

HIPAA Request Form

Please answer the following questions, sign, and return this form to MetLife.

- ☐ I am an authorized representative of the MetLife Customer named below. I have reviewed the attached HIPAA plan document privacy and security language, and request that MetLife print our booklet certificate(s) with the language to reflect Customer's decision to incorporate HIPAA privacy and security language in its plan documents.

If you checked the above box, you **must** provide the following information:

1. For Section III A., please provide the title(s) or other identifiers of any employees of the Plan Sponsor that may access PHI (*Protected Health Information*) provided by the Plan (*ex. HR Representative, Benefits Manager, etc.*)

Personal names and the title "Broker" cannot be used in this section.

2. Should the term "Privacy Officer" be included in Section I "Permitted Uses and Disclosures of PHI by the Plan and the Plan Sponsor" and Section III. (C) "Sharing of PHI with the Plan Sponsor" of the Dental and/or Vision Plan Document?

☐ Yes ☐ No

3. Should Section IV. "Participant's Rights" be included in the Dental and/or Vision Plan Document?

☐ Yes ☐ No

4. Should Section V. "Privacy Complaints/Issues" be included in the Dental and/or Vision Plan Document?

☐ Yes ☐ No

Customer Name _____

Customer Number _____

Signed _____ Date _____

Printed Name _____

Dear Customer Contact:

The purpose of this letter is to provide you with information on the Health Insurance Portability and Accountability Act (HIPAA) compliance within MetLife Group Benefits, and to share some information that may assist you in your own HIPAA activities.

MetLife has been involved in HIPAA implementation since 2001 and takes the business of protecting the privacy and security of PHI seriously. In fact, MetLife has been continuously involved in implementing and monitoring specific HIPAA requirements relating to privacy, Electronic Data Interchange (EDI), security, and the Health Information Technology for Economic and Clinical Health (HITECH) Act.

As you may know, in addition to affecting health care providers and clearinghouses, HIPAA also imposes requirements on health plans, including employer sponsored ERISA group health plans, and indirectly on plan sponsors. Some of the pertinent HIPAA requirements of which you should be aware are listed below.

Note: MetLife provides this information as part of our dedication to customer service, but we may not give legal advice. Please be sure to consult your legal advisor for questions concerning the status and obligations of your group under HIPAA, other HIPAA issues, as well as the use of any plan amendment language or plan sponsor certification.

First, a few terms you will need to know:

- Plan Sponsor – is the employer or other entity that establishes or maintains a group health plan on behalf of plan participants.
- Group Health Plan – refers to a group employee welfare benefit plan in which the employer or association purchases health insurance from a commercial insurer in order to provide coverage for its employees or association members which, in turn, provides, or pays for the cost of medical care¹. *For example, your MetLife Dental or Vision plan.*
- Protected Health Information (PHI) - individually identifiable information, which relates to past, present, or future health, provision of healthcare to the individual, or payment for health care services.

HIPAA Notice of Privacy Practices

Since your MetLife coverage is fully insured, MetLife is preparing to distribute HIPAA privacy notices to each of your employees who has Dental and/or Vision coverage in line with HIPAA requirements.

¹ “Medical care” as defined in section 2791 (a) (2) of the PHS Act, 42 U.S.C. 300gg-91 (a) (2)

HIPAA Certification Requirements and Options

Under HIPAA privacy requirements, an employer's group health plan may not disclose individually identifiable information that is classified as "protected health information" (PHI) under HIPAA or permit an insurer to disclose PHI to the plan sponsor unless the plan sponsor (1) amends its plan documents to incorporate specified HIPAA safeguards, and (2) signs a written certification to the group health plan stating that it has done so.

- If your group health plan (*i.e. MetLife Dental or Vision plan*) does not share PHI with the plan sponsor and does not permit the insurer to disclose PHI to the plan sponsor, these requirements may not apply.
- If PHI will be shared with or disclosed to the plan sponsor as noted above, then MetLife will need customers to indicate that they are in compliance with the above HIPAA requirements before we can disclose PHI to them in any format. Customers will be able to do this by choosing one of the two options listed here:
 1. **Submitting a HIPAA Plan Sponsor Certification:** If you have already amended your plan documents to include HIPAA language required to permit disclosure of PHI to the plan sponsor, you can provide a copy of the signed *HIPAA Plan Sponsor Certification Form* – sample attached.
 2. **Completing the HIPAA Request Form:** Customers may choose to use a MetLife booklet certificate of insurance as their summary plan description (SPD), which for some customers may also serve as their plan document. In those circumstances, if PHI is disclosed to the plan sponsor as noted above, then you may decide that you want us to issue your booklet certificate with the HIPAA language to reflect your decision to incorporate HIPAA language in your plan document. **Note:** If the MetLife certificate of insurance does not serve as the plan document, and if PHI is to be shared or disclosed with the plan sponsor, the customer must complete and sign a *HIPAA Plan Sponsor Certification* and return it to us as noted above.

Other HIPAA Requirements

In addition to those noted above, HIPAA contains many other requirements that certain group health plans are required to follow and of which you should be aware. These may include appointing a privacy official, taking appropriate steps to implement specific HIPAA requirements to safeguard the privacy of PHI, developing policies and procedures, training employees, and documentation. These are also items that you should discuss with your legal counsel.

MetLife is committed to keeping customers informed on HIPAA issues. Should you require additional information, please do not hesitate to contact us.

Sincerely,

Client Service

Attachments:

Sample HIPAA Plan Sponsor Certification
Sample HIPAA Certificate Language with HIPAA Request Form
HIPAA Privacy Notice

Option 1: Sample HIPAA Plan Sponsor Certification Form

Please read the following carefully:

The sample certification below should be reviewed by a customer's own legal advisor. MetLife does not make any representation as to the suitability of the sample certification for a particular plan. The sample is merely informational. If appropriate, the following may be copied to the Plan Sponsor's company letterhead for signature and submission.

{Customer Name} (the "Plan Sponsor"), as sponsor of a Dental and/or Vision benefit plan (the "Plan"), by affixing an authorized signature hereto, hereby certifies that it has amended documents of the Plan to incorporate the provisions set forth below and will continue to conduct its relevant operations pursuant thereto. Plan Sponsor's authorized signature also certifies that the Plan amendment incorporating such provisions became effective *{Effective Date of Amendment}*. Plan Sponsor understands that this certification is required by the Plan as part of its compliance with privacy regulations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

Provisions incorporated by the Plan amendment effective *{Effective Date of Amendment}* are as follows:

1. Any protected health information, as defined under HIPAA's privacy regulations, that is received by the Plan Sponsor, from the Plan or from an insurer or claim administrator ("Plan PHI"), shall not be used or further disclosed other than as permitted or required by the Plan documents or as required by law.
2. The Plan Sponsor shall ensure that any agents to whom the Plan Sponsor provides Plan PHI agree to the same restrictions and conditions that apply to the Plan Sponsor with respect to such information.
3. The Plan Sponsor shall not use or disclose Plan PHI for employment-related actions and decisions or in connection with any other benefit or employee benefit plan.
4. The Plan Sponsor shall report to the Plan any use or disclosure of the Plan PHI that is inconsistent with the uses or disclosures provided for in the Plan documents.
5. The Plan Sponsor shall provide individuals with access to, amendment of, and an accounting of disclosures of their Plan PHI in accordance with the respective HIPAA privacy regulation provisions governing such access, amendment and accounting as set forth at 45 CFR 164.524 through 164.528.
6. The Plan Sponsor shall make its internal practices, books, and records relating to its use or disclosure of Plan PHI available to the Secretary of the United States Department of Health and Human Services at his/her request to determine the Plan's compliance with 45 CFR Part 164, Subpart E of HIPAA.
7. The Plan Sponsor agrees that when it no longer needs the Plan PHI for the purposes for which it was received, it will, if feasible, return or destroy the Plan PHI it maintains in any form and retain no copies. If such return or destruction is not feasible, the Plan Sponsor shall limit the further use and disclosure of the Plan PHI to those purposes that make return or destruction infeasible.
8. The Plan Sponsor shall ensure that adequate separation will be maintained between the Plan and the Plan Sponsor and has provided elsewhere in its Plan documents provisions describing persons or classes of persons employed or otherwise under the control of the Plan Sponsor who have access to Plan PHI, restricting such persons' access and use of Plan PHI to "plan administration functions" as defined in HIPAA's privacy regulations, and providing an effective mechanism for resolving issues of noncompliance by such persons with provisions of the Plan documents governing the use and disclosure of Plan PHI.

I *{Insert Name of Signatory}*, duly authorized by *{Customer Name}* and as an officer of same, by affixing my authorized signature hereto, hereby certify on behalf of the Plan Sponsor, that it has amended documents of the Plan to incorporate the provisions set forth above and will continue to conduct its relevant operations pursuant thereto. My authorized signature for the Plan Sponsor also certifies that the Plan amendment incorporating such provisions became effective *{Effective Date of Amendment}* and that the Plan Sponsor understands that this certification is required by the Plan as part of its compliance with privacy regulations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

Option 2: Sample HIPAA Plan Document Privacy & Security Language

Please read the following carefully:

The language below is an example of the language that may be incorporated into the MetLife booklet certificate if the Plan Sponsor elects to use the certificate as their summary plan description by completing the HIPAA Request Form. The textual framework is consistent with the requirements of 45 CFR §§ 164.314(b) and 164.504(f) for plan documents of an ERISA-regulated and MetLife insured group Dental and/or Vision plan which may provide the plan sponsor with protected health information (PHI). PHI, as defined in regulations under the Health Insurance Portability and Accountability Act and with respect to a MetLife insured Dental and/or Vision plan, generally consists of individually identifiable information about Plan participants or their dependents, including health and demographic information that relates to their eligibility for Dental and/or Vision benefits under the Plan.

Notwithstanding any other Plan provision in this or other sections of this Plan, the Plan will operate in accordance with the HIPAA privacy laws and regulations as set forth in 45 CFR Parts 160 and 164, and as they may be amended ("HIPAA") with respect to protected health information ("PHI") as that term is defined therein. The Plan Administrator and/or his or her designee retain full discretion in interpreting these rules and applying them to specific situations. All such decisions shall be given full deference unless the decision is determined to be arbitrary and capricious.

The term "Plan Sponsor" means *[for a single employer or single union fill in the name of the employer or union that establishes and maintains the plan; for a plan established or maintained by multiple employers, multiple unions, or by a combination of employer(s) and union(s) fill in the name of the association, committee, joint board of trustees, or other similar group of representatives of the parties that established and are maintaining the employee benefit plan]*.

The term "Plan Administrator" means the *[entity designated as Plan Administrator by the plan documents pursuant to which the plan is operated. If a Plan Administrator is not designated by the plan documents, the Plan Sponsor shall be deemed to be the Plan Administrator]*.

I. Permitted Uses and Disclosures of PHI by the Plan and the Plan Sponsor

The Plan and the Plan Sponsor are permitted to use and disclose PHI for the following purposes, to the extent they are not inconsistent with HIPAA:

- For general plan administration, including policyholder service functions, enrollment and eligibility functions, reporting functions, auditing functions, financial and billing functions, to assist in the administration of a consumer dispute or inquiry, and any other authorized insurance or benefit function.
- As required for computer programming, consulting or other work done in respect to the computer programs or systems utilized by the Plan.
- Other uses relating to plan administration, which are approved in writing by the Plan Administrator or Plan Privacy Officer.
- At the request of an individual, to assist in resolving an individual's benefit or claim issues.

II. Uses and Disclosures of PHI by the Plan and the Plan Sponsor for Required Purposes

The Plan and Plan Sponsor may use or disclose PHI for the following required purposes:

- Judicial and administrative proceedings, in response to lawfully executed process such as a court order or subpoena.
- For public health and health oversight activities and other governmental activities accompanied by lawfully executed process.
- As otherwise may be required by law.

III. Sharing of PHI with the Plan Sponsor

As a condition of the Plan Sponsor receiving PHI from the Plan, the Plan Documents are hereby amended to incorporate the following provisions, under which the Plan Sponsor agrees to:

- Not use or further disclose PHI other than as permitted or required by the plan documents in Sections I and II above.
- Ensure that any agents to whom it provides PHI received from the Plan agree to the same restrictions and conditions that apply to the Plan Sponsor.
- Not use or disclose PHI for employment-related actions or decisions or in connection with any other benefit or employee benefit plan of the Plan Sponsor.
- Report to the Plan any use or disclosure of PHI that is inconsistent with the permitted uses or disclosures of which it becomes aware.
- Make PHI available to Plan participants for the purposes of the rights of access and inspection, amendment, and accounting of disclosures required by HIPAA.
- Make its internal practices, books and records relating to the use and disclosure of PHI received from the Plan available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining compliance by the Plan with HIPAA.
- If feasible, return or destroy all PHI received from the Plan that the sponsor still maintains in any form and retain no copies when no longer needed for the purpose for which disclosure was made, except that, if return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- Ensure adequate separation between the Plan and Plan Sponsor in accordance with the following requirements:
 - (A) Employees to be Given Access to PHI: The following employees (*or class of employees*) of the Plan Sponsor are the only individuals that may access PHI provided by the Plan:
Job titles provided on the HIPAA Request Form will display here
 - (B) Restriction to Plan Administration Functions: The access to and use of PHI by the employees of the Plan Sponsor designated above will be limited to plan administration functions that the Plan Sponsor performs for the Plan.
 - (C) Mechanism for Resolving issues of Noncompliance: If the Plan Administrator [***or Privacy Officer****] determines that an employee of the Plan Sponsor designated above has acted in noncompliance with the plan document provisions outlined above, then the Plan Administrator [***or Privacy Officer****] shall take or seek to have taken appropriate disciplinary action with respect to that employee, up to and including termination of employment as appropriate. The Plan Administrator [***or Privacy Officer****] shall also document the facts of the violation, actions that have been taken to discipline the offending party and the steps taken to prevent future violations.
- Certify to the Plan, prior to the Plan permitting disclosure of PHI to the Plan Sponsor, that the Plan Documents have been amended to incorporate the provisions of this Section III.

IV. Participants' Rights*

Participants and their covered dependents will have the rights set forth in the Plan's or its Dental and/or Vision insurer's HIPAA Notice of Privacy Practices for Protected Health Information and any other rights and protections required under HIPAA. The Notice may periodically be revised by the Plan or its Dental and/or Vision insurer.

V. Privacy Complaints/Issues*

All complaints or issues raised by Plan participants or their covered dependents in respect to the use of their PHI must be submitted in writing to the Plan Administrator **[or the Plan's appointed Privacy Officer*]**. A response will be made within 30 days of the receipt of the written complaint. In the event more time is required to resolve any issues, this period can be extended to 90 days. The affected participant must receive written notice of the extension and the resolution of their complaint. The Plan Administrator **[or Privacy Officer*]** shall have full discretion in resolving the complaint and making any required interpretations and factual determinations. The decision of the Plan Administrator **[or Privacy Officer*]** shall be final and be given full deference by all parties.

VI. Security

As a condition of the Plan Sponsor receiving electronic PHI ("ePHI") from the Plan, the Plan Documents have been amended to incorporate the following provisions, under which the Plan Sponsor agrees to:

- Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that it creates, receives, maintains, or transmits on behalf of the Plan;
- Ensure that the adequate separation between the Plan and the Plan Sponsor, which is required by the applicable section(s) of the Plan relating to the sharing of PHI with the Plan Sponsor, is supported by reasonable and appropriate security measures;
- Ensure that any agent to whom it provides ePHI agrees to implement reasonable and appropriate security measures to protect the information; and
- Report to the Plan any security incident of which it becomes aware. In this context, the term "security incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in information systems such as hardware, software, information, data, applications, communications, and people.

*** The term "Privacy Officer", the Participants Rights, and the Privacy Complaints/ Issues sections are optional. Please be sure to consult your legal advisor to determine if this information should be included in your booklet certificate. The Plan Sponsor must provide their elections using the HIPAA Request Form.**