

Berkshire Life Insurance Company of America

Home Office: Pittsfield, Massachusetts
Long Term Care Administrative Office
Post Office Box 4243
Woodland Hills, CA 91365-4243
888-505-8743

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 terms of this Notice of Privacy Practices apply to **Berkshire Life Insurance Company of America** and its long term care insurance products. The organization will share personal health information of applicants and insureds as necessary to carry out treatment, payment, and health care operations as permitted by law.

We are required by law to maintain the privacy of your personal health information and to provide you with notice of our legal duties and privacy practices with respect to your personal health information. We are required to abide by the terms of this Notice so long as it remains in effect. We reserve the right to change the terms of this Notice of Privacy Practices as necessary and to make the new Notice effective for all personal health information maintained by us. Copies of revised notices will be mailed to all insureds then covered and copies may be obtained by mailing a **written request** to us.

USES AND DISCLOSURES OF YOUR PERSONAL HEALTH INFORMATION

Your Authorization. Except as outlined below, we will not use or disclose your personal health information for any purpose unless you have signed a form authorizing the use or disclosure. You have the right to revoke that authorization in writing unless we have taken any action in reliance on the authorization.

Uses and Disclosures for Payment. We will make uses and disclosures of your personal health information as necessary for payment purposes. For instance, we may use information regarding treatment and services provided to you in order to process and pay claims, to determine whether services are required as covered under the terms of your policy.

Uses and Disclosures for Health Care Operations. We will use and disclose your personal health information as necessary, and as permitted by law, for our health care operations which may include business management, quality improvement and assurance, enrollment, underwriting, reinsurance, compliance, auditing, rating, and other functions related to your application or policy.

Family and Friends Involved In Your Care. With your approval, we may from time to time disclose your personal health information to designated family, friends, and others who are involved in your care or in payment for your care in order to facilitate that person's involvement in caring for you or paying for your care. If you are unavailable, incapacitated, or facing an emergency medical situation, and we determine that a limited disclosure may be in your best interest, we may share limited personal health information with such individuals without your approval. If you have designated a person to receive information regarding payment of the premium on your long term care policy, we will inform that person when your premium has not been paid. We may also disclose limited personal health information to a public or private entity that is authorized to assist in disaster relief efforts in order for that entity to locate a family member or other persons that may be involved in some aspect of caring for you.

Business Associates. Certain aspects and components of our services are performed through contracts with outside persons or organizations, such as licensed insurance agents, third party administration services, auditing, actuarial services, legal services, etc. At times it may be necessary for us to provide certain of your personal health information to one or more of these outside persons or organizations who assist us with our health care operations. In all cases, we require these business associates to appropriately safeguard the privacy of your information.

*The Berkshire Life Insurance Company of America, Pittsfield, MA is a wholly owned stock subsidiary of
The Guardian Life Insurance Company of America, New York, NY.*

Communications With You. We may communicate with you regarding your claims, premiums, or other things connected with your application or policy. You have the right to request and we will accommodate reasonable requests by you to receive communications regarding your personal health information from us by alternative means or at alternative locations, if you inform us in writing that disclosure of such information would otherwise endanger you. For instance, if you wish messages to not be left on voice mail or sent to a particular address, we will accommodate reasonable requests. You may request such confidential communication by sending a **written request** to us.

Other Health-Related Products or Services. We may, from time to time, use your personal health information to determine whether you might be interested in or benefit from treatment alternatives or other health-related programs, products or services which may be available to you as an insured. For example, we may use your personal health information to identify whether you have a particular illness, and contact you to advise you that a disease management program to help you manage your illness better is available to you as an insured. We will not use your information to communicate with you about products or services which are not health-related without your written permission.

Information Received Prior to Issuance of a Policy. We may request and receive from you and your health care providers personal health information prior to the issuance of a policy to you. We will use this information to determine whether you are eligible for a policy and to determine your premium rate. We will protect the confidentiality of that information in the same manner as all other personal health information we maintain and, if the policy is not issued, we will not use or disclose the information about you we obtained for any other purpose.

Research. In limited circumstances, we may use and disclose your personal health information for research purposes. For example, a research organization may wish to compare outcomes of patients by payer source and will need to review a series of records that we hold. In all cases where your specific authorization has not been obtained, your privacy will be protected by strict confidentiality requirements applied by an institutional review board or privacy board which oversees the research or by representations of the researchers that limit their use and disclosure of insured information.

Other Uses and Disclosures. We are permitted or required by law to make certain other uses and disclosures of your personal health information without your authorization.

- We may release your personal health information for any purpose required by law;
- We may release your personal health information as required by law if we believe you to be a victim of abuse, neglect, or domestic violence;
- We may release your personal health information if required by law to a government oversight agency conducting audits, investigations, or civil or criminal proceedings;
- We may release your personal health information if required to do so by a court or administrative ordered subpoena or discovery request; in most cases you will have notice of such release;
- We may release your personal health information to law enforcement officials as required by law to report wounds and injuries and crimes;
- We may release your personal health information for certain research purposes when such research is approved by an institutional review board with established rules to ensure privacy; and
- We may release your personal health information if you are a member of the military as required by armed forces services; we may also release your personal health information if necessary for national security or intelligence activities.

RIGHTS THAT YOU HAVE

Access to Your Personal Health Information. You have the right to copy and/or inspect much of the personal health information that we retain on your behalf. All requests for access must be made in writing and signed by you or your representative. We will charge you \$5.00 if you request a copy of the information. We will also charge for preparing a summary of the requested information if you request such summary. You may obtain an access request form by sending a **written request** to us.

Amendments to Your Personal Health Information. You have the right to request in writing that personal health information that we maintain about you be amended or corrected. We are not obligated to make all requested amendments but will give each request careful consideration. All amendment requests, in order to be considered by us, must be in writing, signed by you or your representative, and must state the reasons for the amendment/correction request. If an amendment or correction you request is made by us, we may also notify others who work with us and have copies of the uncorrected record if we believe that such notification is necessary. You may obtain an amendment request form by sending a **written request** to us.

Accounting for Disclosures of Your Personal Health Information. You have the right to receive an accounting of certain disclosures made by us of your personal health information after June 30, 2004. Requests must be made in writing and signed by you or your representative. You may obtain an accounting request form by sending a **written request** to us.

Restrictions on Use and Disclosure of Your Personal Health Information. You have the right to request restrictions on certain of our uses and disclosures of your personal health information for treatment, payment, or health care operations by notifying us of your request for a restriction in writing. You may obtain a restriction request form by sending a **written request** to us. We are not required to agree to your restriction request but will attempt to accommodate reasonable requests when appropriate and we retain the right to terminate an agreed-to restriction if we believe such termination is appropriate. In the event of a termination by us, we will notify you of such termination. You also have the right to terminate, in writing or orally, any agreed-to restriction by sending a **written request** to us.

Complaints. If you believe your privacy rights have been violated, you can file a complaint with: **Berkshire Life Insurance Company of America, Long Term Care Administrative Office, ATTN: CORPORATE PRIVACY OFFICER, P.O. Box 4243, Woodland Hills, CA 91365-4243, Phone: 888-505-8743.** You may also file a complaint with the Secretary of the U.S. Department of Health and Human Services in Washington D.C. in writing within 180 days of a violation of your rights. There will be no retaliation for filing a complaint.

FOR FURTHER INFORMATION AND WRITTEN REQUESTS

For all **written requests** described above, if you have questions or need further assistance regarding this Notice, please contact: **Berkshire Life Insurance Company of America, Long Term Care Administrative Office, ATTN: CORPORATE PRIVACY OFFICER, P.O. Box 4243, Woodland Hills, CA 91365-4243, Phone: 888-505-8743.**

You retain the right to obtain a paper copy of this Notice of Privacy Practices, even if you have requested such copy by e-mail or other electronic means.

EFFECTIVE DATE

This Notice of Privacy Practices is effective June 30, 2004.