**Assessment of Activities & Functions for**

**HIPAA “Covered Entity” Status[[1]](#endnote-1)**

**NAME OF BENEFIT: [[2]](#endnote-2) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**NAME OF PERSON COMPLETING THIS ASSESSMENT: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

1. **DETERMINE WHETHER YOUR ORGANIZATION ENGAGES IN ANY ACTIVITY OR OFFERS A SERVICE THAT MEETS THE DEFINITION OF A HIPAA-COVERED HEALTH PLAN:**
2. Is the Benefit one of the listed **Government Health Plans**?

| Government Health Plans covered by HIPAA | **NO** | **YES** | If YES, describe |
| --- | --- | --- | --- |
| **Medicare** program under Title XVIII of the Social Security Act (Parts A, B and C) (42 U.S.C. 1395, et seq.) |  |  |  |
| **Medicaid** program under Title XIX of the Social Security Act (45 CFR Parts 1002, 1003) |  |  |  |
| Health care program for active military personnel (32 CFR Part 108) |  |  |  |
| Veterans health care program (38 U.S.C. Ch.17); |  |  |  |
| Civilian Health and Medical Program of the Uniformed Services (**CHAMPUS**) (32 CFR Part 199.2 |  |  |  |
| Indian Health Service program under the Indian Health Care Improvement Act (42 CFR Part 136); |  |  |  |
| Federal Employees Health Benefit Program (5 U.S.C. Ch. 89) |  |  |  |
| Approved state child health programs under **Title XXI of the Social Security Act** (42 U.S.C. 1397, et seq.) (**SCHIP**). |  |  |  |

⮚ IF “YES”, **STOP HERE**. THE BENEFIT **IS A HIPAA-COVERED HEALTH PLAN**

⮚ IF “NO”, GO TO THE NEXT QUESTION.

1. Is the Benefit an individual or group plan that **provides**, or **pays the cost of**, **medical care[[3]](#endnote-3)**?

|  | **NO** | **YES** | If YES, describe |
| --- | --- | --- | --- |
| Does Benefit provide or pay for the cost of medical care of Individuals? |  |  |  |
| Does Benefit provide or pay for the cost of medical care of a Group? |  |  |  |

⮚ IF “NO” TO BOTH QUESTIONS, **STOP HERE**. BENEFIT IS **NOT A HIPAA- COVERED HEALTH PLAN.**

⮚ IF “YES”, GO TO THE NEXT QUESTION.

1. Is the Benefit a **High-Risk Pool** (which is a mechanism established under State law **to provide health insurance** **coverage** or comparable coverage to eligible individuals)?

|  | **NO** | **YES** | If YES, describe |
| --- | --- | --- | --- |
| Is Benefit is a High-Risk Pool? |  |  |  |

⮚ IF “YES”, **STOP HERE**. COMPONENT **IS A HIPAA-COVERED HEALTH PLAN**.

⮚ IF “NO”, GO TO THE NEXT QUESTION.

1. Is the Benefit a Health Maintenance Organization (HMO)?

|  | **NO** | **YES** | If YES, describe |
| --- | --- | --- | --- |
| Benefit is an HMO? |  |  |  |

⮚ IF “YES”, **STOP HERE**. BENEFIT **IS A HIPAA-COVERED HEALTH PLAN**.

⮚ IF “NO”, GO TO THE NEXT QUESTION.

1. Is the principal activity of the Benefit providing health care **directly** to individuals?

|  | **NO** | **YES** | If YES, describe |
| --- | --- | --- | --- |
| Benefit’s principal activity is **direct provision** of **Health Care** to individuals (Health Care includes any of the following: care, services, or supplies related to the health of an individual; and it includes, but is not limited to, the following: (1) **Preventive, diagnostic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body**; and (2) Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription. See 45 C.F.R.160.103.) |  |  |  |

⮚ IF “YES”, **STOP HERE**. BENEFIT IS **NOT A HIPAA-COVERED HEALTH PLAN**.

⮚ IF “NO”, GO TO THE NEXT QUESTION.

1. Is the **principal activity** of the Benefit the making of **Grants to fund** the direct provision of health care (e.g., Benefit funds a health clinic)?

|  | **NO** | **YES** | If YES, describe |
| --- | --- | --- | --- |
| Benefit’s principal activity is making of Grants to fund the direct provision of health care. |  |  |  |

⮚ IF “YES”, **STOP HERE**. BENEFIT IS **NOT A HIPAA-COVERED HEALTH PLAN**.

⮚ IF “NO”, GO TO THE NEXT QUESTION.

1. Is the **principal activity** of the Benefit **other** **than** **providing** or **paying the cost of health care** (i.e., operating a prison system; running a scholarship or fellowship program; research)?

|  | **NO** | **YES** | If YES, describe |
| --- | --- | --- | --- |
| Benefit’s principal activity is other than providing or paying for the cost of health care. |  |  |  |

⮚ IF “YES”, **STOP HERE**. BENEFIT IS **NOT A HIPAA-COVERED HEALTH PLAN**.

⮚ IF “NO”, GO TO THE NEXT QUESTION.

1. Does the Benefit provide only **Excepted Benefits[[4]](#endnote-4)**?

|  | **NO** | **YES** |
| --- | --- | --- |
| Benefit provides only Excepted Benefits |  |  |

⮚ IF “YES”, BENEFIT IS **NOT A HIPAA-COVERED HEALTH PLAN**.

⮚ IF “NO”, BENEFIT **MAY BE A HIPAA-COVERED HEALTH PLAN**.

1. This Assessment covers questions to determine whether an organization’s activities make it a Covered Entity “**Health Plan**” as defined by HIPAA. This Assessment does **not** evaluate whether an organization’s activities or functions may constitute Covered Entity “**Health Care Provider**” and/or “**Clearinghouse**” functions under HIPAA. [↑](#endnote-ref-1)
2. **Repeat this Assessment for each separate “Component” of your organization which engages in a different types of activities or functions for or as a part of your organization.**  [↑](#endnote-ref-2)
3. **Medical care** means: amounts paid for: (A) diagnosis, cure, mitigation, treatment or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body; (B) amounts paid for transportation primarily for and essential to medical care referred to in (A); and (C) amounts paid for insurance covering medical care referred to in (A) and (B). See 45 CFR Part 140. [↑](#endnote-ref-3)
4. **Excepted Benefits** are:

   coverage for accident, or disability income insurance, or any combination thereof;

   coverage issued as a supplement to liability insurance;

   liability insurance, including general liability insurance and automotive liability insurance;

   workers’ compensation or similar insurance;

   automobile medical payment insurance;

   credit only insurance;

   coverage for on-site medical clinics;

   other similar insurance coverage, specified in regulations, **under which benefits for medical care are secondary or incidental to other insurance benefits**. See 42 U.S.C. 300gg-91(c)(1). [↑](#endnote-ref-4)