



Midwest Operating Engineers Fringe Benefit Funds

WELFARE FUND - PENSION TRUST FUND - VACATION SAVINGS PLAN

6150 Joliet Road • Countryside, IL 60525-3994 • (708) 482-7300 • Fax (708) 482-3056

James M. Sweeney, *Chairman*

John E. Kenny, Jr., *Secretary-Treasurer*

Midwest Operating Engineers Welfare Fund

A Brief Explanation of the Attached Privacy Notice and Forms

Federal regulations enacted during the Clinton administration, require your health plan to follow new procedures to protect your privacy. Specifically, the privacy of your health information within the control of the Plan. In 2003, we provided you with a Privacy Notice to explain these rules. Now these regulations have been amended and as required under the law, we are providing you with an updated Privacy Notice.

When you read the attached notice that the Plan is required to send to you, please pay close attention to the following points:

- The rules allow the Plan to use and disclose your Protected Health Information (PHI)
 - To pay claims; and
 - To administer the Plan.
- The rules restrict the way that the Plan can communicate orally about your claims with someone other than you.

The Plan expects that you or your spouse still wish to call the Fund Office to check on each other's claims or the claims of your adult children who are away at school.

UNDER THE RULES, YOU SHOULD HAVE ALREADY COMPLETED THE ENCLOSED REPRESENTATIVE FORM WHICH FITS YOUR LIFE SITUATION AND SELECTED A PIN CODE WHICH IS REQUIRED BY THE FUND IN ORDER TO DISCUSS YOUR MEDICAL INFORMATION. IF YOU HAVE NOT COMPLETED THIS FORM, THE FUND OFFICE WILL ONLY GIVE INFORMATION IN PERSON TO THE INDIVIDUAL AND NOT TO THE PARENT OR SPOUSE OF THAT INDIVIDUAL.

FAMILY PERSONAL REPRESENTATIVE FORM:

IF YOU ARE MARRIED AND / OR HAVE CHILDREN ELIGIBLE UNDER THE PLAN, YOU SHOULD COMPLETE THIS FORM IF YOU HAVE NOT ALREADY DONE SO.

Personal Representative Form:

If you are single and wish to have another individual have access to your PHI, you should complete this form.

IF YOU HAVE NOT PREVIOUSLY DONE SO, PLEASE COMPLETE ONE OF THE REPRESENTATIVE FORMS AND RETURN IT TO THE FUND OFFICE IN THE ENCLOSED ENVELOPE AS SOON AS POSSIBLE.

Please call 708-482-7300 if you have any questions.

Midwest Operating Engineers Welfare Fund

Privacy Notice

Section 1: Purpose of This Notice and Effective Date

This Notice Describes:

1. How medical information about you may be used and disclosed; and
2. How you may obtain access to this information.

Please review this information carefully.

Effective date. The effective date of this updated Notice is September 23, 2013.

This Notice is required by law. The Midwest Operating Engineers Welfare Fund (the “Plan”) is required by law to take reasonable steps to ensure the privacy of your personally identifiable health information and to inform you about:

1. The Plan’s uses and disclosures of Protected Health Information (PHI),
2. Your rights to privacy with respect to your PHI,
3. The Plan’s duties with respect to your PHI,
4. Your right to file a complaint with the Plan and with the Secretary of the U.S. Department of Health and Human Services, and
5. The person or office you should contact for further information about the Plan’s privacy practices.

Section 2: Your Protected Health Information

Protected Health Information (PHI) Defined

The term “Protected Health Information” (PHI) includes all information related to your past, present or future physical or mental health condition or to payment for health care. PHI includes information maintained by the Plan in oral, written or electronic form.

PHI refers to your health information held by the Plan.

When the Plan May Disclose Your PHI

Under the law, the Plan may disclose your PHI without your consent or authorization or the opportunity to object in the following cases:

- **At your request.** If you request it, the Plan is required to give you access to certain PHI in order to allow you to inspect it and/or copy it.
- **To the Plan’s Trustees.** The Plan will disclose PHI to the Plan Sponsor for purposes related to treatment, payment and health care operations. The Plan Sponsor is the Board of Trustees of the Midwest Operating Engineers Welfare Fund. The Plan Sponsor has amended its Plan Documents to protect your PHI as required by Federal law.

- **As required by an agency of the government.** The Secretary of the Department of Health and Human Services may require the disclosure of your PHI to investigate or determine the Plan's compliance with the privacy regulations.
- **For treatment, payment or health care operations.** The Plan and its business associates will use PHI without your consent, authorization or opportunity to agree or object in order to carry out:
 - Treatment,
 - Payment, or
 - Health care operations.

The Plan does not need your consent or authorization to release your PHI when:

- You request it,
- A government agency requires it,
- Trustees are required to review it, or
- The Plan uses it for treatment, payment or health care operations.

Definitions of Treatment, Payment or Health Care Operations	
Treatment is health care.	<p>Treatment is 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.</p> <p><i>For example:</i> The Plan discloses to a treating orthodontist the name of your treating dentist so that the orthodontist may ask for your dental X-rays from the treating dentist.</p>
Payment is paying claims for health care and related activities.	<p>Payment includes but is not limited to making coverage determinations and payment. These actions include billing, claims management, subrogation, Plan reimbursement, reviews for medical necessity and appropriateness of care, utilization review and preauthorization.</p> <p><i>For example:</i> The Plan tells your doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Plan.</p>
HealthCare Operations keep the Plan operating soundly.	<p>Health care operations include but are not limited to 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.</p> <p><i>For example:</i> The Plan uses information about your medical claims to refer you to a disease management program, to project future benefit costs or to audit the accuracy of its claims processing functions.</p>

When the Disclosure of Your PHI Requires Your Written Authorization

The Plan must generally obtain your written authorization before the Plan will use or disclose psychotherapy notes about you from your psychotherapist. However, the Plan may use and disclose such notes when needed by the Plan to defend itself against litigation filed by you.

Psychotherapy notes are separately filed notes about your conversations with your mental health professional during a counseling session. They do not include summary information about your mental health treatment.

Use or Disclosure of Your PHI That Requires You Be Given an Opportunity to Agree or Disagree Before the Use or Release

Disclosure of your PHI to family members, other relatives and your close personal friends is allowed under federal law 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.

Use or Disclosure of Your PHI For Which Consent, Authorization or Opportunity to Object Is Not Required

The Plan is allowed under federal law to use and disclose your PHI without your consent, authorization or request under the following circumstances:

1. ***When required by law.***
2. ***Public health purposes.*** To an authorized public health official if required by law or for public health and safety purposes. 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.
3. ***Domestic violence or abuse situations.*** When authorized by law to report information about abuse, neglect or domestic violence to public authorities if a reasonable belief exists that you may be a victim of abuse, neglect or domestic violence. In such case, the Plan will promptly inform you that such a disclosure has been or will be made unless that notice would cause a risk of serious harm.
4. ***Oversight activities.*** To a public health oversight agency for oversight activities authorized by law. These activities include 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 the Department of Labor).
5. ***Legal proceedings.*** When required for judicial or administrative proceedings. For example, your PHI may be disclosed in response to a subpoena or discovery request that is accompanied by a court order.
6. ***Law enforcement health purposes.*** When required for law enforcement purposes (for example, to report certain types of wounds).

In general, the Plan does not need your consent to release your PHI if required by law or for public health and safety purposes.

7. **Law enforcement emergency purposes.** For certain law enforcement purposes, including:
 - a. Identifying or locating a suspect, fugitive, material witness or missing person, and
 - b. 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.
8. **Determining cause of death and organ donation.** When required to be given to a coroner or medical examiner to identify a deceased person, determine a cause of death or other authorized duties. The Plan may also disclose PHI for cadaveric organ, eye or tissue donation purposes.
9. **Funeral purposes.** When required to be given to funeral directors to carry out their duties with respect to the decedent.
10. **Research.** For research, subject to certain conditions.
11. **Health or safety threats.** When, consistent with applicable law and standards of ethical conduct, the Plan 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.
12. **Workers' compensation programs.** When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.

Except as otherwise indicated in this notice, uses and disclosures will be made only with your written authorization subject to your right to revoke your authorization.

Other Uses or Disclosures

The Plan may contact you to provide you information about treatment alternatives or other health-related benefits and services that may be of interest to you.

The Plan may disclose protected health information to the sponsor of the plan for reviewing your appeal of a benefit claims or for other reasons regarding the administration of this Plan. The "plan sponsor" of this Plan is the Midwest Operating Engineers Welfare Plan Board of Trustees.

Section 3: Your Individual Privacy Rights

You May Request Certain Restrictions on PHI Uses and Disclosures and Receipt of PHI

The Plan will accommodate an individual's reasonable request to receive communications of PHI by **alternative means or at alternative locations** where the request includes a statement that disclosure could endanger the individual.

You or your personal representative will be required to complete a form to receive communications of PHI by alternative means or at alternative locations. Make such requests to:

Privacy Officer
Midwest Operating Engineers Welfare Fund
6150 Joliet Road
Countryside, Illinois 60525-3994
(708) 482-7300

You May 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 the Plan maintains the PHI.

The Plan must provide the requested information within 30 days if the information is maintained on site or within 60 days if the information is maintained offsite. A single 30-day extension is allowed if the Plan 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 officer:

Privacy Officer
Midwest Operating Engineers Welfare Fund
6150 Joliet Road
Countryside, Illinois 60525-3994
(708) 482-7300

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

You Have the Right to Amend Your PHI

You have the right to make a written request that the Plan 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 subject to certain exceptions. See the Plan's Right to Amend Policy for a list of exceptions.

The Plan has 60 days after receiving your request to act on it. The Plan is allowed a single 30-day extension if the Plan is unable to comply with the 60-day deadline. If the Plan denied your request in whole or part, the Plan must provide you with a written denial that explains the basis for the decision. 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 that PHI.

You should make your written request to amend PHI to the following officer:

Privacy Officer
Midwest Operating Engineers
Welfare Fund
6150 Joliet Road
Countryside, Illinois 60525-3994
(708) 482-7300

Protected Health Information (PHI): includes all individually identifiable health information transmitted or maintained by the Plan, regardless of the form of the PHI.

Designated Record Set: includes your medical records and billing records that are maintained by or for a covered health care provider. Records include enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a health plan or other information used in whole or in part by or for the covered entity to make decisions about you. Information used for quality control or peer review analyses and not used to make decisions about you is not included.

If you disagree with the record of your PHI, you may amend it.

If the Plan denies your request to amend your PHI, you still have the right to have your written statement disagreeing with that denial included in your PHI.

Forms are available for these purposes.

You or your personal representative will be required to complete a form to request amendment of the PHI.

You Have the Right to Receive an Accounting of the Plan's PHI Disclosures

At your request, the Plan will also provide you with an accounting of disclosures by the Plan of your PHI. The Plan does not have to provide you with an accounting of disclosures related to treatment, payment or healthcare operations or disclosures made to you or authorized by you in writing. See the Plan's Accounting for Disclosure Policy for the complete list of disclosures for which an accounting is not required.

The Plan has 60 days to provide the accounting. The Plan is allowed an additional 30 days if the Plan gives you 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, the Plan will charge a reasonable, cost-based fee for each subsequent accounting.

You Have the Right to Receive a Paper Copy of This Notice Upon Request

To obtain a paper copy of this Notice, contact the following officer:

Privacy Officer
Midwest Operating Engineers
Welfare Fund
6150 Joliet Road
Countryside, Illinois 60525-3994
(708) 482-7300

Your Pin Code

You, your spouse and each adult child must provide the Fund Office a four-digit number (Pin Code). You will be required to give this Pin Code before the Fund Office will disclose information over the telephone or in person.

Your Personal Representative

You may exercise your rights through a personal representative. Your personal representative will be required to produce evidence of authority to act on your behalf before the personal representative will be given access to your PHI or be allowed to take any action for you. Proof of such authority will be a completed, signed and approved Personal Representative Form. The personal representative will be required to provide a Pin Code. You may obtain this form by calling the Fund Office.

The Plan 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.

You may designate an adult personal representative by completing the Personal Representative Form that is enclosed.

The Plan expects that you or your spouse may still wish to call the Fund Office to check on each other's claims or the claims of your adult children who are away at school.

Under the new rules, you must complete the enclosed Family Personal Representative Form in order to do this. If you do not complete this form, the Fund Office will only give information over the telephone or in person to the individual and not to the parent or spouse of that individual.

For example:

Unless you complete the Family Personal Representative Form, the Fund Office may only discuss:

- *Your claims* over the telephone or in person *with you* – not your spouse or any other person.
- *A spouse's claims* over the telephone or in person *with that spouse* – not you, as the employee who covers the spouse under the Plan.
- *Your eligible adult child's claims* over the telephone or in person *with your adult child* – not you, as the employee who covers the adult child under the Plan or your spouse.

However, as parents or guardians, you and your spouse will generally continue to have access to information regarding your minor children (under 18 years of age).

Section 4: The Plan's Duties

Maintaining Your Privacy

The Plan is required by law to maintain the privacy of your PHI and to provide you and your eligible dependents with notice of its legal duties and privacy practices.

This notice is written to inform you of the Plan's obligation to maintain the privacy of your PHI.

This updated notice is effective beginning on September 23, 2013, and the Plan is required to comply with the terms of this notice. However, the Plan reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by the Plan prior to that date. If a privacy practice is changed, a revised version of this notice will be provided to you and to all past and present participants and beneficiaries for whom the Plan still maintains PHI.

Any revised version of this notice will be distributed within 60 days of the effective date of any material change to:

- The uses or disclosures of PHI,
- Your individual rights,
- The duties of the Plan, or
- Other privacy practices stated in this notice.

Disclosing Only the Minimum Necessary Protected Health Information

When using or disclosing PHI or when requesting PHI from another covered entity, the Plan 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.

The Plan must limit its uses and disclosures of PHI or requests for PHI to the *minimum necessary* amount to accomplish its purposes.

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 you,
- Disclosures made to the Secretary of the U.S. Department of Health and Human Services,
- Uses or disclosures required by law, and
- Uses or disclosures required for the Plan'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 you, and
- With respect to which there is no reasonable basis to believe that the information can be used to identify you.

In addition, the Plan may use or disclose "summary health information" to the Plan Sponsor for obtaining premium bids or modifying, amending or terminating the group health Plan. Summary information summarizes the claims history, claims expenses or type of claims experienced by individuals for whom a Plan Sponsor has provided health benefits under a group health plan. Identifying information will be deleted from summary health information, in accordance with HIPAA.

Section 5: Your Right to File a Complaint with the Plan or the HHS Secretary

If you believe that your privacy rights have been violated, you may file a complaint with the Plan in care of the following officer:

Privacy Officer
Midwest Operating Engineers
Welfare Fund
6150 Joliet Road
Countryside, Illinois 60525-3994
(708) 482-7300

You have the right to file a complaint if you feel your privacy rights have been violated.

The Plan may not retaliate against you for filing a complaint.

You may also file a complaint with:

Secretary of the U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue S.W.
Washington, D.C. 20201

The Plan will not retaliate against you for filing a complaint.

Section 6: Final HIPAA Rule

Final modifications to the HIPAA Privacy, Security, and Enforcement Rules mandated by the Health Information Technology for Economic and Clinical Health (HITECH) Act generally referred to as the HIPAA Final Rule, are as follows:

- You have the right to be notified of a data breach relating to your unsecured health information.
- You have the right to ask for a copy of your electronic medical record in an electronic form provided the information already exists in that form.
- To the extent the Plan performs any underwriting, the Plan cannot disclose or use any genetic information for such purposes.
- The Plan may not use your PHI for marketing purposes or sell such information without your written authorization.

Section 7: If You Need More Information

If you have any questions regarding this notice or the subjects addressed in it, you may contact the following officer at the Fund Office:

Privacy Officer
Midwest Operating Engineers
Welfare Fund
6150 Joliet Road
Countryside, Illinois 60525-3994
(708) 482-7300

Section 8: Conclusion

PHI use and disclosure by the Plan is regulated by the federal Health Insurance Portability and Accountability Act, known as 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 this notice if there is any discrepancy between the information in this notice and the regulations.



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Personal Representative Form

I, _____ {Name of Participant}, residing at

_____ {mailing address}, at

() _____ {phone number}, hereby designate: _____

{Name of ADULT (over 18 years old) appointed as Personal Representative}, residing at

_____ {mailing address} at () _____ {phone

number}, to act on behalf of _____ as described below.

I authorize my Personal Representative to act for me to:

- ◆ Receive Protected Health Information and any information that is (or would be) provided to me as a participant / beneficiary of the Plan, including but not limited to, any information that relates to any claim for coverage or benefits under the Plan, and
- ◆ Enforce any individual rights that I have regarding my Protected Health Information under HIPAA.

I understand that this designation is subject to approval by the Plan. I also understand that, once approved, this designation will remain in effect unless I revoke it. I understand that I have the right to revoke this designation at any time by submitting a signed statement to that effect to the Fund Office.

I certify that I have reviewed the Plan's Policy for Recognition of Personal Representative.

PARTICIPANT'S SIGNATURE

DATE

PIN CODE

SOCIAL SECURITY NUMBER

DATE

ADULT REPRESENTATIVE'S SIGNATURE

DATE

PIN CODE