



## IBEW / Western Utilities Health & Welfare Trust Fund

### 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.**

*Effective Date of Notice: September 23, 2013*

This Notice pertains to the self-funded medical plan benefits, COBRA administration and medical reimbursement tax saver account of the flexible spending account sponsored by the IBEW / Western Utilities Health and Welfare Fund (hereafter referred to as the "Plan".)

Protected Health Information (PHI) use and disclosure by the Plan is regulated by a federal law known as HIPAA (the Health Insurance Portability and Accountability Act). You may find these rules at 45 Code of Federal Regulations Parts 160 and 164. The Plan intends to comply with these regulations and guidance provided by the U.S. Department of Health and Human Services rules released on January 25, 2013. This Notice attempts to summarize the regulations. The regulations will supersede any discrepancy between the information in this Notice and the regulations.

IBEW / Western Utilities Health & Welfare Trust Fund is required by law to take reasonable steps to ensure the privacy of your personally identifiable health information and to inform you about:

1. the Plan's uses and disclosures of PHI;
2. your privacy rights with respect to your PHI;
3. the Plan's duties with respect to your PHI;
4. the person or office to contact for further information about the Plan's privacy practices;
5. a breach of unsecured PHI for affected individuals;
6. your right to file a complaint to Health and Human Services (HHS).

The term Protected Health Information (PHI) includes all individually identifiable health information transmitted or maintained by the Plan, regardless of form (oral, written, electronic). The Board of Trustees for the Plan has amended its Plan Documents to protect your PHI as required by federal law.

IBEW / Western Utilities Health & Welfare Trust Fund reserves the right to amend this Notice of Privacy Practices at any time in the future and to make the new Notice provisions effective for all health information that it maintains. We will promptly revise our Notice and distribute it to you whenever we make material changes to the Notice. Until such time, the IBEW / Western Utilities Health & Welfare Trust Fund is required by law to comply with the current version of this Notice.

#### Section 1: Notice of PHI Uses and Disclosures

##### Required PHI Uses and Disclosures.

Upon your request, the Plan is required to give you access to your PHI in order to inspect and copy it. If the Plan's records containing your PHI are in electronic format you can request and receive your PHI in such format.

Use and disclosure of your PHI may be required by the Secretary of the Department of Health and Human Services to investigate or determine the Plan's compliance with the privacy regulations.

### Uses and disclosures to carry out treatment, payment and health care operations.

The Plan and its business associates (a person or entity that performs certain functions or activities that involve the use or disclosure of PHI on behalf of, or provides services to, a covered entity) will use PHI without your authorization or opportunity to agree or object to carry out treatment, payment and health care operations.

References in this Notice to the Plan shall include the Plan's business associates through which the Plan conducts its treatment, payment and health care operations. Any such use and disclosure of PHI shall be only as permitted by the applicable business associate agreement or as required by law. The Plan, its business associates and any health insurers providing benefits to the Plan participants may also disclose the following to the Plan's Board of Trustees:

1. PHI for purposes related to Plan administration, payment and health care operations (see below for details and examples);
2. summary health information for purposes of health or stop loss insurance underwriting or for purposes of modifying the Plan; and
3. enrollment information and whether an individual is eligible for benefits under the Plan.

**Treatment** is the provision, coordination or management of health care and related services. It also includes but is not limited to consultations and referrals between one or more of your providers.

For example, the Plan may disclose to a treating physician the name of your treating radiologist so that the physician may ask for your x-rays from the treating radiologist. In carrying out treatment activities, the Plan may contact you to inform you of health-related benefits or services, treatment alternatives, or appointment reminders.

**Payment** includes, but is not limited to the activities of your health plan in making coverage decisions, collection activities, paying claims under the plan for health care services you receive, the sending of PHI to an external medical review company to determine the medical necessity, appropriateness of care, or experimental status of a treatment; sharing PHI with other insurers to determine coordination of benefits or sharing PHI with attorneys and insurance companies to settle subrogation claims; providing PHI to the plan's utilization review company for pre-authorizations, pre-certifications or case management services; providing PHI in the billing, collection and payment of premiums and fees to plan vendors such as, for example, PPO Networks, utilization review companies, prescription drug companies and reinsurance carriers; and sending PHI to a reinsurance carrier to obtain reimbursement of claims paid under the plan and making informed decisions on appeals both internal or external.

An example of sharing PHI for payment purposes, the Plan may tell a doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Plan.

**Health care operations** include but are not limited to quality assessment and improvement, reviewing competence or qualifications of health care professionals, underwriting, enrollment, patient safety activities, premium rating and other insurance activities relating to creating or renewing insurance contracts. It also includes case management, conducting or arranging for medical review, legal and actuarial services and auditing functions including fraud and abuse compliance programs, consultation regarding planning, development, management, general administrative activities and legal compliance activities such as breach notification risk assessments conducted by the Plan's business associates in conjunction with legal counsel.

For example, the Plan may use information to project future benefit costs or audit the accuracy of its claims processing functions or to comply with federal and state laws governing health care operations. The Plan may not and does not use your genetic information that is PHI for underwriting purposes.

### Uses and disclosures that require your written authorization.

The Plan will obtain your authorization before releasing your PHI in those circumstances where the law or the Plan's privacy practices do not otherwise permit disclosure. The following uses and disclosures

will be made only with authorization from you:

- uses and disclosures of PHI for marketing purposes;
- uses and disclosures of PHI that constitute the sale of PHI;
- most uses and disclosures of psychotherapy notes;
- other uses and disclosures not described in this Notice.

For example, your written authorization generally will be obtained before the Plan will use or disclose psychotherapy notes about you prepared by your psychotherapist. Psychotherapy notes are separately filed notes about your conversations with your mental health professional during a counseling session. They do not include summary information about your mental health treatment. You have the right to revoke an authorization.

The Plan does not intend to engage in fundraising activities. As indicated above, the Plan is prohibited from using or disclosing your genetic information for underwriting purposes.

Uses and disclosures that require that you be given an opportunity to agree or disagree prior to the use or release.

Disclosure of your PHI to family members, other relatives and your close personal friends without your written consent or authorization is allowed if:

1. the information is directly relevant to the family member or friend's involvement with your care or payment for that care; and
2. you have either agreed to the disclosure or have been given an opportunity to object and have not objected.

Additional rules and exceptions apply with family members. Note that the Plan may disclose PHI to family members of a deceased patient so long as you did not register an objection prior to death.

You may request additional information from the Plan.

The Plan will automatically share information obtained with the life insurance and pension coordination staff unless the individual does not want this to happen, in which case the person may complete a restriction of disclosure of PHI form available from the Administrative Office.

Uses and disclosures for which your consent, authorization or opportunity to object is not required.

The Plan is allowed to use and disclose your PHI without your authorization under the following circumstances:

1. For treatment, payment and health care operations as explained above.
2. Enrollment information can be provided to the Trustees and business associates as permitted under the applicable business associate agreement.
3. Summary health information can be provided to the Trustees for the purposes designated above.
4. When required by law.
5. When permitted for purposes of public health activities, including, when necessary, to report product defects and to permit product recalls. PHI may also be disclosed if you have been exposed to a communicable disease or are at risk of spreading a disease or condition, if required by law. The Plan may disclose immunization records to a school if the school is required to obtain such records and the Plan obtains the written agreement from the parent.
6. When required by law to report information about abuse, neglect or domestic violence to public authorities if there exists a reasonable belief that you may be a victim of abuse, neglect or domestic violence. In such case, the Plan will promptly inform you that such a disclosure has been or will be made unless that notice would cause a risk of serious harm. For the purpose of reporting child abuse or neglect, it is not necessary to inform the minor that such a disclosure

has been or will be made. Disclosure may generally be made to the minor's parents or other representatives although there may be circumstances under federal or state law when the parents or other representatives may not be given access to the minor's PHI.

7. The Plan may disclose your PHI to a public health oversight agency for oversight activities required by law. This includes uses or disclosures in civil, administrative or criminal investigations; inspections; licensure or disciplinary actions (for example, to investigate complaints against providers); and other activities necessary for appropriate oversight of government benefit programs (for example, to investigate Medicare or Medicaid fraud).
8. The Plan may disclose your PHI when required for judicial or administrative proceedings. For example, your PHI may be disclosed in response to a subpoena or discovery request. Provided certain conditions are met. One of those conditions is that satisfactory assurances must be given to the Plan that the requesting party has made a good faith attempt to provide written notice to you, and the notice provided sufficient information about the proceeding to permit you to raise an objection and no objections were raised or were resolved in favor of disclosure by the court of tribunal.
9. When required for law enforcement purposes, including for the purpose of identifying or locating a suspect, fugitive, material witness or missing person. Also, when disclosing information about an individual who is or is suspected to be a victim of a crime but only if the individual agrees to the disclosure or the Plan is unable to obtain the individual's agreement because of emergency circumstances. Furthermore, the law enforcement official must represent that the information is not intended to be used against the individual, the immediate law enforcement activity would be materially and adversely affected by waiting to obtain the individual's agreement and disclosure is in the best interest of the individual as determined by the exercise of the Plan's best judgment.
10. When required to be given to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death or other duties as authorized by law. Also, disclosure is permitted to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent.
11. When consistent with applicable law and standards of ethical conduct if the Plan, in good faith, believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and the disclosure is to a person reasonably able to prevent or lessen the threat, including the target of the threat.
12. When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.

Any other Plan uses and disclosures not described in this Notice will be made only with your written authorization subject to your right to revoke such authorization and information used and disclosed will be made in compliance with the minimum necessary standards of the regulations.

## **Section 2: Statement of Your Health Information Rights**

### Right to Request Restrictions on Uses and Disclosures of PHI.

You have the right to request restrictions on certain uses and disclosures of your PHI. However, the Plan is not required to agree to your request. You or your personal representative will be required to submit a written request.

Such requests should be made to the Plan's Privacy Official at: BeneSys Administrators, 7180 Koll Center Parkway, Suite 200, Pleasanton, CA 94566 phone: 925-398-7050; e-mail: [staff@ibew-west.com](mailto:staff@ibew-west.com).

You also have the right to restrict disclosures going from your health care provider to the Plan if you have paid for the medical service or item out of your own pocket.

### Right to Request Confidential Communications.

The Plan will accommodate reasonable requests to receive communications of PHI by alternative means or at alternative locations if necessary to prevent a disclosure that could endanger you. You or

your personal representative will be required to submit a written request.

Such requests should be made to the Plan's Privacy Official at: BeneSys Administrators, 7180 Koll Center Parkway, Suite 200, Pleasanton, CA 94566 phone: 925-398-7050; e-mail: [staff@ibew-west.com](mailto:staff@ibew-west.com).

#### Right to Inspect and Copy.

You have the right to inspect and copy health information about you that may be used to make decisions about your Plan benefits. If the Plan's records containing your PHI are in electronic format you can request and receive your PHI in such electronic format or other electronic format agreed to by you and the Plan.

To inspect and copy such information, you must submit your request in writing to the Plan's Privacy Official at: BeneSys Administrators, 7180 Koll Center Parkway, Suite 200 Pleasanton, CA 94566 phone: 925-398-7050; e-mail: [staff@ibew-west.com](mailto:staff@ibew-west.com).

The Plan has 30 days after the request is made to act on the request. A single 30-day extension is allowed if the Plan is unable to comply with the deadline and notifies you of this. If the request is denied in whole or part, the Plan must provide you with a written denial that explains the basis for the denial and your rights to further review of the denial. If you request a copy of the information, we may charge you a reasonable fee to cover expenses associated with your request.

#### Right to Amend PHI.

You have the right to request the Plan amend your PHI or a record about you in your designated record set for as long as the PHI is maintained in the designated record set.

The Plan has 60 days after the request is made to act on the request. A single 30-day extension is allowed if the Plan is unable to comply with the deadline and notifies you of this. If the request is denied in whole or part, the Plan must provide you with a written denial that explains the basis for the denial. You or your personal representative may then submit a written statement disagreeing with the denial and have that statement included with any future disclosures of your PHI.

Such requests should be made to the Plan's Privacy Official at: BeneSys Administrators, 7180 Koll Center Parkway, Suite 200 Pleasanton, CA 94566 phone: 925-398-7050; e-mail: [staff@ibew-west.com](mailto:staff@ibew-west.com).

You or your personal representative will be required to submit a written request stating the reason(s) why you wish to request an amendment of the PHI in your designated record set.

#### Right to Receive an Accounting of PHI Disclosures.

At your request, the Plan will also provide you an accounting of disclosures by the Plan of your PHI during the six years prior to the date of your request. However, such accounting will not include PHI disclosures made: (1) to carry out treatment, payment or health care operations (including to business associates pursuant to a business associate agreement and to the Trustees as authorized by the Plan or the HIPAA privacy regulations); (2) to individuals about their own PHI; (3) pursuant to your authorization; (4) prior to April 14, 2003; and (5) where otherwise permissible under the law and the Plan's privacy practices. In addition, the Plan need not account for certain incidental disclosures.

If the accounting cannot be provided within 60 days, an additional 30 days is allowed if the individual is given a written statement of the reasons for the delay and the date by which the accounting will be provided.

If you request more than one accounting within a 12-month period, the Plan will charge a reasonable, cost-based fee for each subsequent accounting. Such requests should be made to the Plan's Privacy Official at: BeneSys Administrators, 7180 Koll Center Parkway, Suite 200 Pleasanton, CA 94566 phone: 925-398-7050; e-mail: [staff@ibew-west.com](mailto:staff@ibew-west.com).

#### Right to Receive a Paper Copy of this Notice upon Request.

Such Requests should be made to the Plan's Privacy Official at: BeneSys Administrators, 7180 Koll Center Parkway, Suite 200 Pleasanton, CA 94566, and phone: 925-398-7050; e-mail [staff@ibew-west.com](mailto:staff@ibew-west.com). The right to receive a paper copy applies even if you have agreed to receive the Notice

electronically.

**Right to Notification of a Breach.**

If a breach of your unsecured PHI occurs, the Plan will notify you.

**Right to File a Complaint.**

If you believe your privacy rights have been violated, you may file a complaint with the Plan's Privacy Officer at: BeneSys Administrators, 7180 Koll Center Parkway, Suite 200 Pleasanton, CA 94566 phone: 925-398-7050 or with the Secretary of the Department of Health and Human Services found in your local telephone directory. Your Privacy Official's e-mail address is [staff@ibew-west.com](mailto:staff@ibew-west.com).

IBEW / Western Utilities Health & Welfare Trust Fund will not retaliate against you in any way for filing a complaint. All complaints must be submitted in writing.

If you would like to have a more detailed explanation of these rights or if you would like to exercise one or more of these rights, contact the Plan's Privacy Official at: BeneSys Administrators, 7180 Koll Center Parkway, Suite 200 Pleasanton, CA 94566 phone: 925-398-7050. Your Privacy Official's e-mail address is [staff@ibew-west.com](mailto:staff@ibew-west.com).

The Plan is required by law to notify you in the event that the Plan has determined that a breach involving unsecured PHI has occurred and that you are affected by such breach.

**A Note About Personal Representatives**

You may exercise your rights through a personal representative. Your personal representative will be required to produce evidence of his/her authority to act on your behalf before that person will be given access to your PHI or allowed to take any action for you. Proof of such authority may take one of the following forms:

1. a power of attorney for health care purposes, notarized by a notary public;
2. a court order of appointment of the person as the conservator or guardian of the individual; or
3. an individual who is the parent of an unemancipated minor child may generally act as the child's personal representative (subject to state law).

**Forms to designate or revoke a Personal Representative are available through the Plan's Privacy Official at:** BeneSys Administrators, 7180 Koll Center Parkway, Suite 200 Pleasanton, CA 94566 phone: 925-398-7050; e-mail: [staff@ibew-west.com](mailto:staff@ibew-west.com).

The Plan will recognize certain individuals as Personal Representatives without you having to complete a Personal Representative form. You may however request that the Plan not automatically honor the following individuals as your Personal Representative by completing a form to Revoke a Personal Representative available from the Administrative Office.

For example, **the Plan will automatically consider a spouse to be the personal representative of an employee and vice versa.** The recognition of your spouse as your personal representative (and vice versa) is for the use and disclosure of PHI under this Plan and is not intended to expand such designation beyond what is necessary for this Plan to comply with HIPAA privacy regulations.

**If you wish to revoke your Spouse as your Personal Representative, please complete the "Revoke a Personal Representative" form available from the Plan's Privacy Official.**

The Plan will consider a parent, guardian, or other person acting *in loco parentis* as the personal representative of an unemancipated minor (a child generally under age 18) unless the applicable law requires otherwise. *In loco parentis* may be further defined by state law, but in general it refers to a person who has been treated as a parent by the child and who has formed a meaningful parental relationship with the child for a substantial period of time.

Spouses and unemancipated minors may, however, request that the Plan restrict PHI that goes to family members as described above under the section titled Statement of Your Health Information Rights.

The Plan retains discretion to deny access to your PHI by a personal representative to provide protection to those vulnerable people who depend on others to exercise their rights under these rules and who may be subject to abuse or neglect.

### **Section 3: The Plan's Duties**

The Plan is required by law to maintain the privacy of PHI and to provide individuals (participants and beneficiaries) with notice of the Plan's legal duties and privacy practices.

The Plan reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by the Plan. If a privacy practice is changed, a revised version of this Notice will be provided to all participants for whom the Plan still maintains PHI. The revised Notice will be distributed within 60 days of the material revision in the same manner as the initial Notice was provided or in any other permissible manner, including posting the revised notice on the Plan website and notifying Plan participants of such posting in the next mailing of the Staying Connected newsletter.

If there is a material change to the Plan's policies regarding the uses or disclosures of PHI, the individual's privacy rights, the duties of the Plan or other privacy practices stated in this Notice, the Plan will redistribute the Notice to the named individual.

The Plan is required by law to notify you in the event that the Plan has determined that a breach involving unsecured PHI has occurred and that you are affected by such breach.

#### **Minimum Necessary Standard.**

When using or disclosing PHI or when requesting PHI from another covered entity, the Plan will make reasonable efforts not to use, disclose or request more than the minimum amount of 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 in the following situations:

1. disclosures to or requests by a health care provider for treatment;
2. uses or disclosures made to the individual;
3. disclosures made to the Secretary of the U.S. Department of Health and Human Services;
4. uses or disclosures that are required by law; and
5. uses or disclosures that are required for the Plan's compliance with legal regulations.

#### **De-Identified Information.**

This Notice does not apply to information that has been de-identified. De-identified information is information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

#### **Summary Health Information.**

The Plan may disclose summary health information to the Trustees for obtaining insurance premium bids or modifying, amending or terminating the Plan. Summary health information summarizes the claims history; claims expenses or type of claims experienced by participants and excludes identifying information in accordance with HIPAA.

### **Section 4: Whom to Contact at the Plan for More Information**

If you have any questions regarding this Notice or the subjects addressed in it, you may contact the Plan's Privacy Official. Such questions should be directed to the Plan's Privacy Official at: BeneSys Administrators, 7180 Koll Center Parkway, Suite 200 Pleasanton, CA 94566 phone: 925-398-7050; e-mail: [staff@ibew-west.com](mailto:staff@ibew-west.com).