

# Notice of Privacy Practices

## Merck Health Plans' Privacy Commitment

Effective Date: January 2, 2007

### Privacy Notice Summary

**THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED, AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. REVIEW IT CAREFULLY.**

Merck's Health Plans (including its medical plans, dental plans, vision plan, long-term care plan, and health care reimbursement account) are committed to offering comprehensive and confidential health care. Merck's Health Plans understand and respect that information about your health is very personal to you. Merck's Health Plans are committed to protecting personal health information about you in accordance with federal medical and state privacy laws, and Merck's privacy policies and procedures.

A federal medical privacy law called the Health Insurance Portability and Accountability Act (HIPAA) requires Merck's Health Plans to provide this Notice of Privacy Practices to you. HIPAA sets U.S. national standards for protecting medical records, health benefits records and other personal health information. The following is a summary of the details contained in this Notice and their impact on health plan participants.

Please read this entire Notice of Privacy Practices (available online through the Fidelity Benefits website at [www.401k.com](http://www.401k.com)) to understand your individual rights and the ways that Merck's Health Plans protect your privacy.

Health plan participants have ongoing opportunities to understand and control how personal health information about them may be used and disclosed, and individual privacy rights such as the rights to access and amend their enrollment, claims, payment and medical management records.

Boundaries and limitations have been set for uses and disclosures of personal health information by Merck's Health Plans.

Personal Health Information obtained or created by Merck's Health Plans will not be disclosed to Merck for use in employment-related decisions.



This Notice is divided into seven sections. The Plans are required by HIPAA to inform you of the following:

- 🔒 Who will follow this Notice?.....Page 2
- 🔒 How may Merck's Health Plans use and disclose health information about me?.....Pages 3-5
- 🔒 What uses and disclosures require my written authorization?.....Page 5
- 🔒 What are my six individual health privacy rights?.....Pages 6-7
- 🔒 How will I know whether Merck's Health Plans have changed this Notice?.....Page 8
- 🔒 How may I file a complaint?.....Page 8
- 🔒 Who may I contact for more information about the privacy practices of Merck's Health Plans?.....Page 8

## Overview

The “**personal health information**” described in this Notice includes both information about your medical condition or diagnosis (such as a diagnosis that you have pneumonia), as well as your health status (such as the fact that you visited a physician within the plan network for care, and the amount that the physician billed to the plan). It includes any information in any medium (for example: oral, electronic or paper) that can identify you as an individual, that relates to your health, your health care or payment for your health care, and that is received, collected, used or disclosed by Merck’s Health Plans (“the Plans”).

The Plans are separate and distinct legal entities from Merck. The Plans’ third party administrators and insurers perform claim administration among other activities for the Plans, and Merck administers other functions of the Plans, such as benefits design. The Plans receive enrollment information from Merck that lets the Plans know that you have elected to receive and are eligible for certain health benefits; for example, medical benefits through a Preferred Provider Organization (PPO), or vision benefits through the Vision Care Plan. The Plans’ third party administrators work on behalf of the Plans to process your claims, to reimburse you, to pay your doctor, hospital or other health care provider for your care, to review and decide whether certain services and referrals should be authorized, and to respond to your appeals, among other activities. As described in this Notice, the Plans use personal health information about you to assess and look for opportunities to improve the quality of the health care services and benefits they provide, to provide coverage for your health care, and to ensure that that the Plans’ comply with their legal and regulatory obligations. This Notice applies to all of the enrollment, claims, payment and medical management records of your care maintained by the Plans, whether maintained by the third party administrators or by employees of Merck who administer the Plans.

This Notice describes the ways in which the Plans may use and disclose personal health information about you, as well as your rights and obligations with respect to the use and disclosure of such information about you. The Plans are required by HIPAA to ensure that personal health information about you in their possession is kept private, to provide to you this Notice of Privacy Practices explaining the Plans’ legal obligations with respect to personal health information, and to follow the terms of the version of this Notice currently in effect, as indicated by the effective date above.

You may obtain a copy of the currently effective version of this Notice at any time on the Fidelity Benefits website at [www.401k.com](http://www.401k.com). If you participate in an insured HMO or other insured health plan, you will also receive a Notice of Privacy Practices from the insurer of that HMO or health plan.

## Who Will Follow This Notice?

This Notice describes the Plans’ practices, including those practices of the Plans’ third party administrators, as well as certain groups at Merck (described below) to the extent that these groups receive, collect, use or disclose personal health information about you to administer and design the Plans. Merck’s Health Plans include:

- The Medical and Dental components of Merck & Co., Inc. Medical, Dental and Long-Term Disability Plan for Non-Union Employees;
- The Medical and Dental components of Merck & Co., Inc. Medical, Dental and Long-Term Disability Plan for Union Employees;
- Merck & Co., Inc. Long-Term Care Plan;
- Merck & Co., Inc. Vision Care Plan; and
- Merck & Co., Inc. Health Care Account

The groups at Merck & Co., Inc. and its affiliates that may use personal health information about you to administer and design the Plans include, but are not limited to, those Human Resources and Finance teams that are responsible for employee benefits administration. This Notice also applies to the activities of any individual, group or organization that provides services on behalf of the Plans, including internal groups such as internal legal counsel and privacy and security officers, and information services teams; as well as external auditors, actuaries, consultants and legal counsel, however, these external groups may also provide their own Notice of Privacy Practices to you.

## Who Will Follow This Notice? *(continued from page 2)*

**These groups will not use or disclose within Merck personal health information about you for employment-related decisions unless you have provided written authorization for them to do so.**

**This Notice does not apply to Merck Health Services or other groups at Merck that may receive and use personal health information about you for purposes other than administration and design of the Plans.** For more information on uses of personal health information about you at Merck for purposes unrelated to plan administration or plan design, please refer to other privacy notices, consents or authorization forms that you have signed, or may be asked to sign.

## How May Merck's Health Plans Use and Disclose Health Information About Me?

The following categories describe the different ways that the Plans use and disclose personal health information. For each category, an explanation of the relevant uses or disclosures has been provided. Examples of uses and disclosures for some of the more comprehensive categories have also been provided. If any of the uses and disclosures described in this section are prohibited or materially limited by applicable law, the Plans will abide by the "more stringent" law as that term is defined in HIPAA. Uses and disclosures that require your written authorization are described in the section, "What uses and disclosures require my written authorization" on page 5.

**Treatment** – The Plans may share personal health information about you with your health care providers to assist your providers in providing treatment to you. For example, the Plans' administrators may disclose to your orthopedic surgeon the name of your rheumatologist so that your surgeon can contact your rheumatologist to discuss your arthritis treatment history.

**Payment** – The Plans may use personal health information about you to provide and make coverage determinations and to perform other activities related to payment for your health care. These activities may include, but not be limited to, determinations of whether you are eligible for certain benefits; billing; claims management, adjudication and subrogation; plan reimbursement; and reviews for medical necessity, appropriateness of care, preauthorization, precertification, and utilization review. For example, the Plans' administrators may tell your doctor whether you or your dependents are eligible for coverage for certain services, such as orthotics or orthopedic shoes, outpatient surgery at an ambulatory surgical center, or home hospice care.

**Health Care Operations** – In order to effectively operate and provide quality health care benefits to Merck employees and their beneficiaries, the Plans may use and disclose personal health information about you for the business management and administrative activities of the Plans. The following are examples of some of these activities: the Plans may use personal health information about you to review the quality of the benefits that they provide and to evaluate and compare the performance of the administrators that service the Plans. The Plans may consolidate personal health information about many participants in each of the Plans to evaluate the effectiveness of current benefits and coverage, and to assess and arrange for new benefits options. The Plans may use personal health information about you for preventative health, disease management, case management and coordination of your care. The Plans may use personal health information to train health benefits professionals and administrative staff. Personal health information may also be used and disclosed for medical review, legal and compliance analysis, and auditing of the Plans' operations. The Plans will remove information that identifies you from any copies of claims reports, eligibility records, payment and case management records or related health information so that they can disclose it to others who may assist the Plans with health care operations, or who may use it for health care studies, without identifying specific patients.

If circumstances arise where Merck may, for business reasons, decide to reorganize or divest its business through sale, merger or acquisition, personal health information maintained by the Plans may be shared with actual or prospective purchasers as permitted by law. In addition, Merck may reorganize the Plans from time to time; if so, the Plans may share personal health information with a new or reorganized Merck Health Plan. Merck and the Plans will ensure that personal health information is protected appropriately in these circumstances.

## How May Merck's Health Plans Use and Disclose Health Information About Me? *(continued from page 3)*

**Treatment Alternatives** – The Plans may use and disclose personal health information to provide recommendations to you and to share information with you about alternative treatment options that the Plans determine may be of interest to you.

**Health-Related Benefits and Services** – The Plans may use and disclose personal health information about you to let you know about various health-related benefits and services that the Plans believe may be of interest to you, such as preventative and disease management programs that may be offered.

**Merck as the Employer Plan Sponsor** – Merck's Health Plans, which are separate legal entities from Merck, may disclose personal health information to individuals and groups at Merck so that these individuals can perform administrative functions for the Plans. These groups are described above in the section "Who will follow this Notice?".

**These groups will not use or disclose within Merck personal health information about you for employment-related decisions unless you have provided written authorization for them to do so.**

**Required by Law** – The Plans will disclose personal health information about you when required to do so by federal, state or local law.

**Health and Safety Risks** – The Plans may disclose personal health information about you to public health authorities to prevent or control disease, injury or disability; to report adverse reactions to medications; to track and report problems with medical products; or to notify appropriate governmental authorities if the Plans believe that a plan participant has been a victim of abuse, neglect or domestic violence. The Plans may disclose personal health information about you to public health authorities so that they may notify individuals who may have been exposed to a disease or who may be at risk for contracting or spreading a disease or condition. The Plans may also use or disclose personal health information to prevent a serious threat to your health and safety or the health and safety of the public or another person.

**Workers' Compensation** – The Plans may also disclose the minimum amount of personal health information about you necessary for workers' compensation programs and benefits as required by law.

**Public Health Oversight Activities** – The Plans may disclose personal health information about you as authorized by law for audits, inspections, and investigations by governmental agencies responsible for oversight of health care systems, monitoring of governmental programs, and compliance with applicable laws and regulations.

**Research** – The Plans may disclose personal health information for research studies, such as public health research, where you have provided written authorization for such research as described in the section on "What uses and disclosures require my written authorization" below, where the Plans have removed information that identifies you from any copies of case or medical management records or related health information so that the research may be conducted without identifying specific patients, or where, unless prohibited by more stringent state law, you have not provided an authorization but a privacy board has determined that the risks to your privacy are minimal. The Plans may also enable qualified professionals who are preparing to conduct a research project to review the minimum amount of personal health information in the Plans' records necessary to identify patients with medical needs specific to the research project.

**Disclosures to Individuals Involved in Your Health Care** – The Plans may disclose directly relevant personal health information about you to a friend or family member who is involved in your health care. You have the right to prevent this disclosure by contacting the Merck HR Service Center or your administrator referenced below. For example, if a family member or caregiver contacts the Plans' third party administrators with prior knowledge of a claim, the administrators may confirm for the family member or caregiver whether or not the claim has been paid.

**Deceased Persons** – As necessary, the Plans may use or disclose personal health information about deceased persons to coroners, medical examiners, funeral directors and organ donor organizations.

## How May Merck's Health Plans Use and Disclose Health Information About Me? *(continued from page 4)*

**Legal Proceedings** – If you are involved in a lawsuit or dispute, the Plans may disclose personal health information about you in response to a court order or an administrative order. The Plans may also disclose personal health information about you in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if the Plan receives written assurances that reasonable efforts have been made by the party seeking the information to provide written notice of the request to you or to obtain a court or administrative order to protect and restrict the use and disclosure of the personal health information requested.

**Law Enforcement** – The Plans may disclose personal health information for law enforcement purposes in response to a court order, subpoena, warrant, summons, or similar legal process. Limited personal health information may be disclosed to law enforcement officials to locate or identify missing persons, suspects, fugitives or material witnesses. In support of criminal inquiries, personal health information may be disclosed in limited circumstances about the victim of a crime, about a death the Plans believe to be the result of criminal conduct, about criminal conduct related to the Plans, and in emergency circumstances to report a crime, the location of a crime or victims of a crime, or the identity, description or location of a person who committed the crime.

**National Security** – The Plans may disclose personal health information about you to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized by law.

**HIPAA Complaint Investigations and Compliance Reviews** – The Plans will disclose personal health information as required to the Secretary or other authorized official of the U.S. Department of Health and Human Services for purposes of HIPAA complaint investigations and compliance reviews.

## What Uses and Disclosures Require My Written Authorization?

Merck's Health Plans will use or disclose personal health information about you for other purposes, which are not described in the section, "How may Merck's Health Plans use and disclose health information about me?," only with your written authorization. Occasionally, the Plans may recommend or offer other services that only may be provided to you with your written authorization. Such purposes may include, but not be limited to, participation in a public health research study, provision of certain product communications or offers, and certain types of mental health services.

You are permitted to withdraw an authorization that you have provided, however, certain authorizations may apply necessary restrictions to your ability to withdraw. If you withdraw your authorization, the Plans will no longer use or disclose personal health information about you for the reasons covered by that authorization. The Plans are unable to undo any disclosures that have already been made with your authorization, and the Plans are required to retain records of your participation in a plan, records of the claims submitted for coverage under the Plans, records of medical or case management provided or coordinated by the Plans, and records of the Plans' health care operations. You should review each authorization form carefully prior to signing.



## What Are My SIX Individual Health Privacy Rights?

You have the following rights regarding personal health information that Merck's Health Plans maintain about you:

### **Right to Access Personal Health Information About You**

You have the right to inspect and copy personal health information in the Plans' enrollment, claims, payment, and medical management records, which may be used by the Plans to make decisions about your care, by submitting your request in writing to the Merck HR Service Center or your administrator referenced below.

**Requests for access to claim and medical management records should be directed to your administrators.** The Merck HR Service Center may refer you to your administrators or other service providers in cases where these organizations maintain the records to which you are requesting access. This right does not extend to personal health information compiled in preparation for a civil, criminal or administrative action or proceeding; or to psychotherapy notes. The Plans will respond to your request within 30 days following receipt of the request if such information is maintained on site or 60 days if maintained off site or by someone else. The Plans may charge a reasonable fee to cover the cost of producing and mailing the copies.

Limitations: In limited circumstances, the Plans may deny your access request in whole or in part, such as in instances where another person's confidentiality may be jeopardized, or where such access may endanger the life or physical safety of you or another individual. The Plans will provide denials in writing. If you are denied access to personal health information, you may request that the denial be reviewed. A licensed professional, who did not participate in the original decision to deny, will review your request and the denial. The Plans will act in accordance with the reviewer's determination.

### **Right to Amend Personal Health Information About You**

If you believe that personal health information that the Plans have about you in enrollment, claims, payment, and medical management records, which may be used by the Plans to make decisions about your care, is inaccurate or incomplete, you may ask for the information to be amended. You have the right to request such an amendment for as long as the Plans retain the personal health information in these records. Your request for amendment must be submitted in writing to the Merck HR Service Center or your administrator referenced below.

**Requests for amendment to claim and medical management records should be directed to your administrators.** The Merck HR Service Center may refer you to your administrators or other service providers in cases where these organizations maintain the records to which you are requesting amendment. Your request must include a reason for the amendment that supports your request. The Plans will respond to your request within 60 days following receipt of the request.

Denials: The Plans may deny your request if it is not in writing or if it does not include a reason for the amendment that supports your request. The Plans may deny your request if the Plans did not create the personal health information, unless the individual or organization that created the information is no longer available to amend the information. The Plans may deny your request if the personal health information is not part of the Plans' enrollment, claims, payment, and medical management records, that may be used by the Plans to make decisions about your care, or if you would not be permitted to access such information as explained under your "Right to Access". The Plans will not amend information in these records that is accurate or complete. The Plans will provide denials in writing explaining the basis for the denial. You may then submit a written statement to us disagreeing with the denial. Your statement of disagreement will be included with any future disclosures of such personal health information about you by the Plans.

### **Right to an Accounting of Disclosures**

You have the right to request and receive a list of the disclosures of personal health information that the Plans have made about you, such as disclosures for workers' compensation purposes. You must submit your requests for accounting of disclosures in writing to the Merck HR Service Center or your administrator referenced below. You must specify in your request the time period for which you are requesting the accounting, however, the time period may not exceed six years prior to the date of the request, and may not include dates prior to April 14, 2003. You should specify whether you prefer to receive the list of disclosures on paper or electronically. The Plans will respond to your request within 60 days following our receipt of the request.

## What Are My SIX Individual Health Privacy Rights? *(continued from page 6)*

### **Right to an Accounting of Disclosures**—*continued*

Exclusions: Any list that the Plans provide in response to your request will exclude disclosures as described above that have been made for treatment, payment or health care operations; disclosures that you have authorized in writing; disclosures that the Plans have made to you or to your personal representative about you; disclosures to individuals involved in your care; disclosures for national security; disclosures where direct identifiers, such as your name and street address, have been removed from the personal health information; and disclosures incidental to other permitted uses and disclosures.

Limitations: The Plans will provide one free list of disclosures in response to your requests per 12-month period. If you request additional lists within a single 12-month period, the Plans may charge you for the costs of providing the lists to you. The Plans will notify you of any costs involved, and you will be permitted to withdraw or modify your request before costs are incurred in order to avoid or reduce the fee.

### **Right to Request Restrictions**

You have the right to request a restriction or limitation on the personal health information that the Plans use and disclose about you for purposes of treatment, payment, or health care operations. You also may request a limitation on the personal health information that the Plans disclose about you to individuals involved in your care. You must submit your requests for restrictions or limitations to the Merck HR Service Center or your administrator referenced below. Your request must specify the information that you want to restrict or limit, whether you want the restriction or limitation to apply to the Plans' use, disclosure or both, and to whom you want the restriction or limitation to apply.

Limitations: **The Plans will consider, but are not required to agree to your request.** If the Plans do agree to your request, they will honor your request unless the information is needed to provide emergency treatment to you.

### **Right to Request Confidential Communications**

You have the right to request that the Plans communicate with you about your health in specific confidential ways or at specific confidential locations, such as by confidential mail or only at work, if you believe that the information to be communicated could put you in danger. You must submit your request for confidential communications in writing to the Merck HR Service Center or your administrator referenced below. Your request must specify how or where you prefer that the Plans contact you. Your request must include a statement that the disclosure of all or part of the information could put you in danger, and must specify how or where you prefer that the Plans contact you. All reasonable requests will be accommodated.

### **Right to a Paper Copy of this Notice**

You have the right to receive a paper copy of this Notice, even if you have received the Notice electronically. To obtain a paper copy of the currently effective version of this Notice, please contact the Merck HR Service Center. You may obtain a copy of the currently effective version of this Notice at any time on the Fidelity Benefits website at [www.401k.com](http://www.401k.com).

## How Will I Know Whether Merck's Health Plans Have Changed This Notice?

Merck's Health Plans reserve the right to change this Notice, and to apply such changes to any personal health information that the Plans have received or generated about you prior to or after the date of the changes. If the Plans make material changes to the Notice, copies of the updated Notice will be distributed to you within 60 days after the effective date of the change. **The effective date can be located in the top third of the summary page of the Notice and in the footer of each subsequent page of the printed Notice.** In addition, as described above, you may obtain the currently effective version of this Notice at any time on the Fidelity Benefits website at [www.401k.com](http://www.401k.com) or by contacting the Merck HR Service Center.

## How May I File a Complaint?

If you believe that your privacy rights have been violated, you may file a complaint with the Merck HR Service Center or the Merck Privacy Office at [merck\\_privacy\\_office@merck.com](mailto:merck_privacy_office@merck.com). Please include with your complaint, your name and phone number, as well as your fax number, if available. You also may file a complaint with the Secretary of the U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201. **Complaints to the Secretary must be filed in writing. You will not be penalized or retaliated against for filing a complaint.**

## Who May I Contact About the Privacy Practices of Merck's Health Plans?

Please contact the Merck HR Service Center or your third party administrators as listed at [http://humres.merck.com/benefits/vendor\\_phones.html](http://humres.merck.com/benefits/vendor_phones.html) and in the Summary Plan Description (SPD), as it may be amended from time to time, for your Medical, Dental, Vision, or Long-Term Care Plan, or your Health Care Account. The Merck HR Service Center may refer you to your administrators or other service providers in cases where these organizations maintain the records and processes about which you are requesting the information.

**Merck HR Service Center:** 866-MRK-HR4U (New Jersey: 908-236-1999) (M–F; 8:00 a.m.- 5:00 p.m. ET) or on the Merck Intranet: [http://humres.merck.com/eis/employee\\_services](http://humres.merck.com/eis/employee_services).

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