

PRIVACY PRACTICES NOTICE

Effective September 23, 2013

BURLINGTON NORTHERN SANTA FE GROUP BENEFITS PLAN 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.

The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) requires Burlington Northern Santa Fe Group Benefits Plan (hereinafter referred to as “the Plan”) to protect the privacy of your health information. This information, known as “protected health information” or “PHI”, includes data that can be used to identify you and that the Plan has created or received about your past, present or future health or condition, the provision of health care to you, or the payment for this health care. HIPAA requires the Plan to provide you with this notice about its legal duties and privacy practices with respect to your PHI. If you participate in an insured plan or an HMO, you will receive a separate privacy practices notice from that plan.

Generally speaking, the Plan has limited access to your medical records. Your medical information is a private matter between you and your doctor, so the Plan’s access to information involving your medical treatment is generally limited to the minimum amount of information needed to administer your benefits – that is, pay your doctors and operate the health plan.

Uses and Disclosures of Your Protected Health Information. The Plan uses and discloses PHI for many different reasons. With some exceptions, it may not use or disclose any more of your PHI than is necessary to accomplish the purpose of the use or disclosure. Described below are the different categories of the Plan’s uses and disclosures, along with some examples of each category.

Uses and Disclosures Relating to Treatment, Payment, or Health Care Operations. With limited exceptions, the Plan may use or disclose your PHI for treatment, payment, and health care operations without your authorization. Examples of these uses and disclosures include the following:

For Treatment: “Treatment” includes the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with another party. It also includes consultation between health care providers relating to a patient or the referral of a patient for health care from one health care provider to another.

As your health benefits plan, the Plan does not provide treatment. However, from time to time it may need to use or disclose your PHI for treatment purposes. For example, prior to providing a health service to you, your doctor may ask the Plan for information concerning whether and when the service was previously provided to you. The Plan may use and disclose your PHI for treatment activities of a health care provider.

For Payment: The Plan uses and discloses your PHI in order to fulfill its responsibilities for providing coverage and health care benefits under the Plan or to obtain or provide reimbursement for the provision of health care. This includes the following activities:

- Determinations of eligibility or coverage (including coordination of benefits or the determination of cost sharing amounts), and adjudication or subrogation of health benefit claims.
- Risk adjusting amounts due based on participant health status and demographic characteristics.
- Billing and related health care data processing.
- Review of health care services with respect to medical necessity, coverage under the Plan, appropriateness of care, or justification of charges.
- Utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services.

For example, the Plan will use your PHI in reviewing a claim submitted by you or your doctor to determine payment. It may also disclose your PHI to another carrier to determine which carrier is primary or to otherwise determine cost sharing between the Plan and the other carrier. It may disclose your PHI to a physician for his or her opinion as to whether the requested services are necessary. The Plan may also disclose your PHI to an attorney or collection agency to make a collection effort for amounts which are due to the Plan. The Plan may use and disclose your PHI to other health plans, clearinghouses or health care providers for their payment activities.

For Health Care Operations: The Plan will use and disclose your PHI in performing those day-to-day administrative uses that are necessary for it to act as your health benefits plan. The Plan's health care operations include the following activities:

- Conducting quality assessment and improvement activities, as well as population based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting health care providers and patients with information about treatment alternatives and performing related functions that do not include treatment.
- Reviewing the qualifications and performance of health care providers, evaluating health plan performance, training, and performing accreditation, certification, or licensing activities.
- Performing underwriting, premium rating, and other activities relating to the creation, renewal or replacement of health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss and excess of loss insurance).
- Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs.
- Business planning and development.
- Managing Plan business and performing general administrative activities.

For example, the Plan needs to use your PHI along with that of other participants for purposes of establishing budgets. Or, if you have a complaint about a provider or with the Plan, the Plan may, in order to resolve matters, need to review your file, which may contain relevant PHI. The Plan also may need to review your PHI for purposes of conducting programs to curb provider fraud. It may disclose your PHI to other health plans, health care clearinghouses or health care providers covered under HIPAA for their health care operations provided that the other entity has (or had) a relationship with you, the PHI that the Plan discloses pertains to that relationship, and the disclosure is for limited health care operations described in the first two items listed above (quality assurance, reviewing qualifications and performance) or for fraud and abuse detection or compliance.

Other Purposes for Which the Plan is Permitted or Required to Use or Disclose Your Protected Health Information Without Your Written Authorization. The Plan may also use and disclose your PHI without authorization for the following reasons:

When a disclosure is required by federal, state or local law. For example, the Plan makes disclosures when a law requires that it report information to government agencies.

In the course of judicial or administrative proceedings. For example, the Plan may disclose information pursuant to a court order or a subpoena.

For law enforcement purposes. For example, the Plan may disclose information in response to a law enforcement official's request for such information to identify or locate a suspect, material witness or missing person.

For public health activities. For example, the Plan may report information about the safety or effectiveness of an FDA-regulated product or activity or information about various diseases to government officials in charge of collecting that information.

To report incidents of abuse, neglect or domestic violence. If the Plan employees suspect abuse, neglect or domestic violence, the Plan may provide information to appropriate authorities.

For health oversight activities. For example, the Plan will provide information to assist the government when it conducts an investigation of a health care plan or provider.

For research purposes. In certain circumstances, the Plan may provide PHI in order to conduct medical research.

To avoid harm. In order to avoid a serious threat to the health or safety of a person or the public, the Plan may provide PHI to law enforcement personnel or persons able to prevent or lessen such harm.

For specific government functions. The Plan may disclose PHI of military personnel and veterans in certain situations. And it may disclose PHI for national security purposes, such as protecting the president of the United States or conducting intelligence operations.

For workers' injury compensation purposes. To the extent permitted by HIPAA, the Plan may provide PHI in order to comply with The Federal Employers Liability Act, The Safety Appliance Act, and The Boiler Inspection Act.

Appointment reminders and health-related benefits or services. The Plan may use PHI to provide appointment reminders or give you information about treatment alternatives, or other health care services or benefits.

To Vendors. There are some services provided to the Plan through various vendors. Examples include the third-party administrator that the Plan engages to process payment of your health claims and the software vendor that services the enrollment and eligibility programs on the Plan's information system. The Plan may disclose your PHI to these vendors so that they can perform the services the Plan has contracted with them to perform. To protect your PHI, however, the Plan requires that the vendor appropriately safeguard your information.

To Limited Data Set Recipients. The Plan may make available to another individual or entity your PHI in a "limited data set" for purposes of research, public health and health care operations. A limited data set is PHI that excludes direct identifiers of you or your relatives, employers, or household members. To protect your PHI, the Plan requires that the recipient of the limited data set appropriately safeguard your information.

Incidental Disclosures. The Plan may use or disclose your PHI incidentally as part of another use or disclosure which is permitted under law.

Disclosures of Your Protected Health Information to Burlington Northern Santa Fe, LLC (BNSF), the Sponsor of Your Plan. BNSF may ask the Plan to provide your PHI to it. The Plan will provide the PHI unless it is prohibited by law from doing so. In most cases, the Plan will disclose your PHI to BNSF only to carry out plan administration functions or as may be permitted or required by HIPAA. The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits discrimination based on an individual's genetic information in both employment and health coverage contexts. In addition, group health plans are prohibited from using or disclosing genetic information for underwriting purposes. The Plan will not disclose your PHI to BNSF for the purpose of employment-related actions or decisions or in connection with any other benefit or employee benefit plan of BNSF.

Uses and Disclosures for Which You Have the Opportunity to Object. The Plan may use or disclose your PHI to: (1) a family member, friend, or other person that you indicate is involved in your care or the payment for your health care; (2) notify, or assist in the notification of (including identifying or locating), a family member, your personal representative, or another person responsible for your care regarding your location, general condition, or death; or (3) a disaster relief organization for purposes listed in (2) above. In all of these cases, the Plan may do so unless you object in whole or in part. If you are not present or in the event of your incapacity or an emergency, the Plan will, in the exercise of its professional judgment, determine if the disclosure is in your best interests and, if so, disclose the PHI that is directly relevant to the person's involvement with your health care. However, in an emergency, the Plan may use and disclose your PHI without approval for notification purposes to disaster relief organizations.

All Other Uses and Disclosures of Your Protected Health Information Require Your Written Authorization. Uses and disclosures of your protected health information for purposes other than those referred to above will be made only with your written authorization. If you choose to sign an authorization to disclose your PHI, you can later revoke that authorization in writing to stop any future uses and disclosures (to the extent that the Plan has not taken any action relying on the authorization).

Additional State and Federal Law Requirements. State laws of general applicability which have criminal penalties, as well as some federal laws, may further limit the Plan's use and disclosure of your PHI. For example, state law may require that the Plan obtain your written permission to use and disclose your PHI even though written authorization would not otherwise be required under this notice.

Your Rights Regarding PHI. You have the following rights described below with respect to PHI held by the Plan's vendors:

The Right to Choose How We Send PHI to You. You have the right to ask each vendor to send information to you at an alternate address (for example, sending information to your work address rather than your home address) or by an alternate means (for example, e-mail instead of regular mail). The vendor is required to accommodate reasonable requests if you inform such vendor that to provide the information otherwise would put you in danger.

The Right to Get This Notice by E-Mail. You have the right to get a copy of this notice by e-mail. Even if you agree to receive the notice via e-mail, you have the right to request a paper copy.

The Right to Amend Your PHI. If you believe that there is a mistake in your PHI or that a piece of important information is missing, you have the right to request the vendor in possession of the information to correct the existing information or to add the missing information. You must provide the request and your reason for the request in writing to the vendor which you believe has the incorrect information (hereinafter referred to as the "Request For Amendment"). The vendor may have prepared forms to assist you in this process. The vendor is required to respond within 60 days of receiving your request. A written denial you receive will state the

reasons for the denial and explain your right to file a written statement of disagreement with the denial. If you do not file a statement of disagreement, you have the right to request that your written request and the denial be attached to all future disclosures of your PHI.

If a vendor approves your Request for an Amendment, the Plan or its vendor must report the amendment of PHI to the Plan, to other vendors of the Plan which the vendor's agents reasonably believe possess the unamended PHI and to persons or entities which you identify in your Request for Amendment. (In your Request For Amendment, you may provide a list of individuals or entities which you believe possess the unamended PHI and either the Plan or the vendor will use its best efforts to contact such individuals and entities regarding the amendment.)

The Right to Request Limits on Uses and Disclosures of Your PHI. You have the right to request a vendor to limit how it uses and discloses your PHI for treatment, payment and health care operations (discussed above) or to cease uses and disclosures for which you have the right to object (also discussed above). A vendor will consider your request, but is not legally required to accept it. If the vendor accepts your request, it will abide by the limitation except in emergency treatment situations. You may not place limitations on uses and disclosures that the Plan or its vendors are legally required or allowed to make without your authorization.

The Right to Access Your PHI. In most cases, you have the right to view or obtain copies of your PHI on file with each vendor, but you must make the request in writing to each vendor. If the vendor which you contact does not have your PHI but is aware of a vendor which does, it should redirect you to the appropriate vendor or to the Plan. A vendor is required to respond to you within 30 days after receiving your written request. In certain situations, a vendor may deny your request. If so, the vendor is required to notify you, in writing, of the reasons for the denial and explain your right to have the denial reviewed. If you request copies of your PHI, the vendor may charge a fee. Instead of providing the PHI you requested, the vendor may provide you with a summary explanation of the PHI as long as you agree to the summary and to the costs associated with the summary in advance.

The Right to an Accounting of Disclosures of Your PHI. You have the right to get a list of instances in which each vendor has disclosed your PHI (hereinafter sometimes referred to as an "accounting"). The list will not include uses or disclosures: (i) made to you, (ii) made for treatment, payment, or health care operations, (iii) made pursuant to an authorization, (iv) which are incidental, or (v) for which you have the right to object (and you did not object). The list also will not include uses and disclosures: (a) made for national security purposes, (b) made to corrections or law enforcement personnel, (c) made as part of a limited data set, or (d) which were made before April 14, 2003. Each vendor is required to respond within 60 days of receiving your request. The list provided will include disclosures made in the last six years, unless you request a shorter time frame. The list will also include the date of the disclosure, to whom PHI was disclosed (including contact information, if available), a brief description of the information disclosed, and the purpose for the disclosure. A vendor may impose fees for such service. In addition, the Plan will notify you in the event of a breach of your unsecured PHI.

How to Exercise Your Rights. When exercising your right to receive access to your PHI, to request an accounting of the use and disclosure of your PHI, or to limit the uses and disclosures of your PHI, you must separately contact each vendor of the Plan that may have the relevant PHI and request the appropriate action. If upon contact with the vendor you are unable to exercise your privacy rights, or you have questions about which vendor to contact, you may also contact the Plan at (800) 234-1283. Any requests for access, accounting, or limitations on your PHI will only be effective as to those vendors you contact.

If You Have Complaints. If you think that the Plan or one of its vendors may have violated your privacy rights, you may file a complaint with the BNSF Privacy Official, P.O. Box 961055 Fort Worth, TX 76161. You also may send a written complaint to the Secretary of the Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, DC 20201. The Plan will take no retaliatory action against you if you file a complaint about our privacy practices.

Who to Contact For Information about This Notice or To Complain About The BNSF Group Benefit Plan Privacy Practices. If you have any questions about this notice or any complaints about the BNSF Group Benefit Plan privacy practices, please contact a BNSF Privacy Representative at (800) 234-1283, option 6.

The Plan must follow the terms and conditions of this notice as long as it is in effect. However, the Plan reserves the right to change the terms and conditions of this notice at any time. Any changes will apply to the PHI that the Plan already has. If the Plan materially changes this notice, it will send you a revised notice by regular mail or by e-mail, if you have agreed to receive amended versions of this notice electronically. You can also request a copy of this notice from the Privacy Official or by calling Fax on Demand at (800) 850-6709 select option 4, then when asked enter form number 13000. At any time you can view a copy of this notice, as amended, on the BNSF intranet site at <https://sso.mybnsf.com/GuidesForms/HIPAA.pdf>. Except when required by law, the Plan will not implement a material change to any term of this notice prior to the effective date of the new notice which includes the material change.