

# **Statement on the Designation of the Montana Department of Public Health and Human Services as a Hybrid Entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

-updated 9/2/2025

## **Introduction**

The Montana Department of Public Health and Human Services (DPHHS) is a single legal entity comprised of 4 practices and over 10 separate divisions and offices, as well as its Director's office. These divisions and offices include programs such as the Montana Medicaid Program, State funded institutions providing health care, and supporting programs.

## **HIPAA Background and Authority**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act), is a federal law designed to improve the portability and continuity of health care coverage, standardize health care transactions, and implement requirements surrounding health information privacy and security.

In general, HIPAA addresses Protected Health Information (PHI) that is maintained or transmitted by a covered entity.

Covered entities are:

- Health plans,
- Health care clearinghouses, and
- Health care providers that conduct certain types of transactions in electronic form.

A legal entity that performs both covered and non-covered functions may designate itself as a hybrid Entity under HIPAA. A legal entity that designates itself as a hybrid entity may choose not to apply the Privacy Rule to its non-health care components of the organization. All covered

health care components must comply with HIPAA and the covered entity retains oversight, compliance, and enforcement obligations. The entity may have non-health care components impacted by the Privacy Rule because the health care components are limited in how they can share Protected Health Information. The entity must designate, as part of its covered functions, any component that would meet the definition of a covered entity if it were a separate legal entity. See 45 CFR 164.103 and 45 CFR 164.105.

A covered entity that is a single legal entity and conducts both covered and non-covered functions may elect to be a hybrid entity. To be a hybrid entity, the covered entity must identify its components that perform covered functions and designate these components as health care components. The HIPAA compliance obligations apply only to the designated health care components. A covered entity that does not make this designation is subject to HIPAA in its entirety. DPHHS conducts both covered and non-covered functions and elects to be a hybrid entity. This policy identifies DPHHS as a hybrid entity and documents the designated health care components that must comply with HIPAA requirements.

### **Definitions:**

- A. Covered Entity – a health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a covered transaction. 45 CFR 160.103
- B. Covered Function – those functions of a covered entity of which the performance makes the entity a health plan, health care provider, or health care clearinghouse. 45 CFR 164.103
- C. Hybrid entity – a single legal entity that is a covered entity, whose business activities include both covered and non-covered functions, and that designates its health care components, i.e. any component that would meet the definition of a covered entity or business associate if it were a separate legal entity. 45 CFR 164.103 and 45 CFR 164.105(a)(2)(iii)(D)
- D. Health care component – a component, or combination of components, of a hybrid entity. 45 CFR 164.103

- E. Business Associate – a person or entity that creates, receives, maintains, or transmits protected health information to perform certain functions or activities on behalf of a covered entity, or provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services for a covered entity, and the provision of the service involves the disclosure of protected health information. 45 CFR 160.103

### **Policy Statement**

DPHHS has designated itself a hybrid entity under HIPAA. This determination was made after a thorough analysis of the varied programs within DPHHS. As a hybrid entity, DPHHS conducts activities that are both covered and non-covered functions. In compliance with 45 CFR 164.103 and 45 CFR 164.105, DPHHS has designated the following parts of the agency as covered components within the agency:

### **Designated Health Care Components**

As a hybrid entity, the applicable HIPAA compliance obligations only apply to the Department's designated health care components.

1. The designated health care components include:
  - a. Any component that meets the definition of covered entity if it were a separate legal entity;
  - b. Components only to the extent that they perform covered functions; and
  - c. Components that provide business associate services to components that perform covered functions.
2. The designated health care components are listed in Exhibit A, DPHHS Designated Health Care Components.
3. The Office of Legal Affairs, Privacy Officer, shall review and amend Exhibit A as needed, but no less frequently than annually.

## Exhibit A:

### **DPHHS Designated Health Care Components**

- Medicaid and Health Services Practice, including
  - Senior and Long Term Care Division
  - Behavioral Health and Developmental Disabilities Division
  - Health Resources Division
- Human and Community Services Division
- Early Childhood & Family Support Division
- Public Health and Safety Division (with the exception of the Office of Vital Records)

Also, to the extent that they perform covered functions:

- The Director's Office, including:
  - Office of Human Resources
  - Office of Legal Affairs
  - Information and Technology services
  - Business and Financial Services Division, to the extent that it performs business associate services to parts of DPHHS performing covered functions
- Office of Administrative Hearings
- Office of Inspector General

### **Noncovered Portions of The Department Include:**

- Child Support Services Division
- Child and Family Services Division, except to the extent it determines Medicaid eligibility for limited children placed in foster care
- Disability Employment & Transitions Division
- Office of Vital Records (part of the Public Health and Safety Division)
- The Director's Office, Office of Administrative Hearings, and Office of Inspector General, for exceptions noted above, when performing covered functions