



## DAKOTACARE 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.**

DAKOTACARE has always respected the privacy of your confidential medical information. Additionally, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires we take certain steps to maintain the privacy of your health information called "protected health information" (PHI). PHI includes all individually identifiable health information transmitted or maintained by us, regardless of form (oral, written, electronic). HIPAA requires that we provide you with this notice about our privacy practices that explains how, when and why we use and disclose your PHI.

**Effective Date of This Notice:** April 14, 2003.

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

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

DAKOTACARE and its business associates are permitted to use your PHI for treatment, payment and health care operations purposes.

**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 providers. For example, DAKOTACARE may receive a request from a family practice physician to refer a member to a specialist. DAKOTACARE may forward member information to the specialist to assist the provider in determining the proper treatment plan.

**Payment** includes, but is not limited to, actions to make coverage determinations and payment (including billing, claims management, subrogation, plan reimbursement, reviews for medical necessity and appropriateness of care and utilization review and preauthorizations). For example, DAKOTACARE may tell a doctor whether you are eligible for coverage or what percentage of the claim will be paid by DAKOTACARE.

**Health care operations** include, but are not limited to, quality assessment and improvement, reviewing qualifications of health care professionals, and underwriting. It also includes disease management, case management, conducting for medical review, legal services and auditing functions including fraud and abuse compliance programs, and business planning and management. For example, DAKOTACARE may use information about your claims to refer you to a disease management program; project future benefit costs or audit the accuracy of our claims processing functions.

For **group** plans, DAKOTACARE may use or disclose "summary health information" to the plan sponsor for obtaining premium bids or modifying or terminating the group health plan, which summarizes the claims history and from which identifying information has been deleted in accordance with HIPAA. Additional PHI will not be disclosed to plan sponsors unless DAKOTACARE receives written certification that the plan sponsor has taken steps required by HIPAA designed to protect the confidentiality of the information.

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

DAKOTACARE will not use or disclose PHI for reasons other than those defined in sections A. and D. unless the individual who is the subject of the information provides a valid written authorization to do so. Individuals have a right to revoke an authorization at any time by contacting the office listed at the end of this notice.

Your written authorization generally will be obtained before DAKOTACARE will use or disclose psychotherapy notes. 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.

**C. Uses and disclosures that require you be given an opportunity to agree or disagree.**

Disclosure of your PHI to family members, other relatives and your close friends is allowed if:

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

**D. Uses and disclosures for which authorization or opportunity to object is not required.**

Use and disclosure of your PHI is allowed without authorization under the following circumstances:

1. When required by federal, state or local law, judicial or administrative proceedings, or law enforcement. For example your PHI may be disclosed in response to a subpoena provided certain conditions are met.
2. When permitted for purposes of public health activities.
3. When required for health oversight activities. For example, DAKOTACARE will provide information to assist the government when it conducts an investigation or inspection of a health care provider or organization.
4. For purposes of organ donation, DAKOTACARE may disclose your health information to organizations involved in procuring, banking or transplanting organs and tissues.
5. DAKOTACARE may use or disclose PHI for research, subject to conditions.
6. When consistent with applicable law. DAKOTACARE, 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.
7. When required for specific government functions. DAKOTACARE may also disclose PHI for national security purposes, such as conducting intelligence operations.
8. When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.
9. For purposes of offering health-related benefits or services, DAKOTACARE may use PHI to provide you with information about other health care services we offer.
10. Use and disclosure of your PHI may be required by the Secretary of Health and Human Services to determine DAKOTACARE's compliance with HIPAA.

## **Section 2. Rights of Individuals**

***Right to Request Restrictions on PHI Uses and Disclosures***

You may request that DAKOTACARE restrict certain uses and disclosures of your PHI to carry out treatment, payment or health care operations, or to restrict disclosures to family members, friends or other persons involved in your care or payment for your care. Restriction of the use of PHI could affect our ability to pay claims. DAKOTACARE will attempt to honor reasonable requests but HIPAA does not require us to agree to these restrictions.

***Right to Request Confidential Communications***

DAKOTACARE will accommodate reasonable requests to receive communications of PHI by alternative means or at alternative locations. For example, if you feel you would be harmed if we send information to your current mailing address you could request that we send information to another address.

You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI. Requests for restrictions or confidential communications should be made to the DAKOTACARE department listed at the end of this notice.

### ***Rights to Inspect and Copy PHI***

You have a right to inspect and obtain a copy of your PHI contained in a “designated record set” for as long as DAKOTACARE maintains the PHI. DAKOTACARE is allowed to charge a reasonable fee to supply this information. “Designated Record Set” includes the enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by DAKOTACARE or other information used in whole or in part to make decisions about you.

You or your personal representative will be required to complete a form to request access to the PHI in your designated record set. Requests for access to PHI should be made to the DAKOTACARE department listed at the end of this notice.

The requested information will be provided within 30 days of your written request if the information is maintained on site or within 60 days if the information is maintained offsite. A single 30-day extension is allowed if DAKOTACARE is unable to comply with the deadline.

In certain cases we are allowed to deny your request. If access is denied, you or your personal representative will be provided with a written denial setting forth the basis for the denial, and a description of how you may appeal the denial.

### ***Right to Amend PHI***

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

DAKOTACARE has 60 days after your written request to act on the request. A single 30-day extension is allowed if DAKOTACARE is unable to comply with the deadline. If the request is denied in whole or in part, DAKOTACARE must provide you with a written denial that explains the basis for the denial. Requests for amendment of PHI in a designated record set should be made to the DAKOTACARE department listed at the end of this notice. You or your personal representative will be required to complete a form to request amendment of the PHI in your designated record set.

### ***The Right to Receive an Accounting of PHI Disclosures***

At your request, DAKOTACARE will also provide you with an accounting of certain disclosures by DAKOTACARE 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; (2) to individuals about their own PHI; (3) for reasons involving national security, to corrections or law enforcement personnel; (4) prior to the compliance date; or (5) disclosures made subject to a valid authorization provided by you.

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, DAKOTACARE will charge a reasonable, cost-based fee for each subsequent accounting.

### ***A Note about Personal Representatives***

You may exercise your rights through a personal representative. Your personal representative may 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.

DAKOTACARE retains discretion to deny access to your PHI to 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. This also applies to personal representatives of minors.

### **Section 3. DAKOTACARE's Duties**

DAKOTACARE is required by law to maintain the privacy of PHI and to provide individuals (participants and beneficiaries) with notice of its legal duties and privacy practices. DAKOTACARE is also required to abide by the terms of this notice.

This notice is effective beginning April 14, 2003. However, DAKOTACARE reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by DAKOTACARE prior to that date. If a privacy practice is changed, a revised version of this notice will be mailed to individuals for whom the Plan still maintains PHI within 60 days of the effective date of any material change to the uses and disclosures, the individual's rights, the duties of DAKOTACARE or other privacy practices stated in this notice.

To obtain a paper copy of this Notice contact the following department: Customer Service Department, 800-325-5598, 2600 West 49<sup>th</sup> Street, P.O. Box 7406, Sioux Falls, SD 57117-7406.

### **Section 4. Your Right to File a Complaint**

If you believe that your privacy rights have been violated, you may complain to DAKOTACARE in care of the privacy department listed in Section 5 below.

You may also file a complaint with the Secretary of the U.S. Department of Health and Human Services, 1961 Stout Street – Room 1185 FOB, Denver, CO 80294-3538. Phone (303) 844-2024. FAX (303) 844-2025. TDD (303) 844-3439.

DAKOTACARE will not retaliate against you for filing a complaint.

### **Section 5. Whom to Contact at DAKOTACARE for More Information**

We reserve the right to change the terms of this notice and our privacy policies at any time. For questions regarding this notice or to request a copy of this notice contact:

Customer Service Department at 605-334-4000 or 1-800-325-5598, or view a copy of this notice on our web site at [www.dakotacare.com](http://www.dakotacare.com).

You may also contact the following officer:

Privacy Officer

DAKOTACARE

2600 West 49<sup>th</sup> Street, P.O. Box 7406, Sioux Falls, SD 57117-7406

1-800-325-5598

[privacy@dakotacare.com](mailto:privacy@dakotacare.com)