

# South Dakota State Employee Benefits Program

## 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. THIS IS INFORMATIONAL ONLY – NO ACTION IS REQUIRED ON YOUR PART. PLEASE RETAIN A COPY OF THIS NOTICE FOR YOUR RECORDS.

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### Our Legal Duty

We are required by law to protect the privacy of your health information. We are also required to provide you with this Notice of Privacy Practices, which explains how we may use information about you and when we can give out or “disclose” that information to others. You also have rights regarding your health information that are described in this notice. We are required by law to abide by the terms in this notice.

The terms “information” and “health information” in this notice include any information we maintain that reasonably can be used to identify you and that relates to your physical or mental health condition, the provision of health care to you, or the payment for such health care.

We reserve the right to change our privacy practices and the terms of this notice at any time, provided such changes are permitted by applicable law. If we make a material change in our privacy practices, we will provide you a revised notice by direct mail or electronically as permitted by applicable law. In all cases, we will post the revised notice on your health plan website, [www.bhr.sd.gov/benefits/](http://www.bhr.sd.gov/benefits/). We reserve the right to make any revised or changed notice effective for information that we already have and for information that we receive in the future.

### How the Plan Uses and Discloses Health Information

**We must** use and disclose your health information to provide that information:

- To you or someone who has the legal right to act for you (your personal representative) in order to administer your rights as described in this notice; and
- To the Secretary of the U.S. Department of Health and Human Services, if necessary, to make sure your privacy is protected.

**We have the right to** use and disclose health information for your treatment, to pay for health care services and to administer the health plan. We may use or disclose health information:

- **For Payment** of health services you receive. For example, we may tell a physician whether you are eligible for coverage and what percentage of the bill may be covered.
- **For Treatment.** We may use or disclose information to aid in your treatment or the coordination of your care. For example, we may disclose information to your physicians or hospitals to help provide medical care to you.
- **For Health Plan Administration.** We may use or disclose health information as necessary to administer and manage activities related to providing your health care coverage. For example, we might talk to your physician to suggest a disease management or wellness program that could help improve your health or we may analyze data to determine how we can improve plan services.
- **To Provide You Information on Health Related Programs or Products** such as alternative medical treatments and programs or about health-related products and services, subject to limits imposed by law. For example, we may provide you with information about managing a disease or information on managing care choices or information about prescription drugs you are taking.
- **For Reminders.** We may use or disclose health information to send you reminders about your benefits or care, such as appointment reminders with providers who provide care to you.

**We may** use or disclose your health information for the following purposes under limited circumstances:

- **As required by law.** We may disclose information when it is permitted or required to do so by law.
- **To Persons Involved With Your Care.** We may use or disclose your health information to a person involved in your care or who helps pay for your care, such as a family member, when you are incapacitated or in an emergency, or when you agree or fail to object when given the opportunity. If you are unavailable or unable to object, factors surrounding your situation assessed by the State's experts to determine if disclosure is the proper course of action to meet your best interests.
- **For Public Health Activities** such as reporting or preventing disease outbreaks.
- **For Reporting Victims of Abuse, Neglect or Domestic Violence** to government authorities that are authorized by law to receive such information, including secret service or protective service agency.
- **For Health Oversight Activities** to a health oversight agency for activities authorized by law, such as licensure, governmental audits and fraud and abuse investigations.
- **For Judicial or Administrative Proceedings** such as in response to a court order, search warrant or subpoena.
- **For Law Enforcement Purposes.** We may disclose your health information to a law enforcement official for purposes such as proving limited information to locate a missing person or report a crime.
- **To Avoid a Serious Threat to Health or Safety** to you, another person, or the public, by, for example, disclosing information to public health agencies or law enforcement authorities, or in the event of an emergency or natural disaster.
- **For Specialized Government Functions** such as military and veteran activities, national security and intelligence activities, and others.
- **For Workers' Compensation** as authorized by, or to the extent necessary to comply with, state workers' compensation laws that govern job-related injuries or illness.
- **For Research Purposes** such as research related to the evaluation of certain treatments or the prevention of disease or disability, if the research study meets privacy law requirements.
- **To Provide Information Regarding Decedents.** We may disclose information to a coroner or medical examiner to identify a deceased person, determine a cause of death, or as authorized by law. We may also disclose information to funeral directors as necessary to carry out their duties.
- **For Organ Procurement Purposes.** We may use or disclose information to entities that handle procurement, banking or transplantation of organs, eyes or tissue to facilitate donation and transplantation.
- **To Correctional Institution or Law Enforcement Officials** if you are an inmate of a correctional institution or under the custody of a law enforcement official, but only if necessary (1) for the institution to provide you with health care; (2) to protect your health and safety or the health and safety of others; or (3) for the safety and security of the correctional institution.
- **To Business Associates** that perform functions on our behalf or provide us with services if the information is necessary for such functions or services. Our Business Associates are required, under contract with us, to protect the privacy of your information and are not allowed to use or disclose any information other than as specified in our contract.
- **For Data Breach Notification Purposes.** We may use your contact information to provide legally-required notices of unauthorized acquisition, access, or disclosure of your health information. We will send notice directly to you following a breach of your unsecured protected health information.
- **Additional Restrictions on Use and Disclosure.** Certain federal and state laws may require special privacy protections that restrict the use and disclosure of certain information, including highly confidential information about you. "Highly confidential information" may include confidential information under Federal laws, as well as state laws that often protect the following types of information:
  1. HIV / AIDS;
  2. Mental health, including psychotherapy notes;
  3. Genetic tests / information;
  4. Alcohol and drug abuse;
  5. Sexually transmitted diseases and reproductive health information; and
  6. Child or adult abuse or neglect, including sexual assault;
  7. All protected health information for use in marketing or sale, unless provide you provide an authorization of such use and disclosure.

If a use or disclosure of health information described above in this notice is prohibited or materially limited by other laws that apply to us, it is our intent to meet the requirements of the more stringent law.

Except for uses and disclosures described and limited as set forth in this notice, we will use and disclose health information only with a written authorization from you. Once you give us authorization to release your health information, we cannot guarantee that the person to whom the information is provided will not disclose the information. You may take back or "revoke" your written authorization at any time in writing, except if we have already acted based on your authorization.

## **Your Rights**

The following are your rights with respect to your health information:

**Access** -- You have the right to access and obtain a copy of health information that may be used to make decisions about you such as claims and case or medical management records. You also may in some cases receive a summary of this health information. You must make a written request to inspect and copy health information. Mail your request to the address listed below. We may charge a reasonable fee for any copies. In certain limited circumstances, we may deny your request to inspect and copy your health information. If we deny your request, you have the right to have the denial reviewed. If we maintain an electronic health record containing your health information, you will have the right to request that we send a copy of your health information in an electronic format to you or a third party that you identify subject to proper verification and security measures. We may charge a reasonable fee for sending the electronic copy of your health information.

**Disclosure Accounting** -- You have the right to receive an accounting of certain disclosures of your information made by us during the six years prior to your request. This accounting will not include disclosures of information made: (1) for treatment, payment, and health care operations purposes; (2) to you or pursuant to your authorizations; and (3) to correctional institutions or law enforcement officials; and (4) other disclosures for which federal law does not require us to provide an accounting.

**Restriction** -- You have the right to ask to restrict uses or disclosures of your information for treatment, payment, and health operations. You also have the right to ask to restrict disclosures to family members or to others who are involved in your health care or payment for your health care. We may also have policies on dependent access that authorize your dependents to request certain restrictions.

You have the right to restrict disclosures of health information to us with respect to health care for which you have paid out-of-pocket in full.

**Confidential Communication** -- You have the right to ask to receive confidential communications of information in a different manner or at a different place. For example, by sending information to a P.O. Box instead of your home address. You must make your request in writing. Mail your request to the address listed below.

**Amendment** -- You have the right to ask to amend information we maintain about you if you believe the health information about you is wrong or incomplete. Your request must be in writing. Mail your request to the address listed below. If we deny your request, you may have a statement of your disagreement added to your health information.

**Electronic Notice** -- You have the right to receive electronic copies of health information, or any changes made to how we use or disclose your health information. You may obtain a copy of this notice on your health plan website, [www.benefits.sd.gov](http://www.benefits.sd.gov).

## Exercising Your Rights

**Contacting Your Health Plan.** If you have any questions about this notice or want to exercise any of your rights, please call the toll-free member phone number on the back of your health plan ID card or you may contact Bureau of Human Resources, Privacy Officer at 605.773.3148 or by email [BHRHIPAA@state.sd.us](mailto:BHRHIPAA@state.sd.us).

**Submitting a Written Request.** Mail to us written requests for modifying or canceling a confidential communication, for copies of your record, or for amendments to your record, at the following address:

Privacy Office  
Bureau of Human Resources  
500 East Capitol  
Pierre, SD 57501

**Filing a Complaint.** If you believe your privacy rights have been violated, you may file a complaint with us at the address listed above. You may notify the Secretary of the U.S. Department of Health and Human Services of your complaint. Our Privacy Office can provide you the address.

We support your right to the privacy of your medical information. Under no circumstances will you be penalized or retaliated against for filing a complaint.