



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 4/11/2024

File ID: TMP-4050

Department: Human Resources

Subject:

Type of Action: Approval/Action

Resolution authorizing the Mayor to enter into an agreement with HDMS for the analysis of claims and utilization data, and outlining HDMS' responsibilities relating to the use and disclosure of Protected Health Information (PHI) as it pertains so to the City of Huntsville's group Health Insurance plans.

Resolution No.

Finance Information:

Account Number: N/A

City Cost Amount: N/A

Total Cost: N/A

Special Circumstances:

Grant Funded: N/A

Grant Title - CFDA or granting Agency: N/A

Resolution #: N/A

Location: (list below)

Address:

District: District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5 ☐

Additional Comments:

This resolution is needed to authorize the Mayor to enter into an agreement with HDMS for the analysis of claims and utilization data, and outlining HDMS' responsibilities relating to the use and disclosure of Protected Health Information (PHI) as it pertains so to the City of Huntsville's group Health Insurance plans.

RESOLUTION NO. 24-_____

WHEREAS the City has entered into an agreement with Cobbs Allen & Hall (hereinafter referred to as “Cobbs Allen”) for Cobbs Allen to provide brokerage services for City of Huntsville group insurance coverage; and

WHEREAS, the City of Huntsville desires to analyze claims and utilization data as it pertains to the group insurance coverage for the Blue Cross and Blue Shield of Alabama plans,

WHEREAS, HDMS has contracted with Cobbs Allen to provide an analysis of the Blue Cross and Blue Shield of Alabama plans; and

WHEREAS, the City and HDMS desire to set forth their mutual understandings and agreement regarding HDMS’s responsibilities relating to the use and disclosure of Protected Health Information (PHI) of the City’s group Health Insurance plans;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to execute the Business Associate Agreement between HDMS and City of Huntsville as well as the attached Disclosures to Other Business Associates and Third Party Administrators of the Plan(s), on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said documents are substantially in words and figures similar to that certain document attached hereto and identified as the “Business Associate Agreement” between HDMS and City of Huntsville, consisting of six (6) pages, and the “Disclosures to Other Business Associates and Third Party Administrators of the Plan(s)”, consisting of one (1) page, an executed copy of both said documents being permanently kept on file in the Office of the City Clerk of the City of Huntsville, Alabama.

ADOPTED this the __ day of _____, 2024.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the _____ day of _____, 2024.

Mayor of the City of
Huntsville, Alabama

BUSINESS ASSOCIATE AGREEMENT

THIS Business Associate Agreement ("BA Agreement"), effective as of April 11, 2024 ("Effective Date"), is entered into between Health Data & Management Solutions, Inc., on behalf of itself and those of its affiliates providing services in connection with this BA Agreement ("Business Associate") and City of Huntsville on behalf of the Blue Cross Blue Shield of Alabama Bluecard PPO (PMD) option and the High Deductible PPO group Health Plans] ("Covered Entity"). City of Huntsville represents that it has the authority to agree to the terms and conditions of this BA Agreement for and on behalf of Covered Entity for which Business Associate provides plan administration services under current or future agreements between the parties ("Services Agreement"). For purposes of this BA Agreement, "Business Associate" includes only those subsidiaries and affiliates of Health Data & Management Solutions, Inc. that create, receive, transmit or otherwise maintain Protected Health Information, as defined below, in connection with this Agreement.

In accordance with the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191 ("HIPAA") and the Health Information Technology For Economic and Clinical Health Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 ("HITECH Act"), Business Associate shall, to the extent it acts in its capacity as a Business Associate to the Covered Entity, adhere to the applicable requirements established in the HIPAA Rules (as defined below) for Business Associates as set forth below.

1. Definitions.

Capitalized terms used, but not otherwise defined, in this BA Agreement shall have the same meaning as those terms as used or defined in the HIPAA Rules, including but not limited to the following terms: Breach, Data Aggregation, Designated Record Set, Individual, Minimum Necessary, Notice of Privacy Practices, Plan Sponsor, Required By Law, Secretary, Subcontractor, Unsecured Protected Health Information, and Workforce.

- A. Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this BA Agreement, shall mean Health Data & Management Solutions, Inc.
- B. HIPAA Rules. "HIPAA Rules" shall mean the requirements of the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164, implementing HIPAA and the HITECH Act, in each case only as of the applicable compliance date for such requirements.
- C. Incident Response Team. "Incident Response Team" shall mean the unit designated by Business Associate that is responsible for investigating and responding to information privacy and security incidents and complaints.
- D. Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- E. Protected Health Information (PHI) and Electronic Protected Health Information (EPHI). PHI and EPHI shall have the same meaning as such terms as defined in 45 CFR 160.103, but limited to such information created, maintained, transmitted or received by Business Associate in its capacity as a Business Associate from or on behalf of Covered Entity.
- F. Security Rule. "Security Rule" shall mean the Standards for Security of Electronic Protected Health Information at 45 CFR parts 160 and 164, subpart C.

2. Obligations and Activities of Business Associate.

- A. Business Associate agrees not to use or disclose PHI other than (i) for purposes of performing its obligations under the Services Agreement, (ii) as permitted or required by the Services Agreement or this BA Agreement, or (iii) as permitted or Required by Law.
- B. Business Associate agrees to use appropriate safeguards to protect against any use or disclosure of PHI not provided for herein and to comply, where applicable, with Subpart C of 45 CFR Part 164 with respect to EPHI. Without limiting the foregoing, Business Associate agrees to implement appropriate administrative, physical, and technical safeguards designed to prevent the unauthorized use and disclosure of PHI, and to protect the confidentiality, integrity, and availability of EPHI, including maintaining an Incident Response Team to investigate and respond to unauthorized uses and disclosures of PHI upon learning thereof, as required by 45 CFR § 164.308, 164.310, 164.312, and 164.316, as may be amended from time to time.
- C. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this BA Agreement.
- D. In addition to the reporting required by Section 2.L, Business Associate agrees to report to Covered Entity upon request any use or disclosure of the PHI, not provided for by the Services Agreement or this BA Agreement of which the Incident Response Team becomes aware, including such uses and disclosures arising from a Security Incident. For purposes of this Security Incident reporting requirement, the term "Security Incident" shall not include inconsequential incidents that occur on a daily basis, such as scans, "pings" or other unsuccessful attempts to penetrate computer networks or servers containing electronic PHI maintained by Business Associate.
- E. In accordance with 45 CFR 164.502 (e)(1)(ii) and 164.308(b)(2), Business Associate agrees to require that any Subcontractor, to whom it delegates any function or activity it has undertaken to perform on behalf of Covered Entity, and to whom it provides PHI received from or created on behalf of Covered Entity, agrees to substantially the same restrictions and conditions on the use or disclosure of PHI as apply through this BA Agreement to Business Associate through a Business Associate Agreement between such Subcontractor and Business Associate.
- F. Business Associate shall provide access to an Individual upon the written request of Covered Entity or Individual, and in a reasonable time and manner, to such PHI maintained by Business Associate in a Designated Record Set consistent with the timing and other provisions of 45 CFR 164.524.
- G. Business Associate shall agree to make amendments upon the written request of Covered Entity or Individual, and in a reasonable time and manner, to such PHI consistent with the timing and other provisions of 45 CFR 164.526.
- H. Business Associate agrees to make its internal practices, policies, procedures, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, available for inspection and copying by the Secretary upon the Secretary's written request for same for purposes of the Secretary determining the Covered Entity's compliance with the HIPAA Rules.
- I. Business Associate agrees to document such disclosures of PHI made by it, and information related to such disclosures, as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI under 45 CFR 164.528.
- J. Business Associate shall provide access to an Individual upon written request of Covered Entity or Individual, and in a reasonable time and manner, to information collected in accordance with Paragraph I of this Section consistent with the timing and other provisions of 45 CFR 164.528.

- K. To the extent Covered Entity specifically delegates to Business Associate one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate agrees to comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).
- L. Following the discovery by Business Associate of any Breach of Unsecured PHI by Business Associate or its Subcontractors, Business Associate agrees to notify Covered Entity of such Breach without unreasonable delay, but no later than within ten (10) business days after the Incident Response Team is notified of the Breach. Such notification shall include, to the extent available, the identity of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach. At the time of notification or promptly thereafter as such information becomes available, Business Associate shall also provide Covered Entity with such other available information as is required for Covered Entity to notify an Individual of the Breach as required by 45 CFR 164.404(c).

In addition, if delegated in writing by Covered Entity, Business Associate shall provide such notices to Individuals affected by the Breach as required by 45 CFR 164.404. Business Associate shall provide Covered Entity with advance copies of such notices prior to distribution. In all cases, Covered Entity shall be responsible for submitting reports of Breaches directly to the Secretary and to the media.

Notwithstanding the above, if a law enforcement official provides Business Associate with a statement that the notification required under this paragraph would impede a criminal investigation or cause damage to national security, Business Associate may delay the notification for the period of time set forth in the statement as permitted under 45 CFR 164.412.

3. Permitted Uses and Disclosures by Business Associate.

- A. Business Associate may use or disclose PHI to perform functions, activities, and services for or on behalf of Covered Entity as provided in the Services Agreement. Such uses and disclosures shall be limited to those that would not violate the Privacy Rule if done by Covered Entity except that Business Associate may use and disclose PHI:
 - (i) for the proper management and administration of the Business Associate or to carry out its legal responsibilities; provided that, in the case of any disclosures for this purpose, the disclosure is Required by Law or Business Associate obtains reasonable assurances in writing from the person to whom the information is disclosed, that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and that the person will notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;
 - (ii) to provide Data Aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).
- B. Business Associate may also use and disclose PHI: (i) to respond to requests for PHI either accompanied by an authorization that meets the requirements of 45 CFR 164.508 or from a covered entity or health care provider in accordance with 45 CFR 164.506(c); (ii) to de-identify the information or create a limited data set in accordance with 45 CFR §164.514, which de-identified information or limited data set may be used and disclosed by Business Associate as permitted by law, including HIPAA; (iii) to report violations of law to appropriate federal and state authorities, consistent with 45 CFR §164.502(j)(1); and (iv) as authorized in writing by Covered Entity.
- C. Business Associate agrees to request, use, and disclose PHI in compliance with the Minimum Necessary standard of the HIPAA Rule.

4. Obligations of Covered Entity

- A. Covered Entity shall provide PHI to Business Associate in compliance with the Minimum Necessary standard of the Privacy Rule. Covered Entity shall not ask or require Business Associate to use or disclose PHI in a manner in which Covered Entity could not do except as permitted by 45 CFR 164.504(e) to perform Data Aggregation services.
- B. Covered Entity represents and warrants that its Notice of Privacy Practices complies with 45 C.F.R. 164.520 and permits Covered Entity to use and disclose PHI as Business Associate is authorized to use and disclose PHI under this BA Agreement.
- C. To the extent that the Covered Entity honors a request to restrict the use or disclosure of PHI pursuant to 45 C.F.R. 164.522(a), Covered Entity agrees not to provide such PHI to Business Associate unless Covered Entity notifies Business Associate of the restriction and Business Associate advises Covered Entity that it is able to accommodate the restriction. The foregoing notwithstanding, Business Associate agrees to accommodate reasonable requests for alternative means of communications pursuant to 45 C.F.R. 164.522(b).
- D. Covered Entity shall be responsible for using administrative, physical, and technical safeguards at all times to maintain and ensure the confidentiality, privacy and security of PHI transmitted to Business Associate in accordance with the standards and requirements of the HIPAA Rules, until such PHI is received by Business Associate.
- E. Covered Entity shall obtain any consent or authorization that may be required by applicable federal or state laws in order for Business Associate to provide its services under the Services Agreement.

5. Term and Termination

- (a) Term. The provisions of this BA Agreement shall take effect on the Effective Date, and shall terminate upon expiration or termination of the Services Agreement or when Business Associate ceases to provide services for the benefit of Covered Entity, except as otherwise provided herein.
- (b) Termination for Cause. Without limiting the termination rights of the parties pursuant to the Services Agreement and upon either party's knowledge of a material breach by the other party, the non-breaching party shall either:
 - i. Provide an opportunity for the breaching party to cure the breach or end the violation, or terminate the Services Agreement, if the breaching party does not cure the breach or end the violation within the time specified by the non-breaching party, or
 - ii. Immediately terminate the Services Agreement, if cure of such breach is not possible.
- (c) Effect of Termination. The parties mutually agree that it is essential for PHI to be maintained after the expiration of the Services Agreement and provision of services for regulatory and other business reasons. Notwithstanding the expiration of the Services Agreement, Business Associate shall extend the protections of this BA Agreement to such PHI, and limit further use or disclosure of the PHI to those purposes that make the return or destruction of the PHI infeasible.

6. Miscellaneous

- A. Regulatory References. A reference in this BA Agreement to a section in the HIPAA Rules means the section as in effect or as amended, and as of its applicable compliance date.
- B. Changes to this BA Agreement. The parties agree to negotiate in good faith to amend this BA Agreement or the Agreement as necessary to comply with any changes in the HIPAA Rules.
- C. Interpretation. Any ambiguity in this BA Agreement shall be resolved to permit the parties to comply with the HIPAA Rules.

- D. No Third Party Beneficiary. Nothing express or implied in this BA Agreement or in the Services Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations, or liabilities whatsoever.
- (E) Governing Law. This BA Agreement shall be governed by and construed in accordance with the governing law provisions of the State of Alabama, subject to applicable federal law.
- (F) Notices: Any notices or communications to be given under this Agreement shall be made to the address and/or fax numbers given below:

To Covered Entity:	To Business Associate:
_____	Health Data & Management Solutions, Inc.
_____	Privacy Office
Attention: _____	151 Farmington Avenue, AN33
Phone: _____	Hartford, CT 06156
Fax: _____	Fax: (860) 273-3690

[THE NEXT PAGE IS THE SIGNATURE PAGE]

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HEALTH DATA & MANAGEMENT SOLUTIONS, INC.

COVERED ENTITY

Authorized Signature

Keith M Wilton

Print Name

SVP, Product Management

Title

03/15/2024

Date

Authorized Signature

Print Name

Mayor

Title

Date

**DISCLOSURES TO OTHER BUSINESS ASSOCIATES
AND THIRD PARTY ADMINISTRATORS OF THE PLANS(S)**

Please complete this form and provide us the names of the other business associates and third party administrators of your group health plan(s) (such as, benefit consultants or pharmacy benefit managers) to whom you (on behalf of the plan(s)) want us to disclose protected health information. Also list any conditions or limitations that apply to our disclosure of protected health information to them. If you list no conditions or limitations, then we will disclose to the listed business associates and third party administrators all of the requested protected health information that would be available to your plan(s).

The undersigned hereby authorizes Blue Cross and Blue Shield of Alabama, as Business Associate, to disclose protected health information to the following business associates and third party administrators:

Name of Other Business Associate or TPA	Condition/Limitation
Health Data & Management Solutions, Inc. (HDMS)	Standard claims and eligibility files

The undersigned hereby agrees to notify Blue Cross and Blue Shield of Alabama of any changes to this list of business associates and third party administrators.

Dated this _____ day of _____, 20____.

For the Plans(s):

CITY OF HUNTSVILLE
(Print Company Name)

By: _____ (Signed)

(Printed)

Title: _____

GROUP NUMBER(S): All - 290920001

Please complete, sign and return this form to Blue Cross and Blue Shield of Alabama – Attn: Underwriting. If you have more than one group health plan or need more space to identify additional business associates, please copy this form as needed. If you do not return this form, then we will not disclose protected health information to the other business associates and third party administrators of the plan(s) until the plan(s) authorize us to do so in writing.