

**THIRD MODIFICATION TO
GROUP LONG TERM CARE INSURANCE SERVICES CONTRACT**

THIS THIRD MODIFICATION is made this 20th of November 2014 by and between The Prudential Insurance Company of America (Contractor) and the State of Maryland, acting through the Department of Budget and Management.

WHEREAS, on January 17, 2013, the Department of Health and Human Services (“DHHS”) issued a final rule that implemented a number of provisions of the Health Information Technology for Economic and Clinical Health (HITECH) Act, enacted as part of the American Recovery and Reinvestment Act of 2009, to strengthen the privacy and security protections for health information established under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Covered entities and business associates are required to comply with the applicable requirements of the final rule by September 23, 2013.

NOW, THEREFORE, in consideration of the mutual promises and the covenants herein contained, the receipt and sufficiency of which are hereby acknowledged, the Department and Contractor hereby mutually agree to the changes below.

1. Definitions

In this Modification, the following words have the meanings indicated:

- 1.1 “Contract” means the Group Long Term Care Insurance Services Agreement between the Department and the Contractor dated December 9, 2011.
- 1.2 “Contractor” means The Prudential Insurance Company of America.
- 1.3 “Department” means the Maryland Department of Budget and Management.
- 1.4 “HIPAA” means the Health Insurance Portability and Accountability Act, enacted August 21, 1996 as amended from time to time and including changes made under the Health Information Technology for Economic and Clinical Health Act (HITECH).
- 1.5 “HITECH” means the Health Information Technology for Economic and Clinical Health Act, enacted under Title XIII of the American Recovery and Reinvestment Act of 2009 and as amended from time to time.
- 1.6 “Modification” means this Modification Agreement.
- 1.7 “PHI” means Protected Health Information, as the phrase is defined in 45 CFR §164.501.
- 1.8 “RFP” means the Request for Proposals for Group Long Term Care Insurance Services, No. F10R6200016, dated June 15, 2011, including addenda, attachments, and Excel worksheets, as amended through October 14, 2011.
- 1.9 “State” means the State of Maryland.

1.10 "Technical Proposal" means Contractor's Technical Proposal, dated July 13, 2011, including but not limited to the Deviations identified in Technical Proposal Attachment G-7, as supplemented and revised by the Contractor's subsequent responses to questions, requests for cure, and Best and Final Offer (BAFO) submissions through November 9, 2011.

2. Scope of Modification

This Modification amends the Contract specifically as described herein. Except as specifically revised by the terms of the First and Second Modifications and this Modification, all of the terms of the Contract shall remain in full force and effect and shall apply to this Modification.

3. HIPAA Compliance

The Administrative Requirements (AR) of the Contract, included as Attachment G-4 in the Technical Proposal and RFP, are amended as follows to comply with changes to the privacy and security rules of HIPAA:

- a. **AR-63(d) is amended to now read:** In compliance with 45 CFR 164.308(b), the Contractor agrees to ensure, through written contract, that any agent, including a subcontractor, to whom the Contractor provides electronic PHI agrees to implement reasonable and appropriate safeguards.
- b. **AR-64(f) is amended to now read:** In compliance with 45 CFR § 164.504(e)(5), the Contractor shall ensure, through written contract, that any agent, including a subcontractor, to whom it provides PHI received from, created by, or received by the Contractor agrees to the same restrictions and conditions that apply to the Contractor with respect to such information. This obligation shall apply in connection with PHI created, retained, used, disclosed, or transmitted in connection with the plan(s) administered by the Contractor.
- c. **AR-65 is amended to now read:** The Contractor shall comply with the prohibitions against remuneration in exchange for PHI pursuant to 45 CFR 164.508(a)(4) and §13405(d)(1) and (2) of the HITECH Act as if it were a covered entity in connection with the benefit plan administered by the Contractor pursuant to this RFP and Contract. The Contractor shall prohibit its business associates, agents and subcontractors who receive, use, disclose, create, retain, maintain, or transmit PHI from receiving remuneration in exchange for PHI on the same terms.
- d. **AR-66 is amended to now read:** The Contractor shall comply with the limitations on marketing and fundraising communications provided in 45 CFR 164.508(a)(3) and §13406 of the HITECH Act as if it were a covered entity in connection with the benefits plan.
- e. **AR-67(b)(1) is amended to now read:** The Contractor shall promptly notify the Department of a breach of unsecured PHI in its possession following the first day on which the Contractor (or Contractor's employee, officer, agent or subcontractor) knows of such breach or following the first day on which Contractor (or Contractor's employee, officer, agent or subcontractor) should have known of such breach. Such notice shall occur without unreasonable delay and in no event more than 30 days following discovery of the breach. The notice requirements hereunder are not intended to conflict with or waive the timeframes allowed under HIPAA for Prudential's compliance with its obligations as a Covered Entity under the law to parties other than the State.

- f. **AR-67(b)(2) is amended to now read:** In the event that Contractor determines that there is no risk of an unauthorized access, acquisition, use, or disclosure compromises the security or privacy of the PHI of a Participant, Contractor shall promptly notify the Department of the event and the basis for that determination. Such notice shall occur as soon as is reasonable but in no event more than 30 days following discovery of the unauthorized access, acquisition, use or disclosure of PHI of a Participant. Such determination shall be in writing and signed by an appropriate officer or employee of Contractor. The notice requirements hereunder are not intended to conflict with or waive the timeframes allowed under HIPAA for Prudential's compliance with its obligations as a Covered Entity under the law to parties other than the State.

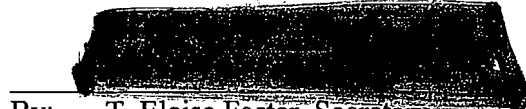
- g. **AR-67(f)(1) is amended to now read:** In the event of a breach described in 45 CFR §164.408(b), Contractor shall provide to Department all information required by that subsection to be submitted to the Secretary of DHHS. The information shall be provided without unreasonable delay and in no event more than 30 days following discovery of the breach. Upon request, Contractor shall submit the required breach notice to the Secretary of DHHS on behalf of the Department, the State, the group plan(s), and the Program. The notice requirements hereunder are not intended to conflict with or waive the timeframes allowed under HIPAA for Prudential's compliance with its obligations as a Covered Entity under the law to parties other than the State.

IN WITNESS THEREOF, the parties have executed this Third Modification as of the date hereinabove set forth.

CONTRACTOR:
The Prudential Insurance Company of America

STATE OF MARYLAND:
DEPARTMENT OF BUDGET AND MANAGEMENT





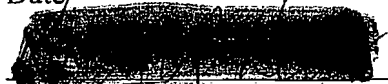
By:
Karen L. Smyth, Vice President

By: T. Eloise Foster, Secretary

Print name and title

Nov. 20, 2014

12/5/14

Date/


Date/


Witness

Witness

APPROVED FOR FORM AND LEGAL SUFFICIENCY
THIS 3rd DAY OF December, 2014.


ASSISTANT ATTORNEY GENERAL