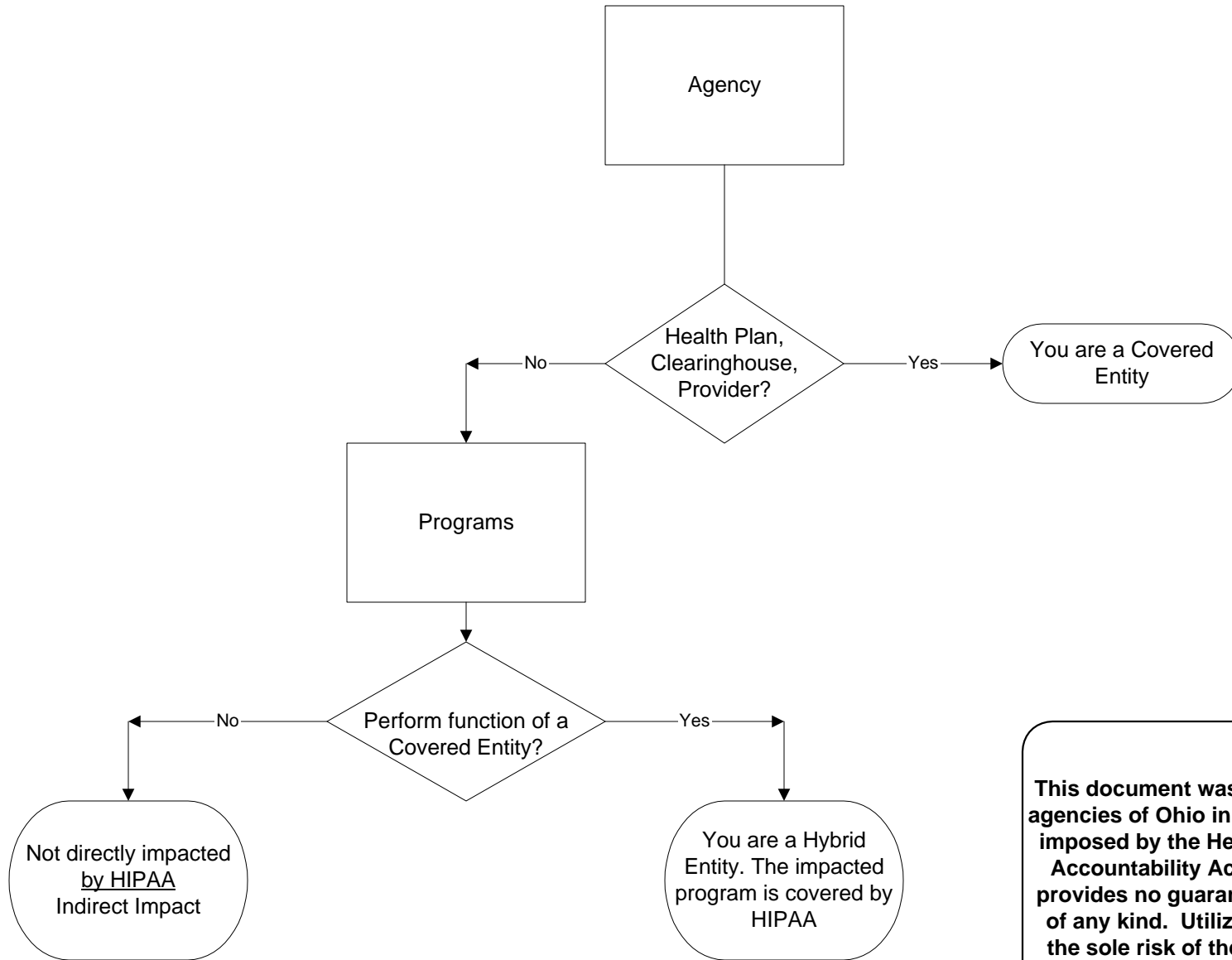


Are You a Covered Entity?



Disclaimer
This document was developed to assist the state agencies of Ohio in understanding the obligations imposed by the Health Insurance Portability and Accountability Act (HIPAA). The State of Ohio provides no guarantee of accuracy or warranties of any kind. Utilization of this information is at the sole risk of the user. As with any matter of law, independent legal counsel should be consulted regarding compliance with the requirements of the HIPAA.

Question 1: Is the entity as a whole a “covered entity” as defined by HIPAA?

To answer this question determine whether the primary function(s) of your agency operate as a:

(Check all the following that apply)

9 Health Plan - An individual or group plan that provides or pays the cost of medical care. See 45 C.F.R. 164.501.

The following are not a health plan under HIPAA:

- Workers’ compensation program
- Correctional institution
- Disability insurance program
- Automobile insurance carriers
- Property and casualty insurer
- Nursing home fixed indemnity insurer

9 Health Care Clearinghouse - A public or private entity that processes or facilitates the processing of nonstandard elements of health information into HIPAA standard data elements and vice versa. See 45 C.F.R. 164.501.

9 Health Care Provider - Includes a provider of services, a provider of medical or other health services, and any other person or entity furnishing health care services or supplies who transmits any health information in electronic form in connection with a transaction covered by the HIPAA regulations. It includes, but is not limited to:

- Preventive, diagnostic, therapeutic , rehabilitative, maintenance, or palliative care, and counseling, services, assessment, or procedure with respect to physical or mental condition, or functional status ,of an individual or that affects the structure or function of the body.
- Sale or dispensing of a drug, device, equipment or other item in accordance with a prescription. See 45 C.F.R. 164.501.

Summary 1: If you checked any of the above boxes you are most likely a “covered entity” as defined by HIPAA and subject to its provisions.

If you are not a covered entity, based upon the primary functions of your agency, programs within your agency may still be covered if they perform a “covered entity” function.

Question 2: Are programs within the entity considered a “covered entity?”

To answer this question determine whether the _____ function/program performs a “covered entity” function by serving as a: (Check all the following that apply)

9 Health Plan - An individual or group plan that provides or pays the cost of medical care. See 45 C.F.R. 164.501.

The following are not a health plan under HIPAA:

- Workers’ compensation program
- Correctional institution
- Disability insurance program
- Automobile insurance carriers
- Property and casualty insurer
- Nursing home fixed indemnity insurer

9 Health Care Clearinghouse - A public or private entity that processes or facilitates the processing of nonstandard elements of health information into HIPAA standard data elements. See 45 C.F.R. 164.501.

9 Health Care Provider - Includes a provider of services, a provider of medical or other health services, and any other person or entity furnishing health care services or supplies who transmits any health information in electronic form in connection with a transaction covered by the HIPAA regulations. It includes, but is not limited to:

- Preventative, diagnostic, therapeutic , rehabilitative, maintenance, or palliative care, and counseling, services, assessment, or procedure with respect to physical or mental condition, or functional status ,of an individual or that affects the structure or function of the body.
- Sale or dispensing of a drug, device, equipment or other item in accordance with a prescription. See 45 C.F.R. 164.501.

Summary 2: If any of the boxes are checked then the entity is considered a “hybrid entity” as is subject to HIPAA. A “hybrid entity” must apply the HIPAA regulations to at least the functions/program that a functioning as a “covered entity.”

Note on Exceptions: There are many programs in which individually identifiable health information is created or maintained, but which do not come within the statutory definition of “health plan.” While these programs are not explicitly covered in the same way that the programs listed in the statutory definition of “health plan” are covered, the HIPAA statute may nonetheless apply to the transactions and other activities conducted under such programs.

This is likely to be the case when a federal entity or federally regulated or funded entity provides health services; the HIPAA requirements apply to such an entity as a “health care provider.” Thus, the issue of how different federal requirements apply is likely to arise in numerous contexts.