

COUNTY OF SAN BERNARDINO
Medical Expense Reimbursement Plans
NOTICE OF PRIVACY PRACTICES

Effective Date of Notice: August 1, 2009

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN OBTAIN ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) imposes numerous requirements on employer health plans concerning the use and disclosure of individual health information. This information, known as protected health information (PHI), includes virtually all individually identifiable health information held by the plan – whether received in writing, in an electronic medium, or as an oral communication. This notice describes the privacy practices of the County of San Bernardino's Medical Expense Reimbursement Plan(s). The plans covered by this notice may share health information with each other to carry out Treatment, Payment or Health Care Operations. These plans are collectively referred to as the Plan in this notice, unless specified otherwise.

The Plan's duties with respect to health information about you

The Plan is required by law to maintain the privacy of your health information and to provide you with this notice of the Plan's legal duties and privacy practices with respect to your health information. If you participate in an insured plan option, you will receive a notice directly from the Insurer.

How the Plan(s) may use or disclose your health information

The privacy rules generally allow the use and disclosure of your health information without your permission (known as authorization) for purposes of health care Treatment, Payment activities, and/or Health Care Operations. Here are some examples of what this might entail:

- **Treatment.** 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, which includes reimbursing you for eligible health care expenses for you and your dependents that are not reimbursed by insurance. The Plan may use your information to determine your eligibility for enrollment and for reimbursement and other services, including responding to complaints, appeals and external review requests.
- **Health Plan Operations.** For example, the Plan may use or disclose your PHI to perform its functions as a flexible spending account (FSA) plan. This may include: quality assessment and improvement activities, internal grievance resolution, fraud and abuse compliance programs, authorizing business associates to perform data aggregation services; and managing, planning or developing the Plan's business including conducting or arranging for legal, billing, auditing, compliance and other administrative support functions and/or services.
- **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.

The amount of health information used or disclosed will be limited to the "Minimum Necessary" for these purposes, as defined under the HIPAA rules. The Plan may also contact you to provide you with information about other flexible spending account benefits and services that may be of interest to you.

How the Plan may share your health information with the County of San Bernardino

The Plan may disclose your health information without your written authorization to The County of San Bernardino for plan administration purposes. The County of San Bernardino may need your health information to administer benefits under the Plan. The County of San Bernardino agrees not to use or disclose your health information other than as permitted or required by the Plan document and by law. The staff of the Human Resources Department, Employee Benefits and Services Division (EBS) are the only County employees who will have access to your health information for plan administration functions.

Please be aware that The County of San Bernardino cannot and will not use health information obtained from the Plan for any employment-related actions.

Other allowable uses or disclosures of your health information

In certain cases, your health information can be disclosed without authorization to a family member, close friend, or other person you identify who is involved in your care or payment for your care. Information describing your location, general condition, or death may be provided to a similar person (or to a public or private entity authorized to assist in disaster relief efforts). You will generally be given the chance to agree or object to these disclosures (although exceptions may be made for example if you are not present or if you are incapacitated). In addition, your health information may be disclosed without authorization to your legal representative.

The Plan also is allowed to use or disclose your health information without your written authorization for the following activities:

Workers' Compensation	Disclosures to workers' compensation or similar legal programs that provide benefits for work-related injuries or illness without regard to fault, as authorized by and necessary to comply with such laws.
Necessary to prevent serious threat to health or safety	Disclosures made in the good-faith belief that releasing your health information is necessary to prevent or lessen a serious and imminent threat to public or personal health or safety, if made to someone reasonable able to prevent or lessen the threat (including disclosures to the target of the threat); includes disclosures to assist law enforcement officials in identifying or apprehending an individual because the individual has made a statement admitting participation in a violent crime that the Plan reasonable believes may have caused serious physical harm to a victim, or where it appears the individual has escaped from prison or from lawful custody.
Public Health activities	Disclosures authorized by law to person who may be at risk of contracting or spreading a disease or condition; disclosures to public health authorities to prevent or control disease or report child abuse or neglect; and disclosures to the Food and Drug Administration to collect or report adverse events or product defects.
Victims of abuse, neglect or domestic violence	Disclosures to government authorities, including social services or protected services agencies authorized by law to receive reports of abuse, neglect or domestic violence, as required by law or if you agree or the Plan believes that disclosure is necessary to prevent serious harm to you or potential victims (you will be notified of the Plan's disclosure if informing you would not put you at further risk).
Judicial and Administrative Proceedings	Disclosures in response to a court or administrative order, subpoena, discovery request or other lawful process (the Plan may be required to notify you of the request, or receive satisfactory assurance from the party seeking your health information that efforts were made to notify you or to obtain a qualified protective order concerning the information).
Law Enforcement purposes	Disclosures to law enforcement officials required by law or pursuant to legal process or to identify a suspect, fugitive, witness or missing person; disclosures about a crime victim if you agree or if disclosure is necessary for immediate law enforcement activity; disclosure about a death that may have resulted from criminal conduct; and disclosure to provide evidence of criminal conduct on the Plan's premises.
Decedents	Disclosures to a coroner or medical examiner to identify the deceased or determine cause of death; and to funeral directors to carry out their duties.
Organ, eye or tissue donation	Disclosures to organ procurement organizations or other entities to facilitate organ, eye or tissue donation and transplantation after death.
Research purposes	Disclosures subject to approval by institutional or private privacy review boards and subject to certain assurances and representations by researchers regarding necessity of using your health information and treatment of the information during a research project.
Health oversight activities	Disclosures to health agencies for activities authorized by law (audits, inspections, investigations or licensing actions) for oversight of the health care system, government benefits programs for which health information is relevant to beneficiary eligibility and compliance with regulatory programs or civil rights laws.
Specialized government functions	Disclosures about individuals who are Armed Forces personnel or foreign military personnel under appropriate military command; disclosures to authorized federal officials for national security or intelligence activities; and disclosures to correctional facilities or custodial law enforcement officials

	about inmates.
HHS investigations	Disclosures of your health information to the Department of Health and Human Services (HSS) to investigate or determine the Plan's compliance with the HIPAA privacy rule.

Except as described in this notice, other uses and disclosures will be made only with your written authorization. You may revoke your authorization as allowed under the HIPAA rules. However, you can not revoke your authorization if the Plan has taken action pursuant to it. In other words, you can not revoke your authorization with respect to disclosures the Plan has already made.

Your individual rights

You have the following rights with respect to your health information the Plan maintains. These rights are subject to certain limitations, as discussed below. This section of the notice describes how you may exercise each individual right. See the table at the end of this notice for information on how to submit requests.

- **Right to request restrictions on certain uses and disclosures of your health information and the Plan's right to refuse.** You have the right to ask the Plan to restrict the use and disclosure of your health information for Treatment, Payment or Health Care Operations, except for uses or disclosures required by law. You have the right to ask the Plan to restrict the use and disclosure of your health information to family members, close friends, or other persons you identify as being involved in your care or payment for your care. You have the right to ask the Plan to restrict use and disclosure of health information to notify those persons of your location, general condition, or death – or to coordinate those efforts with entities assisting in disaster relief efforts. If you want to exercise this right, your request to the Plan must be in writing.

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

- **Right to receive confidential communications of your health information.** If you think that disclosure of your health information by the usual means could endanger you in some way, the Plan will accommodate reasonable requests to receive communications of health information from the Plan by alternative means or at alternative locations.

If you want to exercise this right, your request to the Plan must be in writing and you must include a statement that disclosure of all or part of the information could endanger you.

- **Right to inspect and copy your health information.** With certain exceptions, you have the right to inspect or obtain a copy of your health information in a "Designated Record Set." This may include medical and billing records maintained for a health care provider; enrollment, payment, claims adjudication and case or medical management record systems maintained by a plan; or a group of records the Plan uses to make decisions about individuals. However, you do not have a right to inspect or obtain copies of psychotherapy notes or information compiled for civil, criminal or administrative proceedings. In addition, the Plan may deny your right to access, although in certain circumstances you may request a review of the denial.

If you want to exercise this right, your request to the Plan must be in writing within 30 days of receipt of your request (60 days if the health information is not accessible onsite), the Plan will provide you with:

1. The access or copies you requested;
2. A written denial that explains why your request was denied and any rights you may have to have the denial reviewed or file a complaint; or
3. A written statement that the time period for reviewing your request will be extended by no more than 30 days, along with the reasons for the delay and the date by which the Plan expects to address your request.

The Plan may provide you with a summary or explanation of the information instead of access to or copies of your health information, if you agree in advance and pay any applicable fees. The Plan also may charge reasonable fees for copies or postage.

If the Plan does not maintain the health information but knows where it is maintained, you will be informed of where to direct your request.

- **Right to amend your health information that is inaccurate or incomplete.** With certain exceptions, you have a right to request that the Plan amend your health information in a Designated Record Set. The Plan may deny your request for a number of reasons. For example, your request may be denied if the health information is accurate and complete, was not created by the Plan (unless the person or entity that created the information is no longer available), is not part of the Designated Record Set, or is not available for inspection (e.g. psychotherapy notes or information compiled for civil, criminal or administrative proceedings.)

If you want to exercise this right, your request to the Plan must be in writing, and you must include a statement to support the requested amendment. Within 60 days of receipt of your request, the Plan will:

1. Make the amendment as requested;
2. Provide a written denial that explains why your request was denied and any rights you may have to disagree or file a complaint; or
3. Provide a written statement that the time period for reviewing your request will be extended for no more than 30 more days, along with the reasons for the delay and the date by which the Plan expects to address your request.

- **Right to receive an accounting of disclosure of your health information.** You have the right to a list of certain disclosures the Plan has made of your health information. This is often referred to as an "accounting of disclosures." You generally may receive an accounting of disclosures if the disclosure is required by law, in connection with public health activities, or in similar situations listed in the table earlier in this notice, unless otherwise indicated below.

You may receive information on disclosures of your health information going back for six (6) years from the date of your request, but not earlier than April 14, 2003 (the general date that the HIPAA privacy rules are effective). You do not have a right to receive an accounting of any disclosure made:

1. For Treatment, Payment or Health Care Operations;
2. To you about your own health information;
3. Incidental to other permitted or required disclosures;
4. Where authorization was provided;
5. To family members or friends involved in your care (where disclosure is permitted without authorization);
6. For national security or intelligence purposes or to correctional institutions or law enforcement officials in certain circumstance; or
7. As part of a "limited data set" (health information that excludes certain identifying information).

In addition, your right to an accounting of disclosures to a health oversight agency or law enforcement official may be suspended at the request of the agency or official. If you want to exercise this right, your request to the Plan must be in writing. Within 60 days of the request, the Plan will provide you with the list of disclosures or a written statement that the time period for providing this list will be extended for no more than 30 more days, along with the reasons for the delay and the date by which the Plan expects to address your request. You may make one (1) request in any 12-month period at no

cost to you, but the Plan may charge a fee for subsequent requests. You will be notified of the fee in advance and have the opportunity to change or revoke your request.

- **Right to obtain a paper copy of this notice from the Plan upon request.** You have the right obtain a paper copy of this Privacy Notice upon request. Even individuals who agreed to receive this notice electronically may request a paper copy at any time.

Changes to the information in this notice

The Plan must abide by the terms of the Privacy Notice currently in effect. This notice takes effect on August 1, 2009. However, the Plan reserves the right to change the terms of its privacy policies as described in this notice at any time, and to make new provisions effective for all health information that the Plan maintains. This includes health information that was previously created or received, not just health information created or received after the policy is changed. If changes are made to the Plan's privacy policies described in this notice, you will be provided with a revised Privacy Notice either electronically or on paper. If you receive this Notice electronically, you may also request a paper copy at no charge. This Notice is also posted on the County of San Bernardino, Human Resources Department website (http://www.sbcounty.gov/hr/Benefits_Home.aspx).

Our right to check your identity

For your protection, we may check your identity whenever you have questions about your specific enrollment Plan activities. We will check your identity whenever you submit requests to look at, copy or amend your records or to obtain a list of disclosures of your health information.

Complaints

If you believe your privacy rights have been violated, you may complain to the Plan or to the County of San Bernardino, Office of Compliance and Ethics at the addresses listed below. Alternatively you may complain to the Secretary of the U.S. Department of Health and Human Services, at the regional office that handles your area, generally within 180 days of when the act or omission occurred. You will not be retaliated against for filing a complaint.

To file a complaint with the Plan as administered by the County Human Resources Department, contact: Benefits Chief, Department of Human Resources Employee Benefits and Services 157 W. Fifth Street, First Floor San Bernardino, CA 92415-0440 Phone # (909) 387-5787 Fax # (909) 387-5566 Email: ebsd@hr.sbcounty.gov	To file a complaint with the County of San Bernardino, Office of Compliance and Ethics: HIPAA Complaints Official 157 W. Fifth Street, First Floor San Bernardino, CA 92415-0440 Phone # (909) 387-4500 Fax # (909) 387-8950 Email: HIPAAComplaints@cao.sbcounty.gov
---	--

For more information on the Plan's privacy policies or your rights under HIPAA, contact:

HIPAA Benefits Analyst
County of San Bernardino, Human Resources Department
Employee Benefits and Services
157 W. Fifth Street, First Floor
San Bernardino, CA 92415-0440

Phone # (909) 387-5787
Fax # (909) 387-5566

Plans that will follow this Notice include the following:

- County of San Bernardino, Medical Expense Reimbursement Plan
- County of San Bernardino, Exempt Medical Expense Reimbursement Plan