

Health Insurance Portability and Accountability Act (HIPAA)

West Virginia State Government Covered Entity Survey

INTRODUCTION:

The objective of the West Virginia State Government Covered Entity Assessment Tool is to assist in the determination of whether a **governmental entity** or **components/sub-component** of that entity is considered a **covered entity** under HIPAA regulations. For example, if the **governmental entity** is the Department of Health and Human Resources (DHHR), each individual bureau (the **components** of DHHR) within DHHR and each of that bureau's sub-components (the offices and divisions) will complete this assessment tool. Or, if your governmental entity is the Department of Administration, each individual division or office (**component**) and any sub-component will complete this assessment tool.

Once the assessment is completed and submitted to the Statewide HIPAA Oversight Team, results will be consolidated with other West Virginia covered entity responses to determine Executive branch HIPAA covered entity status. Follow up contact will be made with the HIPAA Coordinator for those designated as a covered entity.

There are eight sections to this Covered Entity Assessment Tool.

- Section 1 - Summary Definitions - These are **bold** throughout the document. (Note: It is suggested that this section be detached and used for consultation while completing this assessment tool.)
- Section 2 - Governmental Entity and Component Information
- Section 3 - Health Information
- Section 4 - Health Care Provider
- Section 5 - Health Plan
- Section 6 - Health Care Clearinghouse
- Section 7 - Business Associate or Trading Partner
- Section 8 - Conclusions and Determinations

Please note that examples provided are not meant to be exhaustive.

It is the responsibility of the head of each **governmental entity** to ensure the accurate completion of this assessment tool by its **components**. In addition to monitoring the accuracy and completion of this assessment, the **governmental entity** head shall name a HIPAA Coordinator to serve as the contact for the State HIPAA Oversight Team. It is also imperative that as each **component** completes this assessment tool, the appropriate **component** employees work in conjunction with legal counsel, as legal counsel will be required to sign off on each Covered Entity Assessment Tool (see Section 8).

After **components** complete this Covered Entity Assessment Tool and forward it to the head of its **governmental entity**, it will be the responsibility of the head of each **governmental entity** to approve each **component's** determination by affixing his or her signature to the last page of the document in Section 8. If this tool is completed electronically, the entire tool along with the signature page and organizational chart must be submitted by hard copy to West Virginia State Government HIPAA Project Management Office at 505 Capitol St., Charleston, WV 25301 by end of business on September 3, 2002.

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SECTION 1: SUMMARY DEFINITIONS: (The specific definitions found in the final privacy regulation are located at 45 C.F.R. §160.103). An extended glossary can be found at www.wvdhhr.org/HIPAA

BUSINESS ASSOCIATE: a person or organization who provides a service or function on behalf of a **covered entity** which involves the use or disclosure of **protected health information**.

COMPONENT: a bureau, division, office, or school of the **governmental entity**. The component level is one level down on the organizational chart. Examples: The Bureau for Public Health is a component of DHHR and the Division of Purchasing is component of Department of Administration. A sub-component is one level down from a component. Examples: The Office of Nutrition Services is a sub-component of the Bureau for Public Health and the Surplus Property Unit is a sub-component of the Division of Purchasing.

COVERED ENTITY: one or more of the following: a **health plan, health care clearinghouse, health care provider** which transmits any **health information** in electronic form in connection with a transaction covered by HIPAA.

GOVERNMENTAL ENTITY: (this definition applies to the Covered Entity Assessment Tool only) department or agency within the Executive branch. Examples: DHHR, DEP, Department of Administration.

HEALTH INFORMATION: any information, whether oral or recorded, in any form or medium, that:

1. is created or received by a **health care provider, health plan**, public health authority, employer, life insurer, school or university or **health care clearinghouse**; and,
2. relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual or the past, present or future payment for the provision of health care to an individual.

HEALTH CARE PROVIDER: includes providers of services by any person or organization who furnishes, bills or is paid for health care in the normal course of business and who transmits any health information in electronic form and in connection with a transaction covered by HIPAA.

HEALTH PLAN: an individual plan or group health plan that provides, or pays the cost, of medical care.

HEALTH CARE CLEARINGHOUSE: a private or public entity that processes or facilitates the processing of **health information** received from another entity, either to or from the standard format that is required for electronic transactions.

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INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION: information that is a subset of **health information** including demographic information collected from an individual and:

1. is created or received by a **health care provider, health plan**, public health authority, employer, life insurer, school or university or **health care clearinghouse**,
2. relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual or the past, present or future payment for the provision of health care to an individual, and
3. identifies the individual, or it is believed that the information can be used to identify the individual.

PROTECTED HEALTH INFORMATION (PHI): **individually identifiable health information** that is transmitted by electronic media, maintained in any medium described as electronic media or transmitted or maintained in any other form or medium. PHI excludes **individually identifiable health information** in educational records covered by the Family Educational Right and Privacy Act.

TRADING PARTNER: a person or organization who exchanges **health information** via electronic transmissions with a **covered entity**.

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SECTION 2: GOVERNMENTAL ENTITY AND COMPONENT INFORMATION

Please indicate your response(s) for this section on the survey answer sheet.

Governmental Entity: _____

Head of **Governmental Entity:**

Name: _____ Title: _____

Address: _____

Phone: _____ FAX: _____

Name of **Component:** (if applicable) _____

Head of **Component:** _____ Title: _____

Address of **Component:** _____

Phone No. of **Component:** _____ Fax Number of **Component:** _____

Persons Completing Covered Entity Assessment Tool

Name(s): _____ Title: _____

Phone: _____ E-mail: _____

Attach a current organizational chart delineating your **Governmental Entity** and the **Components**, if any.

If you checked the box in Section 8, C of this Covered Entity Assessment Tool, you must designate a HIPAA Coordinator. This person will serve as the contact person for the State HIPAA Oversight Team.

HIPAA Coordinator

Name: _____

Title: _____

E-mail Address: _____

Mailing Address: _____

Phone Number: _____

Entities or components the HIPAA Coordinator is responsible for coordinating:

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SECTION 3: HEALTH INFORMATION

Determine if your **Component** of this **Governmental Entity** has access to, or maintains **Health Information** as defined by HIPAA Regulations. The information may reside in any medium (e.g., tape, paper, diskette, fax, e-mail, digital voice message).

Table 3-A below lists examples of **Health Information** considered to be protected and the disposition of such information that would be covered by HIPAA Regulations.

TABLE 3-A Examples of Health Information	
Health Information	Disposition of Information
<ul style="list-style-type: none"> • Past, present or future health information • Past, present or future payment for the provision of health care to an individual • Related to physical health • Related to mental health • Related to condition of patient • Related to provision of health care 	<p>Created, received, used or maintained by a provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse in the normal course of business</p>

Table 3-B lists some types of documents that may contain **Health Information**.

TABLE 3-B Examples of Documentation		
Administrative	Education	Financial
<ul style="list-style-type: none"> • Cancer Registry • Certificates (Birth, Death, Other) 	<ul style="list-style-type: none"> • Behavior Rating Scales • Health Plan Records 	<ul style="list-style-type: none"> • Claims Information • Insurance Billing and Payment Information
Employee/Staff	Clinical	
<ul style="list-style-type: none"> • Disability Claims & Reports • Employee Assistance Program Information • Employee Health Records • Health Plan Enrollment Information • Worker's Compensation Claims & Reports 	<ul style="list-style-type: none"> • Complete Medical or Dental Files • Discharge Summary • Diagnosis Records • Doctor's Statements • Immunization Records • Laboratory Data • Medication Administration 	<ul style="list-style-type: none"> • Nursing Notes & Logs • Radiology Reports • Pathology Reports • Physician Orders • Psychological Records & Testing Reports • Treatment Plan • X-Ray Films

QUESTION 3.1:

Does your **Component** of this **Governmental Entity** create, receive, send, maintain or have access to **Health Information** as described in *Tables 3-A and 3-B* above and defined by HIPAA in the Definitions Section? **Yes** **No**

Please indicate your response(s) for this section on the survey answer sheet.

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SECTION 4: HEALTH CARE PROVIDER

- A. Determine if your **Component** of this **Governmental Entity** meets the HIPAA definition of a **Health Care Provider**.

Table 4-A below lists examples of types of providers.

Table 4-A Examples of Providers	
<ul style="list-style-type: none">• Hospital• Critical access hospital• Skilled nursing facility• Out-patient rehabilitation facility• Home health agency• Hospice program• Clinics	

Table 4-B below lists examples of services.

Table 4-B Examples of Services	
<ul style="list-style-type: none">• Health care practitioner's medical and mental health services• Services and supplies furnished as an incident to a physician's professional services or which are commonly furnished in physician offices and commonly rendered without charge or included in physician's bills• Hospital services incident to physician's services rendered to outpatients and partial hospitalization services• Diagnostic services which are furnished to an individual as an outpatient by a hospital and ordinarily furnished to outpatients for the purposes of diagnostic study• Physical therapy services• Occupational therapy services• Rural health clinic and federally qualified health center services• Home dialysis supplies and equipment• Necessary ambulance services• X-ray, radium and radioactive isotope therapy, including materials and services of technicians	

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Table 4-C below lists examples of types of services a provider may furnish, bill, or be paid.

TABLE 4-C Examples		
<i>Furnishes Health Care Services</i>	<i>Bills for Health Care Services</i>	<i>Is Paid for Health Care Services</i>
<ul style="list-style-type: none"> • Preventive • Diagnostic • Therapeutic • Rehabilitative/habilitative • Maintenance • Palliative • Counseling • Physical/Mental Condition • Functional Status 	<ul style="list-style-type: none"> • Specific Health care • Sale/Dispense – Drug • Sale/Dispense - Device • Sale/Dispense - Equipment • Other Prescription Item 	<ul style="list-style-type: none"> • Procure Blood • Procure Sperm • Procure Organs • Procure Other Tissue

QUESTION 4.1:

Does your **Component** of this **Governmental Entity** meet the definition of a **Health Care Provider** by doing any of the following (mark all that apply)? **Yes** **No**

Please indicate your response(s) for this section on the survey answer sheet.

DETERMINATION:

IF your **Component** of this **Governmental Entity** provides, bills, or is paid for health care services as described in *Tables 4-A, B, and C* above,

THEN this **Component** is considered a **Health Care Provider**.

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- B.** Determine if your **Component** transmits administrative or financial transactions containing **Health Information**, electronically using the Internet, Intranet, private network system, magnetic tape or disk.

Table 4-D lists examples of the different types of administrative and financial transactions.

TABLE 4-D Examples	
Administrative Transactions	Financial Transactions
<ul style="list-style-type: none"> • Enrollment/Disenrollment – Health Plan • Referral Certification and Authorization for Services • Eligibility for a Health Plan • First Report of Injury 	<ul style="list-style-type: none"> • Coordination of Benefits • Health Claims • Health Claim Status • Health Care Payment • Remittance Advice • Health Care Premium Payment • Health Claims Attachments

QUESTION 4.2:

Does your **Component** of this **Governmental Entity** transmit Administrative or Financial Transactions electronically that contain **Health Information** as described in *Table 4D* above? **Yes** **No**

Please indicate your response(s) for this section on the survey answer sheet.

DETERMINATION:

IF your **Component** of this **Governmental Entity** is considered a **Health Care Provider**

AND your **Component** of this **Governmental Entity** transmits Administrative or Financial Transactions electronically containing **Health Information**

THEN your **Component** is considered a **Covered Entity** under HIPAA Regulations.

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SECTION 5: HEALTH PLAN

Determine if your **Component** of this **Governmental Entity** meets the definition of a **Health Plan**.

Table 5 lists examples of the types of **Health Plans** included and excluded by the HIPAA Regulations.

TABLE 5 Examples	
<i>Includes</i>	<i>Excludes</i>
<ul style="list-style-type: none"> • Private Plans • Government Plans • MOs • High Risk Pools 	<ul style="list-style-type: none"> • Employee welfare benefit plan (less than 50 participants or is self-administered) • Government funded programs that incidentally provide or pay for the cost of health care (Examples include: Special Supplemental Nutrition Program for Women, Infants and Children, the Food Stamp Program and programs administered under the Older Americans Act.) • Government funded programs that have as their principal purpose the direct provision of health care, or the making of grants to fund health care (Examples include: the Ryan White Comprehensive AIDS Resources Emergency Act, government funded health centers, immunization programs, and family planning programs authorized by Title X of the Public Health Service Act.)

QUESTION 5.1:

Is your **Component** of this **Governmental Entity** considered an Individual or Group Plan (e.g., governmental plan) that provides or pays for medical care according to the HIPAA definition and as listed in *Table 5* above? **Yes** **No**

Please indicate your response(s) for this section on the survey answer sheet.

DETERMINATION:

IF your **Component** of this **Governmental Entity** provides or pays for medical care

THEN your **Component** of this **Governmental Entity** is considered a **Health Plan** and, under the HIPAA Regulations, is considered a **Covered Entity**.

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SECTION 6: HEALTH CARE CLEARINGHOUSE

Determine if your **Component** of this **Governmental Entity** meets the definition of a **Health Care Clearinghouse**.

Table 6 lists examples of entities that process or facilitate the processing of **Health Information** from other entities, either to or from the standard format that is required for electronic transactions.

Table 6 Examples	
<ul style="list-style-type: none">• Community health management information systems• Community health information systems• Value-added networks and switches• Billing services• Repricing companies	

QUESTION 6.1:

Does your **Component** of this **Governmental Entity** process or facilitate the processing of information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction? **Yes** **No**

Please indicate your response(s) for this section on the survey answer sheet.

QUESTION 6.2:

Does your **Component** of this **Governmental Entity** receive standard transactions from another entity and process or facilitate processing of information into nonstandard format or nonstandard data content for the receiving entity? **Yes** **No**

Please indicate your response(s) for this section on the survey answer sheet.

DETERMINATION:

IF your **Component** of this **Governmental Entity** processes information received from another entity to or from the standard format

AND sends the information to another entity,

THEN your **Component** of the **Governmental Entity** is considered a **Health Care Clearinghouse**, and under the HIPAA Regulations is considered a **Covered Entity**.

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SECTION 7: BUSINESS ASSOCIATE OR TRADING PARTNER

Determine if your **Component** of this **Governmental Entity** meets the HIPAA definition of a **Business Associate** or **Trading Partner**.

- A. **Business Associate:** See summary definition and, for more detail, 45 CFR §160.103.

Table 7-A lists some of the activities a business might engage in.

Table 7-A Examples of Activity
<ul style="list-style-type: none">• Performing Claims Processing or Administration• Data Analysis• Processing or Administration• Utilization Review• Quality Assurance• Billing• Benefit Management• Practice Management• Repricing Functions (often called Trading Partners)• Legal Services• Actuarial Services• Accounting Services• Consulting Services• Data Aggregation Services• Management Services• Administrative Services• Accreditation Services• Financial Services

QUESTION 7.1:

Does your **Component** of this **Governmental Entity** perform a service or function on behalf of an entity that has been deemed to be a **Covered Entity** as defined by the HIPAA Regulations? __Yes __No

Please indicate your response(s) for this section on the survey answer sheet.

DETERMINATION:

IF your **Component** of this **Governmental Entity** performs a service/function on behalf of a **Covered Entity**

THEN your **Component** of this **Governmental Entity** is considered a **Business Associate** under HIPAA Regulations.

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B. Trading Partner: See summary definition and, for more detail, 45 CFR §160.130.

QUESTION 7.2:

Does your **Component** of this **Governmental Entity** electronically exchange **Health Information**, as defined by HIPAA, with a **Covered Entity**? __Yes __No

Please indicate your response(s) this section on the survey answer sheet.

DETERMINATION:

IF your **Component** of this **Governmental Entity** electronically exchanges **Health Information** with a **Covered Entity** via electronic transmissions

THEN your **Component** of this **Governmental Entity** is considered a **Trading Partner** under HIPAA regulations.

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SECTION 8: CONCLUSIONS AND DETERMINATIONS:

A. Refer to the answer to Question 3.1 - **Health Information** and enter that answer in one of the *two* choices below:

Yes No

Please indicate your response(s) for this section on the survey answer sheet.

B. Refer to the answers in the Sections 4 through 7 and select all that apply from the following choices:

Please indicate your response(s) for this section on the survey answer sheet.

Yes	No		Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Question 4.1 - Health Care Provider	<input type="checkbox"/>	<input type="checkbox"/>	Question 7.1 - Business Associate
<input type="checkbox"/>	<input type="checkbox"/>	Question 4.2 - Health Care Provider	<input type="checkbox"/>	<input type="checkbox"/>	Question 7.2 - Trading Partner
<input type="checkbox"/>	<input type="checkbox"/>	Question 5.1 - Health Plan			
<input type="checkbox"/>	<input type="checkbox"/>	Question 6.1 - Health Care Clearinghouse			
<input type="checkbox"/>	<input type="checkbox"/>	Question 6.2 - Health Care Clearinghouse			

NOTE: If there is a **YES** answer in any of the boxes in Item B, then the answer to Item A should also be Yes. If the answer is **NO**, please go back to Section 1 - **Health Information**, and determine if the **NO** answer still applies based on your other responses.

DETERMINATION:

Choose the statement below that describes your **Component** of this **Governmental Entity**:

Please indicate your response(s) for this section on the survey answer sheet.

- C. **IF** the **YES** box in Item A above is marked
- AND** **ANY** of the **YES** boxes in Item B above are marked,
- THEN** your **Component** of this **Governmental Entity** **MUST** comply with HIPAA Regulations.
- D. **IF** the **NO** box in Item A above is marked;
- AND** **ALL** of the **NO** boxes in Item B above are marked,
- THEN** your **Component** of this **Governmental Entity** is not subject to the HIPAA Regulations.
- E. **IF** the **YES** box in Item A above is marked:
- AND** **ALL** of the **NO** boxes in Item B above are marked:
- THEN** your **Component** of this **Governmental Entity** **DOES NOT** meet the definition of a HIPAA **Covered Entity**, **Business Associate** or **Trading Partner**. However, it will be noted in the assessment report that this **Component** **DOES** have access to **Health Information**.

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Please indicate your response(s) for this section on the survey answer sheet.

**All questions have been answered to the best of my knowledge.
This entity ___ is ___ is not a covered entity.**

Governmental Entity Head: _____

Title: _____

Signature: _____

Governmental Entity: _____

Date: _____

Name of Attorney: _____

Title: _____

Signature: _____

Date: _____