



Legislation Text

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021695
Substitute 1

THE CHAIR

Substitute resolution implementing requirements of the Health Insurance Portability and Accountability Act of 1996 with respect to protected health information of individuals participating in the City of Milwaukee's self-funded Basic Health Plan and adopting Plan provisions relating to restrictions on the plan sponsor's use and disclosure of protected Health Information.

This resolution adopts provisions required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and 45 C.F.R. section 164.504(f)(2) in connection with the use and disclosure of protected health information in connection with the administration of the City of Milwaukee's self-funded Basic Health Plan.

Whereas, The City of Milwaukee is the plan sponsor of the City of Milwaukee Basic Health Plan, a self-funded health insurance plan administered under an agreement with Wisconsin Physicians Service Insurance Corporation, that provides benefits to certain employees and retirees of the City of Milwaukee and their eligible dependents; and

Whereas, From time to time, the City of Milwaukee receives protected health information in connection with the Basic Health Plan, and this information may be identified to the individual in some cases; and

Whereas, Under the requirements of the Health Insurance Portability and Accountability Act of 1996, the City of Milwaukee is limited in how it may use protected health information; and

Whereas, A plan sponsor may use protected health information only to the extent necessary to carry out plan administration functions of the Basic Health Plan relating to payment or health care operations, as defined in 45 CFR Subtitle A, Subchapter C, Part 164 - Security and Privacy, or as required by law; and

Whereas, 45 CFR § 164.504(f)(2) requires that the City of Milwaukee, as the Plan Sponsor of the City's Basic Health Plan, establish the permitted and required uses and disclosures of Protected Health Information under the Privacy Rule; and

Whereas, The Common Council of the City of Milwaukee desires to take action to comply with the requirements of federal regulations relating to the use and disclosure of protected health information in connection with the operation and administration of the Basic Health Plan; now, therefore, be it

Resolved, That the Common Council of the City of Milwaukee:

1. The City of Milwaukee, when acting in its capacity as plan sponsor of the Basic Health Plan, will from time to time make uses and disclosures of protected health information with respect to individuals participating

in the Basic Health Plan. These uses will be limited to uses and disclosures for the purposes of the plan administration functions of treatment, payment or health care operations, or as required by law.

2. Prior to receiving any protected health information in its capacity as plan sponsor of the Basic Health Plan, the City of Milwaukee must provide a certified copy of this resolution as certification that it has agreed to the provisions in paragraph 3 hereof with respect to the City's Basic Health Plan.
3. Effective April 14, 2003, the City of Milwaukee, as plan sponsor, shall:
 - A. Not use or disclose information other than as stated above;
 - B. Require that any agents, including subcontractors of the City of Milwaukee as plan sponsor, to whom it provides protected health information received from the Basic Health Plan, agree to the same restrictions and conditions that apply to the plan sponsor with respect to such information, prior to giving the information to them, and will obtain written agreements for this purpose;
 - C. Not use or disclose the information for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the City of Milwaukee;
 - D. Report to the Basic Health Plan any use or disclosure of the information that is inconsistent with the uses or disclosures provided for in this resolution, of which it becomes aware;
 - E. Make available, to an individual requesting it, access to his or her own protected health information, in accordance with 45 CFR §164.524 ;
 - F. Make available, to an individual requesting it, protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.526;
 - G. Make available, to an individual requesting it, the information required to provide an accounting of disclosures in accordance with 45 CFR §164.528;
 - H. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from the Basic Health Plan available to the Secretary of the United States Department of Health and Human Services for purposes of determining compliance by the group health plan with this 45 CFR §§164.500 to 534;
 - I. If feasible, return or destroy all protected health information received from the Basic Health Plan that the City of Milwaukee, as plan sponsor, still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made. If such return or destruction is not feasible, the City of Milwaukee, as plan sponsor, will limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and
 - J. Maintain adequate separation between the Basic Health Plan and the City of Milwaukee, as plan sponsor. Access to protected health information will be limited to employees of the Employee Benefits Division of the Department of Employee Relations, the office of the City Comptroller, the office of the City Attorney, and payroll clerks who provide services in connection with the Basic Health Plan. These individuals will receive the minimum necessary information to carry out the plan functions they

perform; and

- K. Access to and use by such the City employees described in paragraph (J) above and as described in paragraph 1 of this Resolution shall be restricted to health plan administration functions that the City of Milwaukee performs for the Basic Health Plan as plan sponsor.
4. Any City employee who fails to comply with the terms of this resolution will be subject to discipline consistent with the provisions of applicable collective bargaining agreements, existing ordinances and City Service Commission Rules.
5. The Basic Health Plan will disclose protected health information to the City of Milwaukee, as plan sponsor, only upon receipt of a certified copy of this resolution.
6. The Employee Benefits Manager is hereby designated as the Privacy Officer for the City of Milwaukee Basic Health Plan and the Privacy Contact for the Basic Health Plan.

City Attorney
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