

Administered by Element Health, Inc.

## NOTICE OF PRIVACY PRACTICES

**Effective Date of Notice: August 1, 2012, as amended on September 5, 2019.**

THIS NOTICE APPLIES TO THE LIVESMART HEALTH & WELLNESS PROGRAM AND NOT TO ANY OTHER BENEFITS. IT DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED BY THE LIVESMART HEALTH & WELLNESS PROGRAM AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

This Notice of Privacy Practices describes how your protected health information (PHI) may be used or disclosed. This notice also describes your rights to access your PHI. In general, PHI is information about you, including demographic information, that may identify you and that relates to your past, present, or future physical or mental health or condition and related health care services.

### **Who will follow this Notice**

This Notice is designed to give you information required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and General Data Protection Regulation (GDPR) about the duties and privacy practices of LIVESMART Health & Wellness Program, which covers O'Neal Industries employees enrolled in the Wellness Program (the "Plan"), to protect the privacy of your PHI.

This Wellness Program is sponsored by O'Neal Industries (the "Plan Sponsor"). O'Neal Industries is a hybrid covered entity, and this Notice applies only to the LIVESMART Wellness program team and administrative staff at Element Health, Inc. that may provide legal, billing, auditing, technology support, or other administrative support for this Plan.

The Plan provides wellness program benefits to you as described in the LIVESMART Program Brochure. The Plan receives and maintains your PHI in the course of providing plan benefits to you. The Plan may hire business associates to help provide these benefits to you. These business associates also receive and maintain your PHI in the course of assisting the Plan.

### **Our Pledge Regarding Medical Information**

The Plan understands that medical information about you and your health is personal. The Plan is committed to protecting your PHI. This Notice will tell you about the ways in which the Plan (or its business associates) may use and disclose PHI about you. This Notice also describes your rights and certain obligations the Plan has regarding the use and disclosure of PHI.

The Plan is required by law to:

- make sure that PHI that identifies you is kept private;
- give you this notice of the Plan's legal duties and privacy practices with respect to PHI about you;
- follow the terms of the notice that is currently in effect.

### **Changes To This Notice**

The Plan is required to follow the terms of this notice until it is replaced. The Plan reserves the right to change the terms of this notice at any time. If the Plan makes material changes to this notice, the Plan will, within 60 days of making those material revisions, provide a new notice to all subscribers then covered by the Plan. The Plan reserves the right to make the new changes apply to all your medical information maintained by the Plan before and after the effective date of the new notice.

### **PHI Safeguards**

The Plan is committed to maintaining the security and confidentiality of information received from you relating to the Wellness Program. Physical, electronic, and procedural safeguards will be maintained that comply with federal and state laws to protect information against unauthorized access and use.

The Plan's Privacy Officer has the overall responsibility of implementing and enforcing policies and procedures to safeguard your PHI against inappropriate access, use, and disclosure. Information on how to contact the Privacy Officer is included at the end of this Notice.

### **Disclosures to Family Members**

Your PHI will be shared with your family members or authorized representatives in one of two ways:

- You are present, either in person or on the telephone, and give us permission to talk to the other person; or
- You sign an authorization form allowing the Plan to discuss any information about you.

### **Purposes for which the Plan May Use or Disclose Your Medical Information Without Your Consent or Authorization**

The following categories describe different purposes for which the Plan may use and/or disclose your PHI/medical information. Not every use or disclosure in a category will be listed. The Plan retains your PHI/medical information for the length of your participation in the LIVESMART program. However, all of the ways the Plan is permitted to use and/or disclose information will fall within one of the categories.

- *Health Care Providers' Treatment Purposes.* While the Plan generally does not use or disclose your PHI to health care providers for treatment, the Plan is permitted to do so if necessary.
- *Payment.* The Plan may use or disclose your PHI to administer the Plan. The Plan may use your information to determine your eligibility for enrollment and for receipt of payments, and other services.
- *Health Plan Operations.* For example, the Plan may use or disclose your PHI to perform its functions as a wellness program. This may include conducting wellness and health risk assessment programs, quality assessment and improvement 3 activities, engaging in care coordination or case management, and customer service.
- *Health Services.* The Plan may use your PHI to contact you to provide you information about other wellness program benefits and services that may be of interest to you. The Plan may disclose your PHI to its business associates to assist the Plan in these activities.

• *As required by law.* The Plan will disclose PHI when required to do so by federal, state or local law. For example, the Plan must allow the U.S. Department of Health and Human Services to audit Plan records. The Plan may also disclose your PHI as authorized by and to the extent necessary to comply with workers' compensation or other similar laws.

• *To Business Associates.* The Plan may disclose your PHI to business associates the Plan hires to assist the Plan. Each business associate of the Plan must agree in writing to ensure the continuing confidentiality and security of your medical information. Specifically, the Plan uses WellSteps, a third party wellness platform administrator, to maintain your PHI electronically, for purposes of facilitating the Plan through an online portal which allows you to fill out forms, track your progress, generate reports, encourage participation, and generate analyses based on data collected. Additionally, the Plan uses Deerwalk to store collected PHI for purposes of analysis. Finally, the Plan uses SurveyMonkey for purposes of entering and storing all LIVESMART scoresheet data and to create additional analyses pertaining to the data collected.

• *To Plan Sponsor.* The Plan may disclose to the Plan Sponsor, in summary form, incentive payment history and other similar information. Such summary information does not disclose your name or other distinguishing characteristics. The Plan may also disclose to the Plan Sponsor the fact that you are enrolled in, or unenrolled from the Plan. The Plan may disclose your medical information to Designated Plan Sponsor Employees to perform customer service functions on your behalf and/or to perform Plan administrative functions. These Designated Employees must agree to comply with the HIPAA Privacy and Security Regulations and they may be subject to sanctions for non-compliance. The Plan Sponsor and its Designated Employees must also agree not to use or disclose your medical information for employment related activities or for any other benefit or benefit plans of the Plan Sponsor, except as otherwise permitted by HIPAA.

The Plan may also use and disclose your medical information as follows:

- To comply with legal proceedings, such as a court or administrative order or subpoena;
- To law enforcement officials for limited law enforcement purposes;
- To your personal representatives appointed by you or designated by applicable law;
- For research purposes in limited circumstances;
- To a coroner, medical examiner, or funeral director about a deceased person;
- To an organ procurement organization in limited circumstances;
- To avert a serious threat to your health or safety or the health or safety of others;
- To a governmental agency authorized to oversee the health care system or government programs;
- To federal officials for lawful intelligence, counterintelligence and other national security purposes;
- To public health authorities for public health purposes; or
- To appropriate military authorities, if you are a member of the armed forces.

#### **Uses and Disclosures with Your Permission**

The Plan will not use or disclose your medical information for any other purposes unless you give the Plan your written authorization to do so. If you give the Plan written authorization to use or disclose your medical information for a purpose that is not described in this notice, then, in most cases, you may revoke

it in writing at any time. Your revocation will be effective for all your medical information the Plan maintains, unless the Plan has taken action in reliance on your authorization.

#### **Your Rights**

You may make a written request to the Plan to do one or more of the following concerning your medical information that the Plan maintains:

1. *Request Restrictions:* To put additional restrictions on the Plan's use and disclosure of your medical information.
2. *Request Confidential Communications:* To communicate with you in confidence about your medical information by a different means or at a different location than the Plan is currently doing. Your request must specify the alternative means or location to communicate with you in confidence.
3. *Inspect and Copy:* To see and get copies of your medical information maintained by the Plan. In limited cases, the Plan does not have to agree to your request.
4. *Amend:* To request correction of PHI maintained in the Plan's records, if that information is in error. In some cases, the Plan does not have to agree to your request.
5. *Accounting:* To receive a list of disclosures of your medical information that the Plan and its business associates made for certain purposes for the last 6 years.
6. *Paper Copy of Notice:* To send you a paper copy of this notice if you received this notice by e-mail or on the internet. Please send request to [connect@livesmartoni.com](mailto:connect@livesmartoni.com).
7. *Additional Information:* To determine what PHI is being processed, why it is being processed, for what purpose it is being processed, and who has access to your PHI, please contact Gina Lakatos at [glakatos@elementhealth.com](mailto:glakatos@elementhealth.com).

If you want to exercise these rights listed above, please contact LIVESMART at 888-501-1252.

#### **Complaints**

If you believe your privacy rights have been violated by the Plan, you have the right to complain to the Plan or to the Secretary of the U.S. Department of Health and Human Services. All complaints must be submitted in writing. You may file a complaint with the Plan by sending it to LIVESMART'S Health and Wellness Privacy Officer, Gina Lakatos, at [glakatos@elementhealth.com](mailto:glakatos@elementhealth.com). We will not retaliate against you if you choose to file a complaint with the Plan or with the U.S. Department of Health and Human Services.

#### **LIVESMART Contact Office**

To request additional copies of this notice or to receive more information about our privacy practices or your rights, please contact us at the following Contact Office:

Contact Office: LIVESMART Health & Wellness Privacy Officer  
Telephone: 888-501-1252/Fax: 205-978-3760  
E-mail: [glakatos@elementhealth.com](mailto:glakatos@elementhealth.com)

Address: P.O. Box 1226, Fairhope, AL 35266-36533