



CONFIDENTIALITY NOTICE

First Advantage Employee Assistance Program ("the EAP") provides problem-solving services to employees and their eligible family members ("clients") through Local Network Affiliates ("LNAs.") These services include interventions relating to stress management, substance abuse, family issues and other interventions that the EAP deems necessary for problem resolution. Other services provided include child/elder care information and referral, legal and financial counseling and other non-health related services.

STATEMENT OF PURPOSE

This Notice describes how information about you that is created for or by the EAP may be used and disclosed. It is the EAP's policy to protect and refrain from disclosing confidential information that may be obtained from our clients that relates to our clients' medical condition or health. Laws and/or ethical standards, however, may limit this confidentiality. In particular, it is the EAP's policy to protect and maintain the confidentiality and privacy of any information that may be deemed identifiable, confidential medical information relating to problem resolution (hereinafter "confidential medical information" or "CMI").

While the EAP does not believe itself to be a "covered entity" obligated to meet the requirements of the HIPAA Privacy Standards (see definitions and references which follow), with respect to a client's CMI, the EAP wishes to protect all clients' confidential medical information from improper use and disclosure, and agrees to use and disclose all clients' CMI, to the extent consistent with law and the purposes for which this information has been obtained as described in this document.

FEEDBACK/RELEASE OF INFORMATION

Information concerning use of the EAP services will not be a part of the client's personnel record and will not be disclosed except as described below:

Self-Referrals: If any employee or family member voluntarily comes in for assistance, no information concerning a person's counseling with the EAP will be discussed or released to anyone other than the LNA without the client's written permission.

Supervisor Referrals/Medical Referrals/Mandatory Referrals: If an employee is referred by his/her supervisor, medical or human resources department of his/her company, and signs a release of information, the EAP will only discuss with the company's personnel designated to monitor such referrals, (a) the reasons for the referral, (b) its recommendations, (c) the client's participation in the program, and (d) the client's compliance with the EAP's recommendations. Without a release of information, the EAP will only confirm EAP participation, i.e. the scheduled appointment was kept. In addition, the EAP will not discuss the employee's personal problems with the supervisor/medical/HR personnel without the employee's written permission.

Public Safety: If you work in a **safety sensitive position** and you self identify as a substance abuser or are identified as a substance abuser at any point during the assessment process OR you are identified as a risk to public safety for any other reason, your company may/will be informed and company policy will be followed. Please contact your Human Resources department regarding the company policy for additional details.

Worker's Compensation Claims: In accordance with company policy, if after a company-initiated referral the employee brings legal action of any kind (including a grievance or worker's compensation claim against his/her company) which makes the employee's mental or emotional condition or substance misuse an element of the claim, the EAP will release the employee's records to the company if requested to do so by the company.

Internal Operations of the EAP: From time to time, the EAP may need to review the client's CMI for its internal operations, such as eligibility for the program, quality assurance/quality control, evaluating its LNAs, for determining its cost basis or other internal operations that are necessary to meet its contractual and business obligations. To the extent practicable, the EAP will not disclose any CMI that can be identified as belonging to a particular client, and will use the minimum necessary information in clients' records to complete the tasks required. (In addition, unless specifically authorized by the client in writing, we will not disclose case record information to anyone, except for purpose of treatment or for the EAP internal operations as described in this paragraph.)

CONFIDENTIALITY

With the exception of the above or listed below, the EAP and the LNAs will keep all CMI relating to or about the client strictly confidential, except as described herein, allowed by law or in situations deemed potentially life threatening. Federal and state laws and regulations may also protect the confidentiality of each client's participation in this program. The violation of federal regulations is a crime and suspected violations may be reported. Federal regulations do not protect from disclosure of information related to a client's commission of a crime against the EAP property or personnel, or reports under state law of suspected child abuse or neglect. (See 42 U. S. C. 290dd-3 and 290ee-3 for federal laws and 42CFR Part 2 for federal regulations). In addition, a client's CMI may be used as follows:

- **As Required by Law.** A client's CMI may be disclosed when required to do so by law.
- **Public Health Activities.** A client's CMI may be disclosed to public health agencies for reasons such as preventing or controlling disease, injury or disability. These generally include the following:
 - To prevent or control disease, injury or disability.
 - To report births and deaths.
 - To report child abuse or neglect or elder abuse.
 - To report reactions to medications, problems with products or other adverse events.
 - To notify people of recalls of products they may be using.
 - To notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition.
 - To notify the appropriate government authority if we believe a patient has been the victim of abuse (including elder abuse), neglect or domestic violence. [Note: we will only make this disclosure if the client agrees or when required or authorized by law.]
- **Health Oversight Activities.** A client's CMI may be disclosed to government oversight agencies (e.g., state insurance departments) for activities authorized by law.
- **Judicial and Administrative Proceedings.** A client's CMI may be disclosed in response to a court or administrative order and in certain cases in response to a subpoena, discovery request or other lawful process.
- **Law Enforcement.** A client's CMI may be disclosed under limited circumstances to a law enforcement official in response to a warrant or similar process; to identify or locate a suspect; or to provide information about the victim of a crime.
- **Individuals Involved in Client Care.** If necessary, a client's CMI may be disclosed to members of the client's family designated as representatives or who are involved in care so that a client's family can be notified in case of an emergency /life threatening situation.

OTHER USES OR DISCLOSURES ONLY UPON CLIENT AUTHORIZATION

Other uses or disclosures of a client's CMI will be made only with client written authorization, unless otherwise permitted or required by law. Specific authorization is needed for certain activities. This includes if an employee asks anyone in his/her company or other person (such as a spouse) to help with the EAP services that relate to problem resolution (including denial of services) where the EAP may need to provide CMI to that person so that s/he may assist the employee. A client may revoke an authorization at any time in writing, except to the extent that the EAP has already taken action on the information disclosed or permitted by law to use the information. In accordance with standards set forth by the Council on Accreditation, the EAP maintains neutrality with our client companies with respect to employee/employer relations.

CLIENT RIGHTS

RIGHT TO INSPECT AND COPY EAP INFORMATION

If a client wishes to obtain a copy of his/her "designated record set," this request must be made in writing to the EAP. In limited situations, the EAP may deny the request and give a written statement that explains why the request was denied. If a client wishes to appeal the decision, this must be done in writing and sent to the Quality Assurance Committee for review. The EAP will abide by the decision of the Quality Assurance Committee. Clients do not have a right to inspect or obtain copies of

psychotherapy notes (The EAP's Employee Assistance Program session note does not contain the type of information that constitutes a psychotherapy note) or information compiled for civil, criminal or administrative proceedings. The information to be released upon written request to the EAP may include:

1. Statement of understanding
2. Telephonic intake form
3. Client data form
4. Assessment
5. Any standardized tests which may have been administered
6. Case summary
7. Session documentation form

RIGHT TO AMEND YOUR EAP INFORMATION

Clients have the right to request in writing to the EAP that the EAP amend information that a client believes to be incorrect or incomplete. In order to request an amendment, a client must:

1. Submit the intended amendment and reason for the amendment;
2. Amendment must be dated and signed by client; and
3. Amendment must be notarized.

The EAP may deny a request for amendment under any of the following conditions:

1. Request is not in writing.
2. Request does not include a reason to support the amendment.
3. The information that the client is requesting to amend was not created by the EAP or its affiliates.
4. The information is not part of the CMI information kept by or for the EAP.
5. The information is not part of the information which a client would be permitted to inspect and copy.
6. The requested amendment is inaccurate or incomplete.

RIGHT TO AN ACCOUNTING OF DISCLOSURES

Clients have the right to request an "accounting of disclosures." This is a list of certain disclosures the EAP has made of CMI information about the client to others. The EAP will notify the client of the cost involved and the client may choose to withdraw or modify the request prior to the incurrence of any costs. In order to request an accounting of disclosures, a client must:

1. Submit the request in writing to the EAP, and
2. The request must state a time period no longer than six (6) years back and may not include any date before April 14, 2003 (or the actual implementation date of the HIPPA Privacy Regulations).

Clients do not have the right to receive an accounting of any disclosures made:

1. For treatment, payment, or health care operations.
2. To the client about his/her own health information.
3. Incidental to other permitted or required disclosures.
4. Where authorization was provided.
5. To family members or friends involved in client care (where disclosure is permitted without authorization).
6. For national security or intelligence purposes.
7. To correctional institutions or law enforcement officials in certain circumstances.
8. As part of a "limited data set" (health information that excludes certain identifying information).
9. Suspected cases of adult abuse: When abuse or neglect of an adult is suspected, confidential information may be released in order to protect and ensure the safety of the adult.
10. Suspected danger to self or others: When a client is a danger to him/herself. Confidential information may be released in order to protect and ensure the safety of the client. When a client is a danger to others, actions will be taken according to state and federal law, including notifying the police and the intended victim {Tarasoff v Regents 551 P 2d 334(1976)}. When a client's impairment on the job places him/herself, coworkers, and/or the employer in a potentially dangerous situation, disclosure may be made to the employer or the person threatened.

RIGHT TO REQUEST RESTRICTIONS ON CERTAIN USES AND DISCLOSURES OF CONFIDENTIAL HEALTH INFORMATION AND THE EAP'S RIGHT TO REFUSE

Clients have the right to restrict the use and disclosure of health information for treatment. Clients also have the right to restrict use and disclosure of health information to family member, close friends, or other persons s/he identifies as being involved in his/her health care. Clients also have the right to restrict use and disclosure of health information to notify those persons of his/her location, general condition or death, or to coordinate those efforts with entities assisting in disaster relief efforts. If a client wants to exercise this right, this must be done in writing to the EAP.

The EAP is not required to agree to a requested restriction. If the EAP does agree, a restriction may later be terminated by written request, by agreement between the client and the EAP (including an oral agreement) or unilaterally by the EAP for health information created or received after the client has been notified that the EAP has removed the restrictions. The EAP may also disclose health information about a client if a client needs emergency treatment, even if the EAP has agreed to a restriction.

RIGHT TO RECEIVE CONFIDENTIAL COMMUNICATIONS OF HEALTH INFORMATION

If a client believes that disclosure of health information by usual means could endanger the client in some way, the EAP will accommodate reasonable requests to receive communications of health information from the EAP by alternative means or at alternative locations.

If a client wants to exercise this right, the client must make the request in writing to the EAP and a statement must be included that disclosure of all or part of the information could endanger the client.

RIGHT TO A PAPER COPY OF THE PRIVACY NOTICE

Clients have a right to a paper copy of the privacy notice. The privacy notice is attached to every EAP brochure and given to all clients at the time of the initial EAP appointment.

If you have a complaint, believe your rights to privacy have been violated or question about EAP services or the LNA, including questions relating to your CMI contact The First Advantage Workplace Services Supervisor at 1.800.935.9551. You may also contact the Department of Health and Human Services with any concerns about your rights to privacy.

DEFINITIONS RELATED TO CONFIDENTIALITY OF MEDICAL AND PERSONAL CLIENT INFORMATION

- "Privacy Standards" shall mean the Standards for Protection of Individually Identifiable Health Information at 45. C.F.R. Parts 160 & 164.
- "Confidential Medical Information" or "CMI" for purpose of this Notice shall include any information, whether oral or recorded in any form or medium, that relates to (a) the past, present or future physical or mental health or condition of an individual, (b) the provision of health care to an individual, or (c) the past, present or future payment for the provision of health care to an individual, and which can be identified to an individual, limited to information created or received by the EAP from or on behalf of a Group Health Plan or other covered entity under the Privacy Standards.
- "Covered entity" shall have the same meaning as that term is defined in the Privacy Standards and shall mean a (a) health plan, (b) health care clearinghouse, or (c) health care provider who transmits any health information in electronic form in connection with a transaction covered by the Privacy Standards.