CalPERS Notice of Privacy Practices

Effective Date: Revised Effective September 9, 2013

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.

If you have any questions about this notice, please contact the Health Insurance Portability and Accountability Act (HIPAA) Privacy Officer at 1-888-CalPERS (or 1-888-225-7377).

Why We Ask for Information About You
The Information Practices Act of 1977 and the Federal Privacy Act require CalPERS to provide certain information to individuals who are asked to supply information. The information requested is collected pursuant to Government Code (Section 20000, et seq.) and is used for administration of the CalPERS Board’s duties under the Public Employees’ Retirement Law, the Social Security Act, and the Public Employees’ Medical and Hospital Care Act, as the case may be. Submission of the requested information is mandatory. Failure to supply the information may result in CalPERS being unable to perform its functions regarding your status. Portions of this information may be transferred to other governmental agencies (such as your employer), physicians, and insurance carriers but only in strict compliance with current statutes regarding confidentiality.

You have the right to review your CalPERS membership file. For questions concerning your rights under the Information Practices Act of 1977, please contact the CalPERS Customer Contact Center at 1-888-CalPERS (or 1-888-225-7377).

How We Use Your Social Security Number
Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires any federal, State, or local governmental agency requesting an individual to disclose a Social Security number to inform the individual whether the disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.

Section 111 of Public Law 101-173 requires group health plans to collect and provide member Social Security numbers for the coordination of federal and State benefits. Furthermore, the CalPERS health program requires each enrollee’s Social Security number for identification purposes and to verify eligibility for benefits.
The CalPERS health program uses Social Security numbers for the following purposes:

- Enrollee identification for eligibility processing and verification.
- Payroll deduction and State contribution for State employees.
- Billing of public agencies for employee and employer contributions.
- Reports to CalPERS and other State agencies.
- Coordination of benefits among health plans.
- Resolution of member complaints, grievances and appeals with health plans.

**HIPAA: How We Safeguard Your Protected Health Information (PHI)**

We understand that protected health information ("PHI") about you is personal and CalPERS is committed to safeguarding PHI in our possession. This notice applies to your PHI under the CalPERS health and long-term care programs. The particular group health or long-term care plan in which you are enrolled may have different policies or notices regarding its use and disclosure of your PHI.

The remainder of this notice will tell you about the ways in which we may use and disclose protected health information about you. We also describe your rights and certain obligations we have regarding the use and disclosure of PHI.

PHI is any information created or received by a health care provider, a health plan, or long-term care plan that relates to: (1) your past, present, or future physical or mental health or condition; (2) the provision of health care to you; or (3) the past, present or future payment for your health care. However, such information is only PHI if the information identifies you or contains information that can reasonably be used to identify you. Such information is PHI during your lifetime and remains PHI for a period of 50 years after your death.

The Federal HIPAA Privacy Regulations (Title 45, Code of Federal Regulations, Sections 164.500, et seq.) require us to:

- Make sure PHI that identifies you is kept private;
- Provide you with certain rights with respect to your PHI;
- Give you this notice of our legal duties and privacy practices with respect to your PHI; and
- Follow the terms of the notice that is currently in effect.

**How We May Use And Disclose Your PHI**

The following categories describe different ways CalPERS may use and disclose PHI. For each category of uses or disclosures we will explain what we mean and give some examples. Not every use or disclosure in a category will be listed. All of the ways we are permitted to use and disclose information under HIPAA, however, will fall within one of the categories.
• **For Payment.** We may use or disclose your PHI for payment purposes, including determining your eligibility for benefits; to facilitate payment for the treatment and services you receive from health care providers, to determine the amount of your benefits, or to coordinate payment of benefits with other health or long-term care coverage you may have.

• **Health Care Operations.** We may use and disclose PHI about you to operate the CalPERS health and long-term care programs. These uses and disclosures are necessary to run these programs and make sure that all of our enrollees receive quality care. For example, we may use and disclose PHI about you to confirm your eligibility and to enroll you in the health or long-term care plan that you select, to evaluate the performance of the health plan or long-term care program in which you are enrolled, or to resolve a complaint, grievance or appeal with the health plan or long-term care program. We may also combine PHI about many CalPERS health and long-term care benefits enrollees (1) to assist in rate setting or underwriting; (2) to evaluate plan or program performance; (3) to measure quality of care provided; or (4) for similar health care operations. In some cases, we may obtain PHI about you from a participating health plan, provider, or third-party administrator for certain health care operations. If the PHI received is from others as part of our health care operations, the uses and disclosures would be in compliance with these guidelines. We will, however, never use or disclose your genetic information for underwriting purposes.

• **Treatment.** We may use or disclose PHI to a health care provider to facilitate medical treatment or services. For example, if your health care provider refers you to a specialist for treatment, we can disclose your PHI to the specialist to whom you have been referred so the specialist can become familiar with your medical condition, prior diagnoses and treatment, and prognoses. It is more likely, though, that a health care provider would receive your PHI for treatment purposes from another health care provider than from us.

• **To Business Associates.** We may contract with third parties known as Business Associates to perform various functions on our behalf or to provide certain types of services. Subcontractors of these third parties also may be our Business Associates in certain cases. For example, the entities which serve as third-party administrators for the CalPERS health and long-term care programs are Business Associates. In order to perform these functions or to provide these services, Business Associates may receive, create, maintain, use and/or disclose your PHI for plan administration and other permitted purposes, but only after they agree in writing to implement appropriate safeguards regarding your PHI. In addition, Business Associates are directly subject to many of the provisions of HIPAA which protect the privacy and security of PHI.
• **Disclosure to the Plan Sponsor.** For the purpose of administering the health and long-term care program, we will disclose your PHI to certain employees of CalPERS. Those employees, however, will only use or disclose that information as necessary to perform plan administration functions or as otherwise required by HIPAA, unless you have authorized further disclosures. Your PHI cannot be used for employment purposes without your specific written authorization.

• **Health-Related Benefits and Services.** We may use and disclose PHI to tell you about health-related benefits or services, such as treatment alternatives, disease management or wellness programs that may be of interest to you.

• **As Required By Law.** We will disclose PHI about you when required to do so by federal, state, or local law or regulation.

• **To Avert a Serious Threat to Health or Safety.** We may use and disclose PHI about you when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person. Any disclosure, however, would only be to someone able to help prevent the threat.

**Special Situations**

• **Workers’ Compensation.** We may release PHI about you for workers’ compensation or similar programs. These programs provide benefits for work-related injuries or illnesses.

• **Organ and Tissue Donation.** If you are an organ donor, we may use or disclose PHI to organizations that handle organ procurement or organ, eye or tissue transplantation or to an organ donation bank, as necessary to facilitate an organ, eye, or tissue donation and transplantation.

• **Coroners, Medical Examiners and Funeral Directors.** We may release PHI to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or to determine the cause of death. We may also release medical information about patients to funeral directors as necessary to carry out their duties.

• **Military.** If you are a member of the armed forces, we may disclose PHI about you as required by military command authorities.

• **Health Oversight Activities.** We may disclose PHI to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, inspections, and licensure proceedings. These activities are necessary for the government to monitor the health care system, government programs, and compliance with civil rights laws.
• **Lawsuits and Disputes.** If you are involved in a lawsuit or a dispute, we may disclose PHI about you in response to a court or administrative order. We may also disclose PHI about you in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if you have been given proper notice and an opportunity to object.

• **Law Enforcement.** We may release PHI if asked to do so by a law enforcement official in response to a court order, subpoena, warrant, summons, or similar process.

• **National Security and Intelligence Activities.** We may release PHI about you to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized by law.

• **Protective Services for the President and Others.** We may disclose PHI about you to authorized federal or state officials so they may provide protection to the President, other authorized persons or foreign heads of state or conduct special investigations.

• **Where Required by the HIPAA Privacy Rule.** We are required to disclose PHI to the Secretary of the U.S. Department of Health and Human Services when requested by the Secretary to review our compliance with the HIPAA Privacy Rule.

  • **Inmates.** If you are an inmate of a correctional institution or under the custody of a law enforcement official, we may release PHI about you to the correctional institution or law enforcement official. This release would be 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.

  • **Minimum Necessary Standard.** To the extent possible, when using or disclosing your PHI or when requesting your PHI from another organization subject to HIPAA, we will not use, disclose or request more than the minimum amount of your PHI necessary to accomplish the intended purpose of the use, disclosure or request, taking into consideration practical and technological limitations.

  However, the minimum necessary standard will not apply to:

  • disclosures to or requests by a health care provider for treatment;
  • uses by you or disclosures to you of your own PHI;
  • disclosures made to the Secretary of the U.S. Department of Health and Human Services;
  • uses or disclosures that may be required by law;
uses or disclosures that are required to comply with legal regulations; and
uses and disclosures for which we have obtained your authorization.

Disclosures to Personal Representatives and Family Members

**Personal Representatives.** We will disclose your PHI to individuals who are your personal representatives under state law. For example, we will disclose PHI of minor children to the parents of such children in most situations. We will also disclose your PHI to other persons authorized by you in writing to receive your PHI, such as your representative under a medical power of attorney, so long as we are provided with a written notice/authorization and any supporting documents (i.e., power of attorney). Note: Under the HIPAA privacy rule, we do not have to disclose information to a personal representative if we have a reasonable belief that:

- you have been, or may be, subjected to domestic violence, abuse or neglect by such person;
- treating such person as your personal representative could endanger you; or
- in the exercise of our professional judgment, it is not in your best interest to treat the person as your personal representative.

**Family Members.** Unless otherwise allowed by the HIPAA rules, we will not orally disclose your PHI to your spouse or domestic partner, or to your parent (if you are an adult child), unless you have agreed to such disclosure. With only limited exceptions, however, we will send all mail to the named insured. This includes mail relating to the named insured’s family members (spouse, domestic partner and children (including adult children)), and includes mail with information, for example, on the use of benefits by the named insured’s family members and information on the denial of any benefits to the named insured’s family members. If you have requested restrictions on uses and disclosures of PHI (see Your Right to Request Restrictions below under “Your Rights Regarding Your PHI”), and we have agreed to the request, we will send mail as provided by the request.

Upon your death, we may disclose your PHI to a family member (or other relative or close friend) involved in your health care or payment for your health care prior to your death, to the extent the PHI is relevant to such person’s involvement, unless such disclosure is inconsistent with your prior expressed preference that is known to us.
Rights Regarding Your PHI

You have the following rights regarding PHI we maintain about you:

- **Right to Inspect and Copy.** You have the right to inspect and copy PHI about you that is maintained by the CalPERS health and long-term care programs.

  To inspect and copy PHI about you that is maintained by the CalPERS health or long-term care programs, you must submit your request in writing to the HIPAA Privacy Officer at P. O. Box 942715, Sacramento, CA 94229-2715. If you request a copy of the information, we may charge a fee for the costs of copying, mailing, or other supplies associated with your request.

  If the information you request is maintained electronically, and you request an electronic copy, we will provide a copy in the electronic form and format you request, if the information can be readily produced in that form and format. If the information cannot be readily produced in that electronic form and format, we will work with you to come to an agreement on another electronic form and format. If we cannot agree on an electronic form and format, we will provide you with a paper copy.

  We may deny your request to inspect and copy in certain very limited circumstances. If you are denied access to the PHI, you may request that the denial be reviewed. A licensed health care professional chosen by CalPERS will review your request and the denial. The person conducting the review will not be the person who denied your request. We will comply with the outcome of the review.

- **Right to Amend.** If you feel the PHI we have about you is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as the information is kept by or for the CalPERS health or long-term care programs.

  To request an amendment, your request must be made in writing and submitted to the HIPAA Privacy Officer at P. O. Box 942715, Sacramento, CA 94229-2715. In addition, you must provide a reason that supports your request.

  We may deny your request for an amendment if it is not in writing or does not include a reason to support the request. In addition, we may deny your request if you ask us to amend information that:

  - was not created by us, unless the person or entity that created the information is no longer available to make the amendment;
• is not part of the PHI kept by or for CalPERS;

• is not part of the information which you would be permitted to inspect and copy; or

• is accurate and complete.

• **Right to an Accounting of Disclosures.** You have the right to request an “accounting of disclosures.” This is a list of certain disclosures we made of your PHI. The accounting will not include (1) disclosures for purposes of treatment, payment, or health care operations; (2) disclosures made to you; (3) disclosures made pursuant to a written authorization from you; (4) disclosures made to friends or family in your presence or because of an emergency; (5) disclosures for national security purposes; and (6) disclosures incidental to otherwise permissible disclosures.

To request this list or accounting of disclosures, you must submit your request in writing to the HIPAA Privacy Officer at P. O. Box 942715, Sacramento, CA 94229-2715. Your request must state a time period, which may not be longer than six years prior to the date of the request. Your request should indicate in what form you want the list (for example, on paper or electronically). The first list you request within a 12-month period will be free. For additional lists, we may charge you for the costs of providing the list. We will notify you of the costs involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

• **Right to Request Restrictions.** You have the right to request a restriction or limitation on the PHI we use or disclose about you for treatment, payment or health care operations. You also have the right to request a limit on the PHI we disclose about you to someone who is involved in your care or the payment for your care, like a family member or friend. For example, you could ask that we not use or disclose information about a surgery you had.

*We are not required to agree to your request except in limited circumstances.* We will agree to your request if the PHI pertains solely to a health care item or service for which the health care provider has been paid out of pocket in full. In other instances, we are not required to agree to your request. If we do agree, we will comply with your request unless the information is needed to provide you with emergency treatment.

To request restrictions, you must make your request in writing to the HIPAA Privacy Officer at P. O. Box 942715, Sacramento, CA 94229-2715. In your request, you must tell us (1) what information you want to limit; (2) whether you want to limit our use, disclosure, or both; and (3) to whom you want the limits to apply, for example, disclosures to your spouse.
• **Right to Request Confidential Communications.** You have the right to request that we communicate with you about medical matters in a certain way or at a certain location. For example, you can ask that we only contact you at work or by mail to a specific address.

To request confidential communications, you must make your request in writing to the HIPAA Privacy Officer at P. O. Box 942715, Sacramento, CA 94229-2715. We will not ask you the reason for your request. We will accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

• **Breach Notification.** If and when required by HIPAA, we will notify you of a breach of the HIPAA privacy rules involving your PHI. If HIPAA requires us to send you a notice, the notice will contain:

  • a description of the breach;
  • the type of the PHI that was breached;
  • what steps you could take to protect yourself from potential harm;
  • what steps we are taking to investigate the breach, mitigate harm, and protect from further breaches; and
  • who to contact for additional information.

• **Right to a Paper Copy of This Notice.** You have the right to a paper copy of this notice. You may ask us to give you a copy of this notice at any time. Even if you have agreed to receive this notice electronically, you are still entitled to a paper copy of this notice.

To obtain a paper copy of this notice contact the HIPAA Privacy Officer at 1-888-CalPERS (or 1-888-225-7377).

**Changes to this Notice**

We reserve the right to change this notice. We reserve the right to make the revised or changed notice effective for PHI we already have about you as well as any information we receive in the future. We will post a copy of the current notice at CalPERS and on the CalPERS website at [www.calpers.ca.gov](http://www.calpers.ca.gov). The notice will contain the effective date in the top right-hand corner of the first page. In addition, a copy of the notice that is currently in effect will be included in the annual CalPERS open enrollment mailing.

**Complaints**

If you believe your privacy rights have been violated, you may file a complaint with CalPERS or with the Secretary of the U.S. Department of Health and Human Services. To file a complaint with CalPERS, contact the HIPAA Administrator at 1-888-CalPERS (or 1-888-225-7377). All complaints must be submitted in
writing, and sent to the HIPAA Privacy Officer at P. O. Box 942715, Sacramento, CA 94229-2715.

You will not be retaliated against for filing a complaint.

Other Uses of PHI

Other uses and disclosures of PHI not covered by this notice or the laws that apply to us will be made only with your written permission or authorization. If you provide us permission to use or disclose PHI about you, you may revoke that permission, in writing, at any time. If you revoke your permission, we will no longer use or disclose PHI about you for the reasons covered by your written authorization. You understand that we are unable to take back any disclosures we have already made with your permission, and that we are required to retain our records of your participation in the CalPERS health benefits and long-term care programs.