

DEPARTMENT OF PERSONNEL & ADMINISTRATION 	HIPAA Policy No.	1
	Current Effective Date	April 12, 2007
	Original Effective Date	May 1, 2006
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT		Approved by: David M. Kaye 
ORGANIZATIONAL DESIGNATIONS		Date: 4/16/07

I. Purpose

To comply with the organizational requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

II. Policy

It is the policy of the Colorado Department of Personnel and Administration (“DPA” or the “Department”) to comply with the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d *et seq.*) and its implementing regulations for the privacy and security of individually identifiable health information (45 CFR Parts 160, 162, and 164) (hereinafter referred to as “HIPAA”) to the extent HIPAA is applicable to the Department. The State of Colorado, through DPA and in accordance with the State Employees Group Benefits Act (24-50-601 *et seq.*, C.R.S.), offers numerous benefits to its statewide workforce, including group medical and dental plans, a flexible spending account option, and an employee assistance program. Some plans are fully insured, while others are self-funded. All group health plans are subject to HIPAA privacy and security regulations.

As described below, DPA hereby designates itself an affiliated covered entity and a hybrid entity because the Department has different legal entities controlled and managed by DPA officials and employees. DPA’s intent in making these designations is to continue to comply with HIPAA regulations given these dual roles.

A. Hybrid Entity

DPA is considered to be a covered entity since its business activities include HIPAA covered functions. Since its business activities include non-covered functions as well, DPA qualifies as a “hybrid entity” under HIPAA, as that term is defined in 45 CFR 164.103.¹ DPA’s health care components are set forth in Exhibit A, attached hereto and incorporated herein, which Exhibit may be revised from time to time. Designations of health care components are made in accordance with 45 CFR 164.105(a)(2)(iii)(C)². Also included as health care components are administrative and business activities associated with the entities comprising the Affiliated Covered Entity (ACE).

¹ *Hybrid entity* means a single legal entity: (1) That is a covered entity; (2) Whose business activities include both covered and non-covered functions; and (3) That designates health care components in accordance with 45 CFR 164.105(a)(2)(iii)(C).

² The covered entity is responsible for designating the components that are part of one or more health care components of the covered entity and documenting the designation. It must include any component that would meet the definition of covered entity if it were a separate legal entity, and may include a component only to the extent that it performs: (1) covered functions; or (2) activities that would make such component a business associate of a component that performs covered functions if the two components were separate legal entities.

- B. **Affiliated Covered Entity**
Each self-funded group health plan is a separate legal entity, but each is under the common control of DPA.³ For purposes of HIPAA compliance, the State personnel director has determined that it is appropriate and necessary for each of these entities to become an affiliated covered entity with DPA and shall be designated health care components of the hybrid entity. The separate legal entities included in the ACE are set forth in Exhibit B, attached hereto and incorporated herein, which Exhibit may be revised from time to time.
- C. All designations are subject to change, and additional designations may be made, based upon business operations. All changes and additions must be in writing and approved by DPA's HIPAA Compliance Officer.
- D. Other units may voluntarily choose to comply with some or all HIPAA requirements, policies, or procedures. Such voluntary compliance shall not affect the unit's status as a non-covered component.

III. Procedures

None

IV. Definitions/Abbreviations

None

V. Revision History

<u>Date</u>	<u>Description</u>
May 1, 2006	Original document (entitled Documentation of Designation of DPA as a Hybrid Entity)
March 26, 2007	Revised, and title changed to Organizational Designations

VI. References/Citations

<u>General Provisions</u>	
45 CFR 164.103	Definitions
45 CFR 164.105(a)(2)(iii)	Organizational Responsibilities

³ Common control exists if an entity has the power, directly or indirectly, to significantly influence or direct the actions or policies of another entity.

Exhibit A

Designated health care components of the hybrid entity, including administrative and business activities. Each health care component is designated only to the extent it performs covered functions.

- **Executive Director of the Department of Personnel and Administration** limited to administering and managing the state employees group benefit plans.
 - Executive Assistant reporting directly to the Executive Director (ED), limited to the support functions associated with the ED's management of the state employees group benefit plans.
- **Deputy Executive Director of the Department of Personnel and Administration** limited to administering and managing the state employees group benefit plans, as delegated by the ED.
- **Director of the Division of Human Resources** limited to administering and managing the state employees group benefit plans, as delegated by the ED.
 - Executive Assistant reporting directly to the Director, limited to the support functions associated with the Director's management of the state employees group benefit plans.
- **Deputy Director of the Division of Human Resources** limited to administering and managing the state employees group benefit plans, as delegated by the ED or the Director of DHR.
- **Total Compensation Manager** restricted to those functions and activities performed on behalf of the state employees group benefit plans.
- **Employee Benefits Unit (EBU)** restricted to those functions and activities performed on behalf of the state employees group benefit plans.
- **Colorado State Employee Assistance Program (CSEAP)** restricted to the operations of CSEAP, including use of the CSEAP tracking application.
- **DHR's Total Compensation Strategist** restricted to those functions and activities performed on behalf of the state employees group benefit plans.
- **DHR's Total Compensation Statistical Analyst** restricted to those functions and activities performed on behalf of the state employees group benefit plans.
- **DPA's HIPAA Compliance Officer** limited to ensuring and enforcing compliance with HIPAA regulations.
- **DPA's Chief Information Officer (CIO)** limited to performing services for or related to state employees group benefit plans.
- **Information Technology Unit (ITU)** limited to the services it performs for or related to state employees group benefit plans that would make ITU a business associate if it were a separate legal entity.
- **Technology Management Unit (TMU)** limited to the services it performs for or related to state employees group benefit plans that would make TMU a business associate if it were a separate legal entity.

- **Information Security Operations Center (ISOC)** limited to the services it performs for or related to state employees group benefit plans that would make ISOC a business associate if it were a separate legal entity.
- **Server Team** limited to the services it performs for or related to state employees group benefit plans that would make the Server Team a business associate if it were a separate legal entity.

Exhibit B

Covered entities commonly controlled by DPA that are part of the affiliated covered entity.

- Health plan administered by Great-West Healthcare
- Dental plan administered by Delta Dental
- Healthcare flexible spending account