

CLAIM ADMINISTRATOR
BUSINESS ASSOCIATE AGREEMENT

This Claim Administrator Business Associate Agreement (“Agreement”) by and between Blue Cross and Blue Shield of Texas (“BCBSTX”), a division of Health Care Service Corporation, a Mutual Legal Reserve Company (“Claim Administrator”), and City of Keller (“Employer”) and the Employer on behalf of its group health plan (“GHP”), collectively the “Parties,” is effective on 10/1/2021.

The purpose of this Agreement is to set forth the Parties’ mutual agreement on the terms for their compliance with the Health Insurance Portability and Accountability Act and its implementing regulations (45 C.F.R. Parts 160-164), and the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, and its implementing regulations, each as issued and amended by the Secretary (all the foregoing, collectively “HIPAA”) for the services and functions related to the underlying Administrative Services Agreement (the “ASA”). Capitalized terms used in this Agreement and not otherwise defined shall have the meanings set forth in HIPAA, which definitions are incorporated by reference.

The Parties acknowledge and agree that Claim Administrator is a Business Associate and the Employer’s GHP is a Covered Entity as defined by HIPAA. In addition, the Employer acknowledges its employee welfare benefit plan meets the definition of a Health Plan in 45 CFR § 160.103.

1. Obligations and Activities of Claim Administrator as Business Associate.

(a) Claim Administrator agrees to use or disclose Protected Health Information (“PHI”) it creates or receives for or from Employer and GHP only as permitted or required by this Agreement or as Required by Law.

(i) Claim Administrator is permitted to use or disclose PHI to perform the functions, activities and services as the claim administrator for Employer’s GHP. In addition, the Parties may enter into other agreements from time to time that include additional functions, activities, and services provided by the Claim Administrator, and to the extent that such agreements include the Use or Disclosure of PHI, the Parties agree that the terms of this Agreement shall also apply.

(ii) Claim Administrator is permitted to use or disclose PHI to perform functions, activities, or services for, or on behalf of, the GHP as Covered Entity, provided that such Use or Disclosure would not violate HIPAA if done by GHP, including the minimum necessary and/or Limited Data Set requirements of HIPAA.

(iii) Except as otherwise limited in this Agreement, Claim Administrator may use PHI for the proper management and administration of the Agreement, the Employer's GHP and functions related thereto, or to carry out the legal responsibilities of the Claim Administrator.

(iv) Except as otherwise limited in this Agreement, Claim Administrator may disclose PHI for Claim Administrator’s proper management, administration and legal responsibilities, provided that the Disclosures are: Required by Law; or Claim Administrator obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Claim Administrator of any instances of which it is aware in which the confidentiality of the information has been breached.

CLAIM ADMINISTRATOR
BUSINESS ASSOCIATE AGREEMENT

(v) Except as otherwise limited in this Agreement, Claim Administrator may use PHI to provide Data Aggregation services relating to the Health Care Operations of the GHP and as permitted by 45 CFR § 164.504(e)(2)(i)(B).

(vi) Claim Administrator may use PHI to report violations of law to appropriate federal and state authorities, consistent with 45 CFR § 164.502(j)(1).

(b) Claim Administrator agrees to use appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this Agreement. Claim Administrator agrees to implement administrative, technical, and physical measures that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI that Claim Administrator creates, receives, maintains, or transmits on GHP's behalf as required by HIPAA.

(c) Claim Administrator agrees to report to GHP any use or disclosure of PHI and any successful privacy or security incidents ("Incidents") affecting GHP which result in the unauthorized access, use, disclosure, modification, or destruction of PHI. Claim Administrator will make report available without delay after the Claim Administrator's Privacy Office becomes aware of the Incident. The report will include Claim Administrator's determination as to whether the Incident meets the definition of a Breach of Unsecured PHI under HIPAA along with the identification (if known) of any individuals whose PHI has been, or is reasonably believed to have been accessed, acquired, or disclosed. Claim Administrator will cooperate with GHP in investigating the Breach and in assisting GHP in meeting its HIPAA and state privacy or security law obligations described in Attachment 1 of this Agreement.

- GHP will check YES if they are delegating to Claim Administrator the obligations listed in Attachment 1.
- GHP will check NO if they are not delegating to Claim Administrator the obligations listed in Attachment 1.
- If no selection is made, the GHP is responsible for the obligations listed in Attachment 1.

YES NO

(d) To reduce the administrative burden of reporting, the Claim Administrator will not be required to report unsuccessful Security incidents which constitute unsuccessful broadcast attacks or pings on Claim Administrator's firewalls, port scans, unsuccessful log-on attempts, denials of service and any combination of the above as long as such incident does not result in the unauthorized access, use, of disclosure of GHP's member data or a Breach of Unsecured Protected Health Information.

(e) Claim Administrator agrees to enter into a written agreement that meets the requirements of 45 CFR § 164.504(e) and § 164.14(a)(2) its subcontractors (including, without limitation, a subcontractor that is an agent under applicable law) that creates, receives, maintains or transmits PHI on behalf of Claim Administrator. Claim Administrator will ensure the written agreement with each subcontractor obligates the subcontractor to comply with restrictions and conditions that are at least restrictive as the restrictions and conditions that apply to Claim Administrator under this agreement.

(f) Claim Administrator agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the Use and Disclosure of PHI received from, or created or

CLAIM ADMINISTRATOR
BUSINESS ASSOCIATE AGREEMENT

received by Claim Administrator on behalf of GHP, available to the Secretary, in a time and manner as reasonably requested by or designated by the Secretary, for purposes of the Secretary determining GHP's compliance with HIPAA.

(g) Claim Administrator agrees to document such Disclosures of PHI and information related to such Disclosures as would be required for GHP to respond to a request by an Individual for an Accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

(h) Individual Rights Requests. The Party identified on Attachment 2 of this Agreement ("Attachment 2") agrees to respond to requests to exercise the following HIPAA individual rights.

(i) Requests for an Accounting of Disclosures in accordance with 45 CFR § 164.528. Upon termination of this Agreement, Claim Administrator will respond to an Individual's request for an Accounting of Disclosures of PHI for a period of up to six years.

(ii) Requests for Access in accordance with 45 CFR § 164.524. Upon termination of Agreement, Claim Administrator will respond to an Individual's request while it maintains the data.

(iii) Requests for an Amendment in accordance with 45 CFR § 164.526. GHP shall consult with Claim Administrator to determine if Claim Administrator created the PHI maintained in a designated record set for which amendment is sought. Upon termination of this Agreement, Claim Administrator will respond to an Individual's request during such time that Claim Administrator maintains the data.

(iv) Privacy Complaints in accordance with 45 CFR § 164.530(d).

(i) In instances when Claim Administrator conducts Standard Transactions on behalf of GHP, Claim Administrator will comply with HIPAA rules for Standard Transactions and Code Sets.

2. Obligations of GHP as Covered Entity.

(a) GHP shall identify and document any limitation(s) in the GHP's Notice of Privacy Practices, as required by 45 CFR § 164.520 or any changes to their privacy policies, procedures or practices that may affect Claim Administrator's Use or Disclosure of PHI on Attachment 2.

(b) GHP is responsible for responding to restriction requests and confidential communications requests in accordance with 45 CFR § 164.522 (a) and (b). Prior to responding or approving any restriction or confidential communication requests, GHP shall consult with Claim Administrator for information on the feasibility of implementing or accommodating the request.

(c) GHP shall provide Claim Administrator the necessary information to fulfill Claim Administrator's obligations under this Agreement, including but not limited to, a written statement of the restrictions for the Disclosure of PHI by Claim Administrator to the Employer. Employer certifies that the Employer's benefit plan documents have been amended in compliance with 45 CFR § 164.314(b) and 45 CFR § 164.504(f) and that information from the applicable amendments shall be included in the written statement provided to Claim Administrator.

CLAIM ADMINISTRATOR
BUSINESS ASSOCIATE AGREEMENT

(d) GHP shall identify its Business Associates and GHP employees on Attachment 2 of this Agreement to whom Claim Administrator is permitted to directly Disclose PHI. GHP shall provide information on any limitations or restrictions on Claim Administrator's Disclosure to a specific Business Associate or GHP employee.

3. Permissible Requests by GHP as Covered Entity.

GHP shall not request Claim Administrator to use or disclose PHI in any manner that would not be permissible under HIPAA if done by GHP, unless otherwise noted in this Agreement.

4. Term and Termination.

(a) Term. The Term of this Agreement shall be effective on the date stated on the first page of this Agreement and shall terminate without notice upon termination of any agreement or arrangement between the Parties for Claim Administrator to provide administrative services to Employer's self-insured health benefit welfare plan.

(b) Termination for Cause. Upon GHP's knowledge of a material breach by Claim Administrator, GHP shall either:

(i) Provide an opportunity for Claim Administrator to cure the breach or end the violation. GHP may terminate this Agreement if Claim Administrator does not cure the breach or end the violation within a reasonable time frame agreed to by the parties; or

(ii) Immediately terminate this Agreement if Claim Administrator has breached a material term of this Agreement and cure is not possible.

(c) Effect of Termination. The Parties agree that returning or destroying the PHI is not feasible due to state or federal regulatory requirements applicable to Claim Administrator or GHP and Claim Administrator's record retention policies. Claim Administrator shall extend the protections of this Agreement to such PHI, including limiting further Uses and Disclosures of the PHI to those purposes that make the return or destruction infeasible, for so long as Claim Administrator maintains such PHI.

5. Miscellaneous.

(a) Regulatory References. Any regulatory reference to HIPAA found in this Agreement includes the relevant and applicable implementing regulations as issued and amended by the Secretary.

(b) Amendment. The Parties agree to take such action as is necessary to amend this Agreement as necessary for the Parties to comply with HIPAA as it may be amended from time to time.

(c) Survival. The respective rights and obligations of GHP and Claim Administrator under Section 4(c) of this Agreement shall survive the termination of this Agreement.

(d) Interpretation.

CLAIM ADMINISTRATOR
BUSINESS ASSOCIATE AGREEMENT

(i) Ambiguities in the Agreement will be resolved to permit Parties to comply with HIPAA.

(ii) Any conflict between the terms of this Agreement and any other agreement between the Parties concerning the Employer's health welfare benefits plan shall be resolved so the terms of this Agreement supersede and replace the relevant terms of any such other agreement concerning the use and disclosure of PHI, except for uses and disclosures permitted under the ASA or other agreements between the Parties. The foregoing notwithstanding, the Parties also acknowledge and agree that if Claim Administrator's Business Confidential Information (as defined in the ASA) is imbedded in the PHI data, then Claim Administrator retains its ownership of such Business Confidential Information.

(e) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which shall constitute one binding agreement.

(f) Severability. The provisions of this Agreement shall be severable, and if a provision is determined or declared to be illegal, invalid or unenforceable, the remainder of this Agreement will continue in full force and effect as if such illegal, invalid or unenforceable provision were not included.

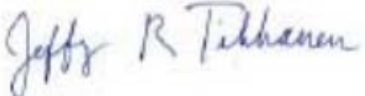
(g) Notice. All notices, requests or demands and other communications from any of the Parties to the others related to this Agreement shall be made to the Privacy Officer of such other Party at the mailing address or fax number set forth on Attachment 2.

IN WITNESS WHEREOF, the Parties hereto have authorized this Agreement to be executed.

City of Keller,
**Employer [or Plan Sponsor] and
Employer on behalf of its Group Health
Plan, the Covered Entity:**

**Blue Cross and Blue Shield of Texas, a
Division of Health Care Service Corporation,
A Mutual Legal Reserve Company, the
Claim Administrator:**

Signature: _____

Signature: 

Printed Name: Mark Hafner

Printed Name: Jeffrey R. Tikkanen

Title: City Manager

Title: Executive Vice President, Commercial Markets

Date: June 24, 2021

Date: June 23, 2021

**ATTACHMENT 1: BREACH OBLIGATIONS
ATTACHMENT 2: ADDITIONAL INFORMATION FORM**

CLAIM ADMINISTRATOR
BUSINESS ASSOCIATE AGREEMENT
ATTACHMENT 1: Breach Obligations

The GHP delegates the following to Claim Administrator:

- Investigation of any unauthorized access, use, or disclosure of GHP member PHI by Claim Administrator and its subcontractors.
- Determination whether there is a low probability that the PHI has been compromised based on a risk assessment as provided for in HIPAA.
- Determination on whether a notification exception under HIPAA applies to the incident
- Documentation and retention of each Breach risk assessment and exception analyses and make this information available to GHP upon request.
- Written notification to GHP describing the Breach incident in detail including a list of the impacted members and/or a copy of a member notification.
- Notification to any individual impacted by the Breach within the applicable statutory notification period and provision of toll-free numbers for individuals who may have questions regarding the incident. The notification will include the following:
 - Description of the incident, including date of Breach and date it was discovered;
 - Description of the types of PHI involved in the Breach (i.e., name, birth date, home address, account number, Social Security Number, etc.);
 - Listing of steps individuals should take to protect themselves from potential harm; and
 - Description of the actions that Claim Administrator is taking to mitigate the harm and avoid further incidents.
- Provision of a substitute notice, as described in HIPAA, to impacted individuals if there is insufficient mailing address information.
- Submission of breach reports to DHHS regarding incidents that impact fewer than 500 individuals. Upon GHP request, provide, a list of the reports that were submitted.
- Notification to DHHS in the event the Breach impacts more than 500 individuals and notification to the GHP that such a notification was made.
- Notification to the media in the event the Breach impacts more than 500 residents of a state or jurisdiction and notify GHP that such notifications were made.

These services may need to change to comply with new HIPAA requirements or DHHS guidance.

Any information provided in Attachment 1 or pursuant to the services described in Attachment 1 shall not be construed as legal advice or as a legal opinion on any specific requirements under HIPAA and is not intended to replace GHP's independent legal counsel's guidance.

CLAIM ADMINISTRATOR
BUSINESS ASSOCIATE AGREEMENT

ATTACHMENT 2: Additional Information Form for Self-Funded Accounts

This replaces and amends any existing Additional Information Form
(Please print or type & complete the form in its entirety)

Employer or Plan Sponsor: City of Keller BCBSTX Account number: 320447 BCBSTX group number(s): 320447, 320448, 320449	
Claim Administrator's Privacy Officer: Thomas C. Lubben Address: HCSC Privacy Office; PO Box 804836; 300 E. Randolph St., Chicago, IL 60680-4110	
Primary Privacy Contact	Additional Privacy Contact (required)
Name: Kandace Tappen Title: Director of Human Resources & Risk Management Phone #: 817-743-4041 FAX #: Mailing Address: P.O. Box 770 City, State, Zip: Keller, TX, 76244 e-Mail Address: ktappen@cityofkeller.com	Name: Jamie Siel Title: Human Resources Specialist Phone #: 817-743-4040 FAX #: Mailing Address: P.O. Box 770 City, State, Zip: Keller, TX 76244 e-Mail Address: jsiel@cityofkeller.com
Signature: (Form should only be signed by an authorized employee of the account)	
Name of individual completing this form: Holmes Murphy on Behalf of Kandace Tappen Title of individual completing this form: Director of Human Resources & Risk Management	
Name (print): Kandace Tappen Signature: _____ Date: June 24, 2021	
Limitations	
As required by 2 (a), GHP will identify limitations in the following documents that may affect Claim Administrator's use or disclosure of PHI. List the limitation or indicate "none." a) Notice of Privacy Practices (NoPP) _____ b) GHP Plan Document _____ c) Other: None	
Individual Rights Requests	
As required by section 1 (h), GHP shall identify the entity responsible for responding to these individual rights requests. Choose Employer/GHP or Claim Administrator (not Both).	
a) Access:	<input type="checkbox"/> Employer/GHP <input checked="" type="checkbox"/> Claim Administrator
b) Disclosure Accounting:	<input type="checkbox"/> Employer/GHP <input checked="" type="checkbox"/> Claim Administrator
c) Amendment:	<input type="checkbox"/> Employer/GHP <input checked="" type="checkbox"/> Claim Administrator
d) Complaint:	<input type="checkbox"/> Employer/GHP <input checked="" type="checkbox"/> Claim Administrator
GHP Authorization for Release of PHI to GHP Employees and GHP's Business Associates)	

CLAIM ADMINISTRATOR
BUSINESS ASSOCIATE AGREEMENT

Employer or Plan Sponsor: City of Keller BCBSTX Account number: 320447 BCBSTX group number(s): 320447, 320448, 320449
As required by section 2 (d), identify the GHP employees with whom Claim Administrator can release PHI to, for GHP Plan Administration purposes. Use a different line for each employee and include: Job Title; Name (optional); and any Limitations/Restrictions on their access.
Jamie Seil, Human Resources Specialist, No restrictions
Connie Rushing, Human Resources Generalist, No restrictions
Catherine Williamson, Administrative Assistant II, No restrictions
Human Resources, Specialist, No restrictions
As required by section 2. (d), identify other Business Associates of GHP, Claim Administrator can release PHI to. Use a different line for each Business Associate and include: Company Name, Job Title; Name (optional); and any Limitations/Restrictions on their access.
Holmes Murphy & Associates, Account Manager, No Restrictions
Holmes Murphy & Associates, Senior Consultant, No Restrictions
Holmes Murphy & Associates, Producer, No Restrictions
Holmes Murphy & Associates, Benefit Coordinator, No Restrictions
Truven Health Analytics LLC - International Business Machines Corp (IBM) - No restrictions including unmasked data file

Note: When information changes, the GHP must provide an updated form to Claim Administrator.