



Consolidated Edison Company  
of New York, Inc.  
4 Irving Place  
New York NY 10003-0987

November, 2019

Dear Retiree,

As a retiree covered under one of the health plans offered by Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc., we are required to notify you of the privacy practices that will be followed by the companies and the health plans under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to protect your personal health information (PHI). Privacy practices to protect your PHI went into effect on April 14, 2003 and continue to date.

The United States Department of Health and Human Services has issued final rules to implement statutory amendments under the Health Information Technology for Economic and Clinical Health (HITECH) and privacy protections for genetic information under the Genetic Information Nondiscrimination Act of 2008 (GINA).

Under the law and privacy practices, we have the responsibility to protect the privacy of your PHI by:

- Limiting who may see your PHI
- Limiting how we may use or disclose your PHI
- Explaining our legal duties and privacy practices
- Adhering to these privacy practices
- Informing you of your legal rights

The attached Notice of Privacy Practices describes how we will comply with the law and your legal rights. If you have any questions or would like a printed version of this Notice, you may contact the HR Service Center at 1-800-582-5056.

Sincerely,

Hector J. Reyes  
Director, Employee Benefits

**NOTICE OF PRIVACY PRACTICES**  
**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.**  
**These Practices Went Into Effect On April 14, 2003**

The Health Plan Program sponsored by Consolidated Edison Company of New York, Inc. (CECONY) and Orange and Rockland Utilities, Inc. (O&R) are administered under the Consolidated Edison Organized Health Care Arrangement (Health Care Arrangement). Throughout this Notice, each separate plan covered by the Health Care Arrangement is referred to as a Plan Option. The complete list of health plan options is available upon request.

The Health Care Arrangement is required under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to protect the privacy of your health information. This Notice is required by HIPAA and explains how your health information can be used and your legal rights under the law.

Each Plan Option is required to take reasonable steps to ensure the privacy of your personally identifiable health information and to inform you about:

- The Plan's uses and disclosures of Protected Health Information (PHI), which includes all individually identifiable health information transmitted or maintained, orally, in writing, or electronically by a Plan Option
- Your privacy rights with respect to your PHI
- Each Plan Option's duties with respect to your PHI
- Your right to file a complaint with each Plan Option and to the Secretary of the U.S. Department of Health and Human Services
- The person or office to contact for further information about each Plan Option's privacy practices

**Notice of PHI Uses and Disclosures**

The Privacy Rules provide that, upon your request, each Plan Option is required to give you access to certain PHI in order to inspect and copy it. Use and disclosure of your PHI may be required by the Secretary of the U.S. Department of Health and Human Services to investigate or determine a Plan Option's compliance with the privacy regulations. The following information describes your rights:

**A. Uses and disclosures to carry out treatment, payment and health care operations**

Each Plan Option is entitled to and will use PHI without your authorization to carry out Treatment, Payment and health care Operations (TPO). Each Plan Option is entitled to and will also disclose PHI to your employer for purposes related to TPO.

*Treatment* means the provision, coordination or management of health care and

related services. It also includes but is not limited to consultations and referrals between one or more of your providers. For example, each Plan Option may disclose to a treating health care specialist the name of your primary physician so that the specialist may ask for your X-rays from your primary physician.

*Payment* means actions to make coverage determinations and payment including billing, claims management, subrogation, Plan Option reimbursement, coordination of benefits, reviews for medical necessity and appropriateness of care and utilization review and pre-authorizations. For example, each Plan Option may tell a doctor whether you are eligible for coverage or what percentage of the bill will be paid by a Plan Option.

*Health care operations* means quality assessment and improvement, reviewing competence or qualifications of health care professionals, underwriting, premium rating and other insurance activities relating to creating or renewing insurance contracts. It also includes disease management, case management, conducting or arranging for medical review, legal services and auditing functions including fraud and abuse compliance programs, business planning and development, business management and general administrative activities. For example, each Plan Option may use information about your claims to project future benefit costs or audit the accuracy of its claims processing functions.

Each Plan Option is prohibited from using or disclosing genetic information for underwriting purposes, and will not use or disclose any of your PHI containing genetic information.

## **B. Uses and disclosures that require your written authorization**

Your written authorization generally will be obtained before a Plan Option will use or disclose psychotherapy notes about you from your psychotherapist. Psychotherapy notes are separately filed notes about your conversations with your mental health professional during a counsel session. They do not include summary information about your mental health treatment. A Plan Option may use and disclose such notes when needed by a Plan Option to defend against litigation filed by you.

Your written authorization will be required in the event that your PHI is used or disclosed in a manner not specifically stated in this Notice. In the event that you provide a written authorization, you have the right to revoke such authorization at any time.

## **C. Uses and disclosures that require that you be given an opportunity to agree or disagree prior to the use or release**

Disclosure of your PHI to family members, other relatives and your close personal friends is allowed if the information is directly relevant to the family or friend's involvement with your care or payment for that care and you have either agreed to the disclosure or have been given an opportunity to object and have not objected.

#### **D. Uses and disclosures for which consent, authorization or opportunity to object is not required**

Use and disclosure of your PHI is allowed without your authorization or request under the following circumstances:

- (1) When permitted for purposes of public health activities, including when necessary to report product defects, to permit product recalls and to conduct post-marketing surveillance. PHI may also be used or disclosed if you have been exposed to a communicable disease or are at risk of spreading a disease or condition, if authorized by law.
- (2) When authorized by law to report information about abuse, neglect or domestic violence to public authorities if there exists a reasonable belief that you may be a victim of abuse, neglect or domestic violence. In such case, a Plan Option will promptly inform you that such a disclosure has been or will be made unless that notice would cause a risk of serious harm. For the purpose of reporting child abuse or neglect, it is not necessary to inform the minor that such a disclosure has been or will be made. Disclosure may generally be made to the minor's parents or other representative although there may be circumstances under federal or state law when the parents or other representative may not be given access to the minor's PHI.
- (3) A Plan Option may disclose your PHI to a public health oversight agency for oversight activities authorized by law. This includes uses or disclosures in civil, administrative or criminal investigations; inspections; licensure or disciplinary actions (for example, to investigate complaints against providers); and other activities necessary for appropriate oversight of government benefit programs (for example, to investigate Medicare or Medicaid fraud).
- (4) A Plan Option may disclose your PHI when required for judicial or administrative proceedings. For example, your PHI may be disclosed in response to a subpoena or discovery request provided certain conditions are met. One of those conditions is that satisfactory assurances must be given to a Plan Option that the requesting party has made a good faith attempt to provide written notice to you, and the notice provided sufficient information about the proceeding to permit you to raise an objection and no objections were raised or were resolved in favor of disclosure by the court or tribunal.
- (5) When required for law enforcement purposes including for the purpose of identifying or locating a suspect, fugitive, material witness or missing person. Also, when disclosing information about an individual who is or is suspected to be a victim of a crime but only if the individual agrees to the disclosure or the covered entity is unable to obtain the individual's agreement because of emergency circumstances. Furthermore, the law enforcement official must represent that the information is not intended to be used against the individual, the immediate law enforcement activity would be materially and adversely affected by waiting to obtain the individual's agreement and disclosure is in the best interest of the individual as determined by the exercise of a Plan Option's best judgment.

- (6) When required to be given to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death or other duties as authorized by law. Also, disclosure is permitted to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent.
- (7) A Plan Option may use or disclose PHI for research, subject to conditions.
- (8) When consistent with applicable law and standards of ethical conduct if a Plan Option, in good faith, believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and the disclosure is to a person reasonably able to prevent or lessen the threat, including the target of the threat.
- (9) When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.
- (10) When required by law.

## **Rights of Individuals**

### **A. Right to Request Restrictions on PHI Uses and Disclosures**

You may request a Plan Option to restrict uses and disclosures of your PHI to carry out TPO, or to restrict uses and disclosures to family members, relatives, friends or other persons identified by you who are involved in your care or payment for your care. However, a Plan Option is not required to agree to your request.

A Plan Option will accommodate reasonable requests to receive communications of PHI by alternative means or at alternative locations. You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI. Such requests should be made to the following privacy official: Hector Reyes, Employee Benefits Department, 4 Irving Place, 15th Floor, New York, New York, 10003, 212-780-8246.

### **B. Right to Inspect and Copy PHI**

You have a right to inspect and obtain a copy of your PHI contained in a designated record set, for as long as a Plan Option maintains the PHI. A designated record set includes the medical and billing records about individuals maintained by or for a covered health care provider; enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a Plan Option; or other information used in whole or in part by or for the covered entity to make decisions about individuals. Information used for quality control or peer review analyses and not used to make decisions about individuals is not in the designated record set.

Effective as of 2013, the requested information will be provided within 30 days. A single 30 day extension is allowed if a Plan Option is unable to comply with the deadline.

You or your personal representative will be required to complete a form to request access to the PHI in your designated record set. Requests for access to PHI should be made to the following official: Hector Reyes, Employee Benefits Department, 4 Irving Place, 15<sup>th</sup> Floor, New York, New York, 10003, 212-780-8246.

HITECH provides that when a covered entity such as The Plan Option uses or maintains a designated record set with respect to an individual's PHI, the individual shall have a right to obtain from the covered entity or direct the covered entity to transmit to a designee, a copy of such information in an electronic format.

If the PHI is not readily producible in the electronic form or format that the individual requested, the entity will give the individual access to the PHI in an alternative, readable form or format agreed to by the entity and the individual.

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 those review rights and a description of how you may complain to the Secretary of the U.S. Department of Health and Human Services.

### **C. Right to Amend PHI**

You have the right to request a Plan Option to amend your PHI or a record about you in a designated record set for as long as the PHI is maintained in the designated record set. You or your personal representative will be required to complete a form to request amendment of the PHI in your designated record set.

A Plan Option has 60 days after the request is made to act on the request. A single 30 day extension is allowed if a Plan Option is unable to comply with the deadline. If the request is denied in whole or part, a Plan Option must provide you with a written denial that explains the basis for the denial. You or your personal representative may then submit a written statement disagreeing with the denial and have that statement included with any future disclosures of your PHI.

Requests for amendment of PHI in a designated record set should be made to the following official: Hector Reyes, Employee Benefits Department, 4 Irving Place, 15<sup>th</sup> Floor, New York, New York, 10003, 212-780-8246.

### **D. The Right to Receive an Accounting of PHI Disclosures**

At your request, a Plan Option will also provide you with an accounting of disclosures by a Plan Option of your PHI during the six years prior to the date of your request. However, such accounting need not include PHI disclosures made:

(1) to carry out TPO; (2) to individuals about their own PHI; or (3) prior to the April 14, 2003 compliance date.

If the accounting cannot be provided within 60 days, an additional 30 days is allowed if the individual is given a written statement of the reasons for the delay and the date by which the accounting will be provided.

If you request more than one accounting within a 12-month period, a Plan Option will charge a reasonable, cost-based fee for each subsequent accounting.

## **E. The Right to Receive a Paper Copy of This Notice Upon Request**

To obtain a paper copy of this Notice contact the following official: Hector Reyes, Employee Benefits Department, 4 Irving Place, 15th Floor, New York, New York, 10003, 212-780-8246.

### **Note About Personal Representatives**

You may exercise your rights through a personal representative. Your personal representative will be required to produce evidence of his/her authority to act on your behalf before that person will be given access to your PHI or allowed to take any action for you. Proof of such authority may take one of the following forms: a power of attorney for health care purposes, notarized by a notary public; a court order of appointment of the person as the conservator or guardian of the individual; or an individual who is the parent of a minor child.

A Plan Option retains discretion to deny access to your PHI to a personal representative to provide protection to those vulnerable people who depend on others to exercise their rights under these rules and who may be subject to abuse or neglect. This also applies to personal representatives of minors.

### **Plan Option's Duties**

A Plan Option is required by law to maintain the privacy of PHI and to provide participants and beneficiaries with notice of its legal duties and privacy practices.

Each Plan Option is required to notify affected individuals in the event of a breach of unsecured PHI.

This Notice went into effect on April 14, 2003, and each Plan Option is required to comply with the terms of this Notice. However, each Plan Option reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by a Plan Option prior to that date. If a privacy practice is changed, a revised version of this Notice will be provided.

Any revised version of this Notice will be distributed within 60 days of the effective date or as soon as administratively practicable of any material change to the uses or disclosures, the individual's rights, the duties of a Plan Option or other privacy practices stated in this Notice.

### **Minimum Necessary Standard**

When using or disclosing PHI or when requesting PHI from another covered entity, a Plan Option will make reasonable efforts not to use, disclose or request more than the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request, taking into consideration practical and technological limitations.

However, the minimum necessary standard will not apply in the following situations: disclosures to or requests by a health care provider for treatment; uses or disclosures made to the individual; disclosures made to the Secretary of the U.S. Department of



Health and Human Services; uses or disclosures that are required by law; and uses or disclosures that are required for a Plan Option's compliance with legal regulations.

This Notice does not apply to information that has been de-identified. De-identified information is information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

In addition, a Plan Option may use or disclose summary health information to a Plan Option sponsor for obtaining premium bids or modifying, amending or terminating the group health Plan Option, which summarizes the claims history, claims expenses or type of claims experienced by individuals for whom a Plan Option sponsor has provided health benefits under a group health Plan Option; and from which identifying information has been deleted in accordance with HIPAA.

### **Your Right to File a Complaint**

If you believe that your privacy rights have been violated, you may complain to a Plan Option in care of the following official: Hector Reyes, Employee Benefits Department, 4 Irving Place, 15<sup>th</sup> Floor, New York, New York, 10003, 212-780-8246.

You may also file a complaint with the Secretary of the U.S. Department of Health and Human Services, Region II, Office for Civil Rights, U.S. Department of Health and Human Services, Jacob Javits Federal Building, 26 Federal Plaza, Suite 3312, New York, NY 10278. Complaints may also be sent by e-mail to [OCRComplaint@hhs.gov](mailto:OCRComplaint@hhs.gov).

Your employer will not retaliate against you for filing a complaint.

### **Whom to Contact at a Plan Option for More Information**

If you have any questions regarding this Notice or the subjects addressed in it, you may contact the HR Service Center at 1-800-582-5056.

### **Conclusion**

PHI use and disclosure by a Plan Option is regulated by HIPAA. You may find these rules at 45 Code of Federal Regulations, Parts 160 and 164. This Notice attempts to summarize the regulations. The regulations will supersede any discrepancy between the information in this Notice and the regulations.