

Create Provider Portal

TERMS AND CONDITIONS



EFFECTIVE DATE: 12/07/2016
LAST MODIFIED: 07/05/2017

Terms and conditions of use of create provider portal

By using the Create Provider Portal or any web site owned and maintained (referred to collectively hereafter as "Portal") by Brighton Health Plan Solutions or its related entities, you ("User") agree to abide by these Terms and Conditions of Use of Create Provider Portal (hereafter referred to as "Terms and Conditions").

These Terms and Conditions are between the User and Create (on behalf of itself and its related entities, including Brighton Health Plan Solutions, referred to hereafter as "Create"), and control User's use of and access to the Portal. If User or the health care entity or group User belongs to, or is providing services under, has a Provider Agreement ("Provider Agreement") with Brighton Health Networks, LLC or MagnaCare Administrative Services, LLC, the services available and accessed through this Portal are also subject to the terms and conditions of that Provider Agreement, incorporated herein by reference. The Provider Agreement and these Terms and Conditions shall constitute the entire agreement between User and Create on accessing and using this Portal.

Acceptance of terms and conditions and modifications

By accepting and agreeing to these Terms and Conditions by clicking "Yes" at the end of these Terms and Conditions, User accepts and agrees to be bound and abide by these Terms and Conditions and the Create Privacy Policy, found at https://www.createhealthplans.com/documents/Create_Terms_Conditions_and_Privacy_Policy.pdf, incorporated herein by reference. If User does not to agree to these Terms and Conditions, use of the Portal will not be permitted.

Create may amend or modify these Terms and Conditions at any time with or without notice, by posting such amendment or modification on the Portal, which shall be effective on posting.

User representations and warranties

User makes the following representations and warranties in consideration of access to the Portal:

- a) User is who User represents User to be when User accesses the Portal;
- b) User's use of the Portal has been authorized by the patient(s) whose information is being accessed, and if applicable, authorized by the health care entity or group User belongs to;
- c) User shall only use the Portal in connection with patients covered under Create client group health plans;
- d) User's use of the Portal or systems or connections shall not interfere with the proper working of the Portal and shall not introduce any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful.

- e) User has obtained the legal, necessary and proper authorizations to view, send and/or receive the Health Information (defined below) through this Portal.

USER IDs and passwords

In consideration for the use of this Portal, User agrees that the password and User ID issued to User by Create are and shall be treated as confidential. User further agrees that User is solely liable for all actions taken using such password and User ID. If User suspects or has any knowledge that a Create password or User ID has been accessed by an unauthorized person, User agrees to contact Create immediately so they may be deactivated. User may not log in or attempt to log in with a User ID and password other than User's. Further, User may only access portions of the Portal User is authorized to access. In the event User's health care entity or group only uses one password and User ID, User agrees to keep current written records of who has been provided the password and User ID. Create has the right to disable any user name, User ID, password or other identifier, whether chosen by User or provided by Create, at any time if, in Create's opinion, User has violated any provision of these Terms and Conditions.

Errors

Create is not liable for the content of or any errors in the data transmitted through this Portal.

Content; links to other sites

Any medical content made available through this Site is for educational and informational purposes only. The listing of any products or services at this Portal or links to other sites is not a recommendation or endorsement unless specifically stated.

Confidential information

User acknowledges that User may be able to view, send and/or receive confidential Health Information through this Portal, including but not limited to patient and related claims information ("Health Information"). In addition to obligations in any applicable Provider Agreement regarding such information, User agrees to maintain the security and privacy of patient-related information, and agrees that all Health Information shall be held in strictest confidence. User agrees that access to Health Information shall be limited to User's employees authorized to have access to such information and that such information will be used solely for purposes relating to medical treatment, communications with Create, and other healthcare operations. User also agrees to notify Create immediately in the event User becomes aware of any violations of this provision.

User further agrees not to use or disclose Create business information or information regarding this Portal (including but not limited to information regarding its functionality or options) without prior written permission from Create.

Ownership, license and restrictions on use of materials

All right, title and interest (including all copyrights, trademarks, trade secrets and other intellectual property rights) in all portions of the Portal belongs to Create. User is hereby granted a nonexclusive, nontransferable, limited license to view and use information retrieved from this Portal solely in connection with doing business with Create, provided the copyright notice or other notices that may appear on such materials is not removed or obscured. Except as expressly provided above, no part of this Portal, including but not limited to materials retrieved here from and the underlying code, may be reproduced, republished, copied, transmitted, or distributed in any form or by any means. User may link to Create's home page only. Linking to other content within this Portal without Create's express written permission is prohibited.

Disclaimer

Claims status, eligibility and/or coverage information accessible through the Portal is for convenience only, and is subject to change. Eligibility and coverage information for individuals User provides health or medical services for are governed by the terms of the patient's group health plan and not Create. Eligibility and benefits information and payment of claims are not guaranteed through use of this Portal, and is governed by the patient's group health plan. Precertification or preauthorization are not guarantees of payment.

Disclaimer of warranties

USER UNDERSTANDS THAT CREATE CANNOT AND DOES NOT GUARANTEE OR WARRANT THAT FILES AVAILABLE FOR DOWNLOADING FROM THE PORTAL WILL BE FREE OF VIRUSES OR OTHER DESTRUCTIVE CODE. YOU ARE RESPONSIBLE FOR IMPLEMENTING SUFFICIENT PROCEDURES AND CHECKPOINTS TO SATISFY YOUR PARTICULAR REQUIREMENTS FOR ANTI-VIRUS PROTECTION AND ACCURACY OF DATA INPUT AND OUTPUT, AND FOR MAINTAINING A MEANS EXTERNAL TO OUR SITE FOR ANY RECONSTRUCTION OF ANY LOST DATA. CREATE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT USER'S COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO USE OF THE PORTAL OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE PORTAL OR TO DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

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OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE PORTAL OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE PORTAL WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

CREATE HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PARTICULAR PURPOSE.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

Limitation of liability

IN NO EVENT WILL CREATE, ITS AFFILIATES OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE PORTAL, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THE PORTAL OR SUCH OTHER WEBSITES OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE PORTAL OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

Indemnification

User agrees to defend, indemnify and hold harmless Create, its affiliates, licensors and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including reasonable attorneys' fees) arising out of or relating to User's violation of these Terms and Conditions or use of the Portal, including, but not limited to, User Contributions, any use of the Portal's content, services and products other than as expressly authorized in these Terms and Conditions use of any information obtained from the Portal.

Governing law and jurisdiction

All matters relating to the Portal and these Terms and Conditions and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction).

Any legal suit, action or proceeding arising out of, or related to, these Terms and Conditions or the Portal shall be instituted exclusively in the courts of the State of New York, in each case located in the City of New York and County of New York. You waive any and all objections to the exercise of jurisdiction over User by such courts and to venue in such courts.

Arbitration

At Create's sole discretion, it may require User to submit any disputes arising from these Terms and Conditions or use of the Portal, including disputes arising from or concerning their interpretation, violation, invalidity, non-performance, or termination, to final and binding arbitration under the Rules of Arbitration of the American Arbitration Association applying New York law.

Limitation of time to file claims

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

Waiver and severability

No waiver by Create of any term or condition set forth in these Terms and Conditions of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of Create to assert a right or provision under these Terms and Conditions shall not constitute a waiver of such right or provision.

If any provision of these Terms and Conditions is held by a court or other tribunal of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms and Conditions will continue in full force and effect.