Operations:** We may use or disclose your PHI as part of the general administrative or business functions of the Fund that we must perform in order to function as a health plan. For example, we may need to review your PHI as part of the Fund's efforts to uncover instances of health care provider abuse and fraud. Additionally, we may use your PHI in connection with: conducting quality assessment and improvement activities and other activities relating to Fund coverage, submitting claims for stop-loss (or excess loss) coverage, and conducting or arranging for medical review, legal services, or audit services.

**Disclosure To Third Parties:** In any circumstance where we disclose PHI to a third party that performs a service on behalf of the Fund, such as Aetna (*i.e.*, a Business Associate), we will have a written contract with that entity which requires the entity to protect the privacy of your PHI.

## **II. Disclosures to the Plan Sponsor and Your Representatives**

**Disclosure to the Trustees of the Fund:** We may disclose your PHI to the Fund's Board of Trustees, which serves as the plan sponsor for the Fund, for purposes relating to payment of benefits, Fund operations, and other matters pertaining to Fund administration that involve the Board of Trustees, for example in connection with appeals that you may file following a denial of a benefit claim. This includes disclosure of your PHI to the Trustees if it is necessary for them to fulfill their fiduciary duties to the Fund. When disclosing PHI to the Board of Trustees, we will make reasonable efforts not to disclose more than the minimum necessary amount of PHI to achieve the particular purpose of the disclosure. In accordance with the plan documents, the Board of Trustees has agreed not to use or disclose your PHI: (1) other than as permitted in this Notice or as required by law, (2) with respect to any employment-related actions or decisions, or (3) with respect to any other benefit plan maintained by the Board of Trustees.

In addition, the Fund may disclose "summary health information" to the Board of Trustees so that they may obtain premium bids or modify, amend or terminate any of the benefits provided under the Fund. Summary health information summarizes the claims history, claims expenses or type of claims experienced by individuals for whom a plan sponsor (such as the Board of Trustees) has provided health benefits under a group health plan. Identifying information will be deleted from summary health information, in accordance with HIPAA.

**Individuals Involved in Your Care or Payment For Your Care:** Unless you object in writing, the Fund may disclose PHI to a close friend or family member involved in or

who helps pay for your health care, but only to the extent relevant to that friend or family member's involvement in your care or payment for your care. For example, if a family member or a caregiver calls the Fund with prior knowledge of a claim, the Fund may confirm whether or not the claim has been received and paid. We may also disclose your PHI to any authorized public or private entities assisting in disaster relief efforts.

**Disclosure to Your Personal Representatives:** We may disclose your PHI to your personal representative in accordance with applicable state law and HIPAA (e.g., to parents if you are an unemancipated child under 18, or to those with an unlimited power of attorney). In addition, you may authorize a personal representative to receive your PHI and act on your behalf. Contact the Privacy Officer to obtain a copy of the appropriate form to authorize the people who may receive this information.

### **III. Other Permitted Uses and Disclosures**

The Fund may also use or disclose your PHI for any of the following purposes:

**Required By Law:** We may use or disclose your PHI to the extent that we are required to do so by federal, state or local law. You will be notified, if required by law, of any such uses or disclosures.

**Public Health:** We may disclose your PHI for public health and safety purposes to a public health authority that is permitted by law to collect or receive the information. Your PHI may be used or disclosed for the purpose of preventing or controlling disease (including communicable diseases), injury or disability. If directed by the public health authority, we may also disclose your PHI to a foreign government agency that is collaborating with the public health authority.

**Health Oversight:** We may disclose your PHI to a health oversight agency for activities authorized by law, such as audits, investigations, inspections and legal actions. Oversight agencies seeking this information include government agencies that oversee the health care system, government benefit programs, other government regulatory programs and civil rights laws.

**Abuse Or Neglect:** We may disclose your PHI to any public health authority authorized by law to receive information about abuse, neglect or domestic violence if we reasonably believe that you have been a victim of abuse, neglect or domestic violence. In this case, the disclosure will be made consistent with the requirements of applicable federal and state laws, and we will notify you that such a disclosure has been or will be made unless that notification will cause a risk of serious harm.

**To Avert A Serious Threat to Health or Safety:** We may use or disclose your PHI when necessary to prevent a serious threat to your health and safety or to the health

and safety of the public or another person. Any disclosure, however, would only be to someone reasonably able to help prevent or lessen the threat.

**Legal Proceedings:** We may disclose your PHI in the course of any judicial or administrative proceeding, in response to an order of a court or administrative tribunal. In addition, we may disclose your PHI under certain conditions in response to a subpoena, court-ordered discovery request or other lawful process, in which case reasonable efforts must be undertaken by the party seeking the PHI to notify you and to give you an opportunity to object to the disclosure.

**Law Enforcement:** We may disclose your PHI if requested by a law enforcement official as part of certain law enforcement activities.

**Coroners, Funeral Directors, and Organ Donation:** We may disclose your PHI to a coroner or medical examiner for identification purposes, or for other duties authorized by law. We may also disclose your PHI to a funeral director, as authorized by law, in order to permit the funeral director to carry out his/her duties. We may disclose such information in reasonable anticipation of death. We may also disclose PHI for cadaveric organ, eye or tissue donation purposes.

**Research:** We are permitted to disclose your PHI to researchers when their research has been approved by an institutional review board that has established protocols to ensure the privacy of your PHI.

**Military Activity and National Security:** When the appropriate conditions apply, we may use or disclose PHI of individuals who are Armed Forces personnel: (1) for activities deemed necessary by military command authorities; or (2) to a foreign military authority if you are a member of that foreign military service. We may also disclose your PHI to authorized federal officials conducting national security and intelligence activities.

**Workers' Compensation:** We may disclose your PHI to comply with workers' compensation laws and other similar legally established programs.

**Inmates:** If you are an inmate of a correctional institution or under the custody of a law enforcement official, we may disclose your PHI to the institution or official if the PHI is necessary for the institution to provide you with health care; to protect the health and safety of you or others; or for the security of the correctional institution.

**Required Uses and Disclosures:** We must make disclosures of PHI to the Secretary of the U.S. Department of Health and Human Services ("HHS") to investigate or determine our compliance with the federal regulations regarding privacy.

## **USES AND DISCLOSURES OF PHI THAT REQUIRE YOUR WRITTEN AUTHORIZATION**

The Fund will not use or disclosure your PHI for the following purposes without your prior written authorization:

**Psychotherapy Notes:** Except for certain narrow exceptions permitted by law (such as legal defense in a proceeding you may bring against us), we will not use or disclose any mental health professional's psychotherapy notes (discrete notes that document the contents of conversations during counseling sessions) without your prior written authorization.

**Marketing or Sales:** Unless you give us your prior written authorization, we will not use or disclose your PHI for any paid marketing activities or sell your PHI.

**Other Uses and Disclosures Of PHI:** Other uses and disclosures of your PHI not described in this Notice will be made only with your prior written authorization. If you provide us with written authorization to use or disclose your PHI for purposes other than those set forth in this Notice, you may revoke that authorization in writing at any time. If you revoke your authorization, we will no longer use or disclose your PHI for the reasons covered by your written authorization. However, you understand that we are unable to take back any disclosures we have already made with your authorization, and that we are required to retain records of the services we provide to you.

### **NO USE OR DISCLOSURE OF GENETIC INFORMATION FOR UNDERWRITING**

The Fund is prohibited by law from using or disclosing PHI that is genetic information of an individual for underwriting purposes. Generally, genetic information involves information about characteristics of a person's DNA that could increase or decrease his or her chance of getting a disease (for example, diabetes, heart disease, cancer or Alzheimer's disease).

### **ADDITIONAL SPECIAL PROTECTIONS**

Additional special privacy protections, under federal or state law, may apply to certain sensitive information, such as genetic information, HIV-related information, alcohol and substance abuse treatment information, and mental health information. If you have questions, please contact our Privacy Officer at the address below.

## YOUR RIGHTS

You have the following rights regarding the PHI that we maintain:

**Right to Inspect and Copy:** As long as we maintain it, you may inspect and obtain a copy of your PHI that is contained in a “designated record set” – which means records used in making enrollment, payment, claims adjudication, medical management and other decisions. To request access to inspect and/or obtain a copy of any of your PHI, you must submit your request in writing to our Privacy Officer at the address below indicating the specific information requested. You may also direct us to transmit the copy of PHI directly to another person whom you designate in writing. If you request a copy of PHI, please indicate in what form you want to receive it (i.e., paper or electronic). We may impose a fee to cover the costs of producing, copying and mailing the requested PHI.

We may deny your request to inspect and copy your PHI in certain limited circumstances. For example, under federal law, you may not inspect or copy psychotherapy notes or information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding. If access is denied, you or your personal representative will be provided with a written denial setting forth the basis for the denial, a description of how you may exercise your review rights, and a description of how you may complain to the Fund and to HHS.

**Right to Request a Restriction on the Use and Disclosure of Your PHI:** You may ask us to restrict the uses and disclosures of your PHI to carry out treatment, payment or health care operations. You may also request that we restrict uses and disclosures of your PHI to family members, relatives, friends or other persons identified by you who are involved in your care.

However, we are not required to agree to a restriction that you request. If we do agree to the request, we will not use or disclose your PHI in violation of that restriction unless the PHI is needed to provide emergency treatment, or if we terminate the restriction with or without your agreement. If you do not agree to the termination, the restriction will continue to apply to PHI created or received prior to our notice to you of our termination of the restriction.

To request a restriction, you must write to our Privacy Officer at the address below indicating (1) what information you want to restrict, (2) whether you want to restrict use, disclosure or both, and (3) to whom you want the restriction to apply.

**Right to Request to Receive Confidential Communications by Alternative Means or at an Alternative Location:** We will accommodate your reasonable request to receive communications of PHI from us by alternative means or at alternative locations if the request includes a statement that disclosure using the Fund’s

regular communications procedures could endanger you. Please direct your written request to our Privacy Officer at the address below.

**Right to Amend Your PHI:** If you believe that PHI that we have about you is incorrect or incomplete, you may request that it be amended. Your request must be made in writing and submitted to our Privacy Officer. In addition, you must provide a reason that supports your request.

We may deny your request for an amendment if it is not in writing or if it does not include a reason to support the request. In addition, we may deny your request if you ask us to amend information that:

- Did not originate with us, unless the person or entity that originated the PHI is no longer available to make the amendment;
- Is not contained in the records maintained by the Fund;
- Is not part of the information that you would legally be permitted to inspect and copy; or
- Is accurate and complete.

**Right to an Accounting of Disclosures:** You have the right to request an accounting (*i.e.*, a list) of certain non-routine disclosures of your PHI. In general, the list will not include disclosures that were made:

- in connection with your receiving treatment, our payment for such treatment, and for health care operations;
- to you regarding your own PHI;
- pursuant to your written authorization;
- to a person involved in your care or for other permitted notification purposes;
- for national security or intelligence purposes; or
- to correctional institutions or law enforcement officials.

To request a list of disclosures, contact our Privacy Officer at the address below. You have the right to receive an accounting of disclosures of PHI made within six years (or less) of the date on which the accounting is requested. Your request should indicate the form in which you want the list (*i.e.*, paper or electronic). The first accounting you request within a 12-month period will be free of charge. For additional requests within



the same 12-month period, we will charge you for the costs of providing the accounting. We will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any cost is incurred.

We will act on your request for an accounting no later than 60 days after receipt of your request. This time period may be extended, where necessary, for an additional 30 days. If this should happen, we will notify you in writing concerning the reasons for the delay and the date by which we will provide the accounting.

**Right to Obtain a Paper Copy of this Notice:** You may request a paper copy of our Privacy Notice at any time, even if you have previously agreed to accept the Notice electronically. Requests should be made to the Privacy Officer at the address below.

## **COMPLAINTS**

If you believe that your privacy rights have been violated, you may file a written complaint with the Fund at the address below or with HHS at the following address:

Centralized Case Management Operations  
U.S. Department of Health and Human Services  
200 Independence Avenue S.W.  
Room 509F, HHH Building  
Washington, D.C. 20201

You may also file a complaint with HHS by email to [OCRComplaint@HHS.gov](mailto:OCRComplaint@HHS.gov). We will not retaliate against you for filing a complaint.

## **CHANGES TO THIS NOTICE**

We reserve the right to change the terms of this or any subsequent Notice at any time. If we elect to make a change, the revised Notice will be effective for all PHI that we maintain at that time. If we make a material change to this Notice, and we customarily post a copy of this Notice on our web site, we will post the revised Notice by the effective date of the material change. We will also include a copy of the revised Notice, or information about the material change and about how to obtain a copy of the revised Notice, in our next annual mailing to participants of the Fund. If we have not posted this Notice on our website, then within 60 days of any material change to the Notice, we will provide participants of the Fund with either the revised Notice or with information about the material change and how to obtain a copy of the revised Notice.

**FOR QUESTIONS OR REQUESTS**

If you have any questions regarding this Notice or the subjects addressed in it, or would like to submit a request as described above, please contact:

Anna Gutsin, Privacy Officer  
Mason Tenders' District Council Welfare Fund  
520 8th Avenue, Suite 600  
New York, New York 10018  
(212) 452-9700