

# Employer Application

## Anthem Balanced Funding

### Employer/Group information

Date of application:

Requested effective date:

Legal name of employer (including DBA):

Type of application:

Type of organization:

SIC code (required):

Employer ID (EIN) or Tax ID no. (required):

How many years in business?

Affiliates that qualify as a single employer under subsection (b), (c), (m), or (o) of Internal Revenue Code Section 414?

Legal name	Federal tax ID no.	Number of employees employed by each
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

Business street address<sup>1</sup>:

City:

State:  ZIP code:

Billing address – if different from above:

City:

State:  ZIP code:

Primary contact name and title:

Primary contact phone no.:

Primary contact email:

Additional company contact name and title:

Additional company contact phone no.:

Additional company contact email:

Is the Primary contact authorized to receive or direct further disclosure of protected health information? ☐ Yes ☐ No

Is the Additional company contact authorized to receive or direct further disclosure of protected health information? ☐ Yes ☐ No

Is this for coverage as a member of an association plan? ☐ Yes ☐ No If yes, association name:

<sup>1</sup> The principal business address means the principal business address registered with the State or, if a principal business address is not registered with the State, or is registered solely for purposes of service of process and is not a substantial worksite for the policyholder's business, the business address within the State where the greatest number of employees of such policyholder work. If, for a network plan, the group policyholder's principal business address is not within the service area of such plan, and the policyholder has employees who live, reside, or work within the service area, the principal business address for purposes of the network plan is the business address within the plan's service area where the greatest number of employees work as of the beginning of the plan year. If there is no such business address, the rating area for purposes of the network plan is the rating area that reflects where the greatest number of employees within the plan's service area live or reside as of the beginning of the plan year.

**Ownership — Please account for 100% of the ownership**, regardless of eligibility. Insert an additional sheet if necessary.

Last name	First name	M.I.	Percentage of ownership (must equal 100%)	Eligible
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No

### Electronic services

Anthem will deliver plan materials and related items, including but not limited to benefit booklets, summaries, billing statements and other notices, via email or other electronic means. The Group agrees that it will continue to provide and update Anthem with current email addresses, and the Group understands that at any time it can request a free copy of these materials by mail or withdraw this authorization by contacting Anthem.

We, the Group, hereby authorize the agent/producer/broker/general agent whose name is attached to this application to use the EmployerAccess system of Anthem to access the Group's information, such as but not limited to enrollees, plan selections, and bills/invoices. Such agent/producer/broker/general agent is also hereby authorized to use the EmployerAccess system of Anthem to make changes to the Group's information on behalf of the Group, such as but not limited to adding/deleting plans, adding/deleting employees, and or changing employee demographic information. These authorizations shall terminate if the Group's designated agent/producer/broker/general agent changes.

### Coverage/Benefit design

Medical benefit design	Contract code	Employer contribution (Enter %)	
		Employee (50% to 100%)	Dependent (optional 0% to 100%)

This portion of the application only covers the ABF medical products. Any ancillary products purchased with Anthem need to be completed as part of a separate application.

**For groups offering HSA plans — Only one choice is allowed.**

- ☐ Anthem will disclose data to a service provider to initiate Health Savings Account (HSA). Additional forms may be required.  
☐ Group will disclose data to a service provider to initiate Health Savings Account (HSA). Anthem will not initiate HSA for the group.

Do you want domestic partner coverage? ☐ Yes ☐ No

Does group self fund any portion of deductibles, copayments or cost-shares? ☐ Yes ☐ No If yes, how much?

Does the employer have a cafeteria plan under the IRS section 125? ☐ Yes ☐ No

### Minimum Enrollment and Eligibility Requirements

The term "child" includes unmarried children of any age medically certified as disabled and children under 26 years old regardless of student status, marital status, financial dependency, eligibility for group sponsored insurance, eligibility as an employee under the same plan, or service in the armed forces. Children can be covered under one, but not both, parents when both parents work for the same employer and are covered under the same Anthem plan.

### ERISA Status

☐ **Employer is not subject to the Employee Retirement Income Security Act of 1974 (ERISA) for the following reason:**

- ☐ Church plan (as defined in 29 USCS § 1002(33))  
☐ Governmental plan (as defined in 29 USCS § 1002(32))  
☐ Other:

☐ **Employer is subject to ERISA**

Form 5500 ID number

If no Form 5500 ID number, reason for exemption from the Form 5500 requirement

### Waiting period

A new hire policy must be selected to be used beyond initial enrollment. Employees must enroll based on employer new hire policy selected or wait until group has open enrollment.

Waiting period:

Would you like to waive the waiting period for initial enrollment? ☐ Yes ☐ No

### Enrollment

Is there other coverage being replaced? ☐ Yes ☐ No

If yes, with what carrier?

Does your group meet the definition of a ☐ small employer, or ☐ large employer, as defined under applicable law?

Total no. of employees (including employed owners/officers):

No. of eligible full-time employees (minimum 30 hours per week):

No. of part-time employees:

Are permanent employees who work between 20-29 hours weekly to be covered? ☐ Yes ☐ No

If yes, number of eligible part-time enrollees:

No. of employees enrolling:

No. of eligible DECLINING employees:

No. of INELIGIBLE employees:

Does your business have additional employees in another state(s)? ☐ Yes ☐ No

If yes, specify state(s):

How many employees are employed in CA?

### Third Party Administrator (TPA)

Will a TPA perform any functions for your group? ☐ Yes ☐ No

If yes, what is the name of the TPA?

If yes, what portion of your business do you use the TPA? ☐ Active employees ☐ COBRA employees ☐ Both

### Coordination of benefits

Standard Coordination of Benefits policy for Anthem is to pay and pursue (meaning Anthem will pay claims if members are eligible and if any possible other coverage situations arise, Anthem will then pursue the possibility of payment by other parties). Please advise your employees of this policy as Anthem may request additional information after a claim has already been processed.

### Broker/Sales information

Writing agent:

Brokerage name:

Writing agent encrypted TIN:

Paid Agency encrypted TIN:

Broker street address:

City:

State:

ZIP code:

Broker contact no.:

Broker email:

Broker license no.:

General Agent name:

General Agent TIN/SSN:

General Agent email:

Name of General Agent's agency:

Agency TIN:

Authorized General Agent electronic signature:

**Broker Certification — I hereby certify:**

1. To the best of my knowledge, the information on this application is complete and accurate.
2. I am not aware of any information not disclosed by the employer in this application that may have bearing on this risk.
3. I have not completed any of the information contained in the applications except with the permission of the applicant.
4. I have not signed any of the applications for an employer representative or individual applicant. If after submission of this application, I request any additions or changes to any of the above information, I will do so only with the written consent of the applicant, and I authorize Anthem to attribute such additions or changes to me.
5. I have advised the employer that a failure to provide complete and accurate information may result in a loss of coverage retroactive to the effective date of coverage or re-rating of the employer's monthly payment retroactive to the coverage effective date and that coverage shall not be effective until Anthem reviews and approves the application and the employer receives a written notice from Anthem.
6. I am the appointed broker and am receiving commissions for the submission of this client. I have disclosed to the applicant all compensation I will or may be eligible to receive as a result of the applicant's business. Absent the written signed consent of Anthem, no portion of my commission payments from Anthem shall be paid to a broker/producer not appointed/approved by Anthem.

**I certify** ☐

Authorized Broker of Record electronic signature:

Date:

**NY HCRA**

Effective in 1997, the NY HCRA surcharge was put into place to fund indigent care and health care initiatives known as Bad Debt & Charity. This surcharge calculates as a percentage of payment for services rendered in the following: Inpatient Hospital, Outpatient Hospital, Comprehensive Primary Healthcare Clinic and Free Standing Ambulatory Surgery.

ASO groups must elect Anthem as their Third Party Administer (TPA).

Additional information about NY HCRA can be found at: [http://www.hcrapools.org/hcra\\_index.cfm](http://www.hcrapools.org/hcra_index.cfm)

This authorization is to remain in full force and effect until Anthem and the above-named financial institution have received written notification simultaneously from us of its termination in such time and in such manner as to afford Anthem and the above-named financial institution a reasonable opportunity to act on it.

**General Agreement**

1. To comply with all terms and provisions of the Group Contract(s) issued, and trust agreements, if applicable, and also accepts enrollment under the Anthem Blue Cross Life and Health Insurance Company (Anthem) trust policy(ies), if applicable. Stop Loss policies provide insurance coverage for the purchaser of the policy for the purchaser's liability under a group health plan it sponsors. Anthem has no liability to a group participants or beneficiaries under the health plan by virtue of any stop loss policy.
2. To make the coverage available to all eligible employees and their eligible dependents and to distribute information and documents to enrolled employees as needed.
3. To maintain records and furnish to Anthem or their designated agent(s), any information required in connection with administration of the coverage. Original source documents, including but not limited to employee/member enrollment documentation, shall be available upon Anthem's request.
4. For the purpose of health related outreach, we the Employer acknowledge that the cell phone numbers provided in the electronic enrollment files have been freely provided by the employee and have not been obtained by a look up service or third party. Anthem will honor Do Not Call requests for all telephone numbers collected.
5. To provide notice of applicable conversion rights and rights to continue health coverage under COBRA to eligible employees and eligible dependents.
6. To pay Anthem by the monthly payment due date, the monthly payments on behalf of each member covered under the contract, unless otherwise stated in any financial agreement between the parties, to submit applications of employees prior to their date of eligibility, to keep all necessary records regarding membership, to assume responsibility for handling the COBRA and state-mandated continued group coverage and/or conversion process, if applicable.
7. If applicable, employer will receive on behalf of members, all notices delivered by Anthem, and immediately forward such notices to persons involved, at their last known address.
8. We understand and agree that no coverage will be effective before the date determined by Anthem and that such coverage will be effective only if we have paid our first month's monthly payment and this application is accepted.
9. That in order for Anthem to accept or decline this application, all the information requested on this application must be completed. In the event the application is not complete, Anthem, or its designated agent(s), is authorized to obtain the necessary information and to complete that information on this application. If the application is not complete, Anthem reserve(s) the right to reject it and notify us in writing.
10. The employer understands that the coverage issued by Anthem may be different then the coverage applied for herein. In that event, Anthem Blue Cross Life and Health Insurance Company shall notify the employer of such differences, and by payment of the appropriate monthly payments, the employer will accept the coverage as issued.

11. The monthly payment rates calculated for the employer are contingent, based upon the accuracy of the eligibility data submitted on employees and covered dependents to Anthem by the employer. Anthem reserves the right to review such rates upon receipt of all individual applications for employers' employees and to modify the rates, if the enrollment information so warrants. Any fraud or intentional misrepresentation of material fact on the employees' applications may, within the first 24 months following the issuance of the coverage, result in a material change to the group's coverage or monthly payment rates as of the effective date of the group coverage.
12. The entire application for Group coverage has been reviewed, and all answers contained herein are true and complete to the best of the employer's and/or authorized representative's knowledge and belief.
13. All employees applying for coverage are employees of the employer and receive salary or wages documented on state and/or federal payroll reports.
14. The requested coverage is not in effect unless and until this application is approved by Anthem, that approval of coverage shall be evidenced by issuing Group contracts and/or policies to the employer, and an employee's coverage is not in effect unless and until the employee applies and is approved for coverage by Anthem.
15. This small group Anthem Balance funded product is not eligible for a monthly payment tax credit.
16. The HSA, which must be established for tax-advantaged treatment, is a separate arrangement between the individual and a bank or other qualified institution. Applicant must be an "eligible individual" under IRS regulations to receive the HSA tax benefits. The IRS has not yet issued HSA or high-deductible health plan regulations or determined that Anthem high-deductible plans are qualifying high-deductible health plans. Consultation with a tax advisor is recommended.
17. If we decide to cancel our group coverage after coverage has been issued, we understand that the cancellation will become effective on the last day of the month in which Anthem received the written notification of cancellation, and that no monthly payments will be refunded for any period between Anthem's receipt of the notification and the last day of the month when the cancellation takes effect. If there are any monthly payment after the cancellation date, we understand that Anthem will refund these monthly payments after 45 days from the monthly payment deposit date.
18. We further understand and agree that we should keep prior coverage in force until notified of acceptance in writing by Anthem and that no agent has the right to accept this application or bind coverage.
19. If this application is accepted, it becomes a part of our contract with Anthem.

## Arbitration Agreement

### REQUIREMENT FOR BINDING ARBITRATION

ALL DISPUTES BETWEEN YOU AND ANTHEM BLUE CROSS AND/OR ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY, INCLUDING BUT NOT LIMITED TO DISPUTES RELATING TO THE DELIVERY OF SERVICE UNDER THE PLAN/POLICY OR ANY OTHER ISSUES RELATED TO THE PLAN/POLICY AND CLAIMS OF MEDICAL MALPRACTICE, MUST BE RESOLVED BY BINDING ARBITRATION, IF THE AMOUNT IN DISPUTE EXCEEDS THE JURISDICTIONAL LIMIT OF SMALL CLAIMS COURT AND THE DISPUTE CAN BE SUBMITTED TO BINDING ARBITRATION UNDER APPLICABLE FEDERAL AND STATE LAW, INCLUDING BUT NOT LIMITED TO, THE PATIENT PROTECTION AND AFFORDABLE CARE ACT. For claims that exceed the jurisdiction of the small claims court that are subject to binding arbitration under this Agreement, California Health and Safety Code Section 1363.1 and Insurance Code Section 10123.19 require specified disclosures in this regard: It is understood that any dispute as to medical malpractice, that is as to whether any medical services rendered under this contract were unnecessary or unauthorized or were improperly, negligently or incompetently rendered, will be determined by submission to arbitration as permitted and provided by federal and California law, including but not limited to, the Patient Protection and Affordable Care Act, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. Both parties to this contract, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration. YOU AND ANTHEM BLUE CROSS AND/OR ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY AGREE TO BE BOUND BY THIS ARBITRATION PROVISION. YOU ACKNOWLEDGE THAT FOR DISPUTES THAT ARE SUBJECT TO ARBITRATION UNDER STATE OR FEDERAL LAW THE RIGHT TO A JURY TRIAL, THE RIGHT TO A BENCH TRIAL UNDER CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 17200, AND/OR THE RIGHT TO ASSERT AND/OR PARTICIPATE IN A CLASS ACTION ARE ALL WAIVED BY YOU. If your plan/policy is subject to 45 CFR 147.136, this agreement does not limit your rights to internal and external review of adverse benefit determinations as required by that law. Enforcement of this arbitration clause, including the waiver of class actions, shall be determined under the Federal Arbitration Act ("FAA"), including the FAA's preemptive effect on state law. By signing, writing or typing your name below you agree to the terms of this agreement and acknowledge that your signed, written or typed name is a valid and binding signature.

I agree ☐

Electronic signature of Company officer:

Title:

Date:



## User Agreement between Anthem and End User of Anthem Application

In consideration of Anthem providing my organization ("Employer") or its group benefit plan (the "Employer Plan") with access to the EmployerAccess website and related applications (collectively, the "Anthem System"), I hereby represent that I am an officer or otherwise duly-authorized representative of the Employer or the Employer Plan and have the authority to bind the Employer and the Employer Plan, including its Plan Sponsor(s) and Plan Administrator(s), to the terms of this Usage Agreement. I represent that I am not an agent, broker, producer or other individual acting in any way on behalf of Anthem or any Anthem affiliate or subcontractor in relation to the Employer Plan.

### The Employer and Employer Plan agree:

- To conduct certain transactions electronically, as described and facilitated within the Anthem System, including but not limited to entering and updating eligibility information of those participating in the Employer Plan and receiving, reviewing and paying for invoiced amounts due and other notices given under the group insurance policy or administrative services agreement between Anthem and the Employer or Employer Plan (the "Group Agreement").
- That at any time, either the Employer or Employer Plan may terminate its consent and conduct such future transactions in paper format, by terminating this Usage Agreement and contacting Anthem's assigned account manager. Terminating this agreement or otherwise requesting paper transactions shall in no way delay or relieve the Employer or Employer Plan from its obligations under its Group Agreement.
- That the transactions under this Usage Agreement do not represent a HIPAA 834 or other HIPAA transaction, and that the transactions will be made in accordance with the Group Agreement.
- To use the application, enrollment, waiver, arbitration (where applicable) and related forms then in use by Anthem and not use any non-standard forms without the prior written consent of Anthem.
- To retain, in a secure format capable of being readily audited, reproduced and read, all applications, waivers, arbitration provisions (where applicable), forms, and correspondence related to or supporting the transactions submitted under this Usage Agreement and to furnish to Anthem, promptly upon Anthem's demand and at no expense to Anthem, copies of such forms and correspondence, whether written or electronic as Anthem may reasonably require.
- To appoint one Site Administrator responsible for administering the transactions, designations and user authorizations made by or on behalf of Employer and Employer Plan under this Usage Agreement. I understand that I may, but am never required to, appoint a person who has access to more than one employer's plan ("Designated Agent")
- To be legally bound by and solely responsible for, the actions of any Site Administrator or other User given access to the Anthem System hereunder, and for the actions of any Designated Agent as that Designated Agent's activities pertain to the Employer or Employer Plan.
- To immediately, and in no event later than the next business day, notify Anthem of any change in the identity, contact information, employment or access rights of any Site Administrator, Designated Agent or User given access under this Usage Agreement and of any act or omission which may compromise the privacy or security of any of its login credentials, authorizations or information within the Anthem System.
- To implement and enforce adequate policies and procedures to protect the confidentiality of membership and eligibility information of those applying, waiving or participating in the Employer Plan and to limit the access to the Anthem System to only those authorized and only as is the minimum necessary for the operation of the Employer Plan and to comply with all applicable requirements of HIPAA and related privacy laws or regulations.
- To indemnify and hold Anthem and its employees, agents, parents and affiliates harmless from, any claim of loss or harm by any third party arising from any act, error, delay or omission resulting from the use of the Anthem System by it or those on its behalf. This includes but is not limited to the costs of claims or benefit payments made in connection with those incorrectly enrolled or misrepresented as eligible for participation in the Employer Plan.
- That the Anthem System is provided "AS IS" and without warranties of any kind and all implied warranties are disclaimed by Anthem to the fullest extent permitted by law, that access to the Anthem System may be revoked by Anthem at any time and for any reason.
- That the terms of this Usage Agreement may be modified by Anthem by posting the modifications separately or within the Anthem System. I agree to read any such updated or modified terms and, regardless of whether I have read them, I agree that any subsequent use of the Anthem System constitutes by acceptance by Employer and Employer Plan to those modified terms.

I agree ☐

## Certification and Indemnification

The Employer certifies and acknowledges that no attempt will be made to re-identify the individuals that are the subjects of the data provided as a result of a request for De-identified<sup>1</sup> or Summary Health Information<sup>2</sup>. In addition, the Employer further certifies that it will require any downstream vendors or other parties that may receive De-identified and/or Summary Health Information at the request of the Employer to certify that they will also make no attempt to re-identify the individuals that are subject to the data provided. Any attempt by a Recipient to re-identify the data could constitute the use, disclosure, or maintenance of protected health information under HIPAA which would require Recipient to meet all requirements for safeguarding protected health information and/or personal information set out in federal and/or state law. Recipient will indemnify and hold harmless Anthem Blue Cross (Anthem) and any Anthem affiliate, officer, director, employee or agent from and against any claim, cause of action, liability, damage, cost or expense, including attorneys' fees and court or proceeding costs, arising out of or in connection with any nonpermitted or prohibited use or disclosure of re-identified protected health information by Recipient or any subcontractor, agent, person or entity under Recipient's control.

1 De-identified Data has all 18 identifiers removed as required by HIPAA (§164.514) and that cannot be used alone or in combination with other information to re-identify individual(s) who are subjects of that data.

2 Summary Health Information summarizes claim data for an employer group to meet the requirements of De-identified Data that is aggregated to a five-digit ZIP code.

Electronic signature of authorized employer representative:

Title:   
Date:

# HIPAA Notice

## Summary Notice of HIPAA Requirements for Reports Schedule to Administrative Services Agreement with:

This Summary Notice of HIPAA Requirements for Reports Schedule supplements and amends the Administrative Services Agreement (Agreement) and is effective as of:

If there are any inconsistencies between the terms of the Agreement including any prior Schedules and this Schedule, the terms of this Schedule shall control.

This Schedule provides information and requirements for requesting a standard account reporting package under the Agreement and sets out general terms and provisions relating to the use and disclosure of Protected Health Information (PHI). The information contained in this Schedule is intended to serve only as a notice and is not intended to be a complete and exhaustive list of Employer's federal or state requirements pertaining to the use and disclosure of PHI. Nothing contained in this Schedule is intended to serve as legal advice. Employer should carefully review this Schedule and all applicable legal requirements with Employer's legal counsel prior to requesting a Standard Account Reporting Package from Anthem.

Unless otherwise defined in the Agreement or this Schedule, the capitalized terms set forth in this Schedule have the meanings ascribed to them under the Health Insurance Portability and Accountability Act (HIPAA) Privacy Regulation and/or HIPAA Security Regulation (45 C.F.R. Parts 160-164) or the Health Information Technology for Economic and Clinical Health Act (HITECH) and the corresponding implementing regulations and guidance. Any reference in this Schedule to the Privacy Regulation, Security Regulation, HIPAA, or HITECH shall mean the section as in effect or as amended.

- A. Under the HIPAA Privacy regulations, Employers that create or receive PHI are subject to the HIPAA Privacy Regulations. The Parties duties and responsibilities surrounding the use and disclosure of PHI is set forth more fully in Article 9(a) of the Agreement and in the Employer's applicable business associate agreement with Anthem.
- B. As a HIPAA Covered Entity permitted to receive PHI, Employer must comply with all of the HIPAA privacy and security requirements, including, but not limited to the following:
  - 1. Designate a privacy official.
  - 2. Designate a contact person or office that is responsible for receiving complaints and who is able to provide further information about matters covered by Employer's privacy notice.
  - 3. Train all members of Employer's workforce on confidentiality policies and procedures.
  - 4. Document that the training has been provided.
  - 5. Adopt appropriate administrative, technical, and physical safeguards to protect the privacy of PHI.
  - 6. Provide a process for individuals to make complaints concerning the Employer's confidentiality policies and procedures or its compliance with such policies and procedures.
  - 7. Document all complaints received, and their disposition, if any.
  - 8. Adopt and apply appropriate sanctions against members of its workforce who fail to comply with the privacy policies and procedures of Employer.
  - 9. Document the sanctions that are applied, if any.
  - 10. Mitigate, to the extent practicable, any harmful effect that is known to Employer of a use or disclosure of PHI in violation of its policies and procedures.
  - 11. Implement policies and procedures with respect to PHI that are designed to comply with the standards, implementation specifications or other requirements of the HIPAA Privacy Regulations.

Prior to Anthem providing Employer with PHI, Employer must execute and return the designated request form provided by Anthem.

- C. Upon Employer's request and only as permitted by the business associate agreement entered into between the Parties, Anthem will provide Employer with the standard account reporting package under this Agreement. Employer agrees that Anthem will be able to provide the minimum amount of PHI necessary for a permitted business purpose, including, but not limited to the following:
  - 1. Contacting Anthem's customer service representatives to help a member resolve a claim issue.
  - 2. Reports or bills that contain PHI.
  - 3. Access to available e-employer internet applications that contain PHI.
  - 4. Use or access of PHI contained on an Interactive Voice Response Unit.

Employer may also receive Summary Health Information as well as enrollment and disenrollment information.

- D. In the event Employer requests Anthem to disclose PHI to any employees or agents of Employer, Employer's Business Associate,

Plan Contractor, or other third party, then Employer agrees to indemnify and hold Anthem harmless from and against any claim, cause of action, liability, damage, cost or expense, including attorneys' fees, arising out of or in connection with any non-permitted use or disclosure of PHI provided at Employer's request to any employees or agents of Employer, Employer's Business Associate, Plan Contractor, or other third party.

☐ I agree

IN WITNESS WHEREOF, Anthem has caused this Schedule to be executed by affixing the signature of a duly authorized officer.

By:

Name:

Title:

Date:



# Group Health Plan Business Associate Agreement

This Business Associate Agreement ("BAA") is provided to memorialize the parties duties and responsibilities in connection with the requirements imposed by the Health Insurance Portability and Accountability Act and the Privacy, Security, Breach Notification and Standard Transactions regulations. In the event that a BAA is not formally executed by the parties, the first transmission of protected health information by, or on behalf of, the group health plan to Anthem, or its designee, shall indicate acceptance of the terms of this BAA.

This Business Associate Agreement ("Agreement") is effective as of the following date and is made among Business Associate, and the Group Health Plan ("Plan"), and the Employer ("Employer") named on the signature page of this Agreement:

Effective date:

## Witnesseth as follows:

**Whereas**, Employer has established and maintains a plan of health care benefits which is administered by the Employer or its designee as an employee welfare benefit plan under the Employee Retirement Income Security Act of 1974 ("ERISA");

**Whereas**, Employer has retained Business Associate to provide certain claims administrative services with respect to the Plan which are described and set forth in a separate Administrative Services Agreement among those parties ("ASO Agreement"), as amended from time to time;

**Whereas**, Employer is authorized to enter into this agreement on behalf of Plan;

**Whereas**, the parties to this Agreement desire to establish the terms under which Business Associate may use or disclose Protected Health Information (or "PHI") such that the Plan may comply with applicable requirements of the Health Insurance Portability and Accountability Act of 1996 and the Privacy, Security, Breach Notification and Standard Transactions regulations found at 45 C.F.R. Parts 160-164 (collectively, the "HIPAA Regulations") along with any guidance and/or regulations issued by the U.S. Department of Health and Human Services.

**Now, therefore**, in consideration of these premises and the mutual promises and agreements hereinafter set forth, the Plan, Employer and Business Associate hereby agree as follows:

## I. Definitions

Unless otherwise defined in this Agreement, capitalized terms shall have the same meaning as used in the HIPAA Regulations. Such terms shall only have such meaning with respect to the information created or maintained in support of this Agreement and the parties ASO Agreement. A reference in this Agreement to any section of the HIPAA Regulations shall mean the section as in effect or as amended.

## II. Business Associate's Responsibilities

### A. Privacy of Protected Health Information

1. **Confidentiality of Protected Health Information.** Except as permitted or required by this Agreement, Business Associate will not use or disclose Protected Health Information without the authorization of the Individual who is the subject of such information or as Required by Law.
2. **Prohibition on Non-Permitted Use or Disclosure.** Business Associate will neither use nor disclose PHI except (1) as permitted or required by this Agreement, or any other agreement between the parties, (2) as permitted in writing by the Plan or its Plan administrator, (3) as authorized by Individuals, or (4) as Required by Law.
3. **Permitted Uses and Disclosures.** Business Associate is permitted to use or disclose PHI as follows:
  - a. **Functions and Activities on Plan's Behalf.** Business Associate will be permitted to use and disclose PHI(a) for the management, operation and administration of the Plan, (b) for the services set forth in the ASO Agreement, which include (but are not limited to) Treatment, Payment activities, and/or Health Care Operations as these terms are defined in this Agreement and 45 C.F.R. § 164.501, and (c) as otherwise required to perform its obligations under this Agreement and the ASO Agreement, or any other agreement between the parties provided that such use or disclosure would not violate the HIPAA Regulations.
    - i. **42 C.F.R. Part 2 Acknowledgement.** The parties acknowledge that information subject to 42 C.F.R. Part 2 ("Part 2") may be used and disclosed for Plan's payment and health care operations under the terms of this Agreement and the ASO Agreement to the extent that Business Associate is a Contractor and Plan is a Third Party Payer as defined under Part 2. Business Associate shall: (i) comply with Part 2, (ii) implement appropriate safeguards to protect such information, (iii) report non-permitted uses or disclosures of such information in a manner consistent with this BAA, and (iv) refrain from re-disclosing such information unless permitted by law.
  - b. **Business Associate's Own Management and Administration**
    - i. **Protected Health Information Use.** Business Associate may use PHI as necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities.

- ii. **Protected Health Information Disclosure.** Business Associate may disclose PHI as necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities only (i) if the disclosure is Required by Law, or (ii) if before the disclosure, Business Associate obtains from the entity to which the disclosure is to be made reasonable assurance, evidenced by written contract, that the entity will: (x) hold PHI in confidence, (y) use or further disclose PHI only for the purposes for which Business Associate disclosed it to the entity or as Required by Law; and (z) notify Business Associate of any instance of which the entity becomes aware in which the confidentiality of any PHI was breached.
- c. **Miscellaneous Functions and Activities**
  - i. **Protected Health Information Use.** Business Associate may use PHI as necessary for Business Associate to perform Data Aggregation services, and to create De-identified PHI, Summary Health Information and/or Limited Data Sets.
  - ii. **Protected Health Information Disclosure.** Business Associate may disclose, in conformance with the HIPAA Regulations, PHI to make Incidental disclosures and to make disclosures of De-identified PHI, Limited Data Sets, and Summary Health Information. Business Associate may also disclose, in conformance with the HIPAA Regulations, PHI to Health Care Providers for permitted purposes including health care operations.
  - d. **Minimum Necessary and Limited Data Set.** Business Associate's use, disclosure or request of PHI shall utilize a Limited Data Set if practicable. Otherwise, Business Associate will make reasonable efforts to use, disclose, or request only the minimum necessary amount of PHI to accomplish the intended purpose.
- B. **Disclosure to Plan and Employer (and their Subcontractors).** Other than disclosures permitted by Section II.A.3 above, Business Associate will not disclose PHI to the Plan, its Plan administrator or Employer, or any business associate or subcontractor of such parties except as set forth in Section IX.
- C. **Business Associate's Subcontractors and Agents.** Business Associate will require its subcontractors and agents to provide reasonable assurance, evidenced by a written contract that includes obligations consistent with this Agreement with respect to PHI.
- D. **Reporting Non-Permitted Use or Disclosure, Breaches and Security Incidents**
  - 1. **Non-permitted Use or Disclosure.** Business Associate will maintain a report of any use or disclosure of PHI not permitted by this Agreement of which Business Associate becomes aware and provide such report periodically, or upon request, to the Plan or its Plan administrator. Such report shall not include instances where Business Associate inadvertently misroutes PHI to a provider to the extent the disclosure is not a Breach as defined under 45 CFR §164.402.
  - 2. **Security Incidents.** Business Associate will report any Breach or security incidents of which Business Associate becomes aware. A security incident is an attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system, and involves only Electronic PHI that is created, received maintained or transmitted by or on behalf of Business Associate. The parties acknowledge and agree that this Section constitutes notice by Business Associate to Plan of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below) for which no additional notice to Plan shall be required. "Unsuccessful Security Incidents" shall include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI.
  - 3. **Breach.** Business Associate will promptly, and without unreasonable delay, report to Plan any Breach of Unsecured PHI. Business Associate will cooperate with Plan in investigating the Breach and in meeting the Plan's obligations under applicable breach notification laws. In addition to providing notice to Plan of a Breach, Business Associate will provide any required notice to individuals and applicable regulators on behalf of Plan.
- E. **Termination for Breach of Privacy Obligations.** Without limiting the rights of the parties set forth in the ASO agreement, each party will have the right to terminate this Agreement and the ASO Agreement if the other has engaged in a pattern of activity or practice that constitutes a material breach or violation of their obligations regarding PHI under this Agreement.

Prior to terminating this Agreement as set forth above, the terminating party shall provide the other with an opportunity to cure the material breach. If these efforts to cure the material breach are unsuccessful, as determined by the terminating party in its reasonable discretion, the parties shall terminate the ASO Agreement and this Agreement, as soon as administratively feasible. If for any reason a party has determined the other has breached the terms of this Agreement and such breach has not been cured, but the non-breaching party determines that termination of the Agreement is not feasible, the party may report such breach to the U.S. Department of Health and Human Services.
- F. **Disposition of PHI**
  - 1. **Return or Destruction Upon ASO Agreement End.** The parties agree that upon cancellation, termination, expiration or other conclusion of the ASO Agreement, destruction or return of all PHI, in whatever form or medium (including in any electronic medium under Business Associate's custody or control) is not feasible given the regulatory requirements to maintain and produce such information for extended periods of time after such termination. In addition, Business Associate is required to maintain such records to support its contractual obligations with its vendors and network providers and, as applicable, maintain Individual treatment records. Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those consistent with applicable business and legal obligations for so long as Business Associate, or its subcontractors or agents, maintains such PHI. Business Associate may destroy such PHI in accordance with applicable law and its record retention policy that it applies to similar records.

2. **Exception When Business Associate Becomes Plan's Health Insurance Issuer.** If upon cancellation, termination, expiration or other conclusion of the ASO Agreement, Business Associate (or an affiliate of Business Associate) becomes the Plan's health insurance underwriter, then Business Associate shall transfer any PHI that Business Associate created or received for or from Plan to that part of Business Associate (or affiliate of Business Associate) responsible for health insurance functions.
3. **Survival of Termination.** The provisions of this Section II.F. shall survive cancellation, termination, expiration, or other conclusion of this Agreement and the ASO Agreement.

### III. Access, Amendment and Disclosure Accounting

#### A. Access

1. Business Associate will respond to an Individual's request for access to his or her PHI as part of Business Associate's normal customer service function, if the request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the PHI Business Associate and its subcontractors maintain in a manner and time frame consistent with 45 C.F.R. § 164.524.
2. In addition, Business Associate will assist the Plan in responding to requests by Individuals that are made to the Plan to invoke a right of access under the HIPAA Regulations. Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Business Associate will make available for inspection and obtaining copies by the Plan, or at the Plan's direction by the Individual (or the Individual's personal representative), any PHI about the Individual created or received for or from the Plan in Business Associate's custody or control, so that the Plan may meet its access obligations under 45 C.F.R. § 164.524.

#### B. Amendment

1. Business Associate will respond to an Individual's request to amend his or her PHI as part of Business Associate's normal customer service functions, if the request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the PHI Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in 45 C.F.R. § 164.526.
2. In addition, Business Associate will assist the Plan in responding to requests by Individuals that are made to the Plan to invoke a right to amend under the HIPAA Regulations. Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Business Associate will amend any portion of the PHI created or received for or from the Plan in Business Associate's custody or control, so that the Plan may meet its amendment obligations under 45 C.F.R. § 164.526.

#### C. Disclosure Accounting

1. Business Associate will respond to an Individual's request for an accounting of disclosures of his or her PHI as part of Business Associate's normal customer service function, if the request is communicated to the Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the PHI Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in 45 C.F.R. § 164.528.
2. In addition, Business Associate will assist the Plan in responding to requests by Individuals that are made to the Plan to invoke a right to an accounting of disclosures under the HIPAA Regulations by performing the following functions so that the Plan may meet its disclosure accounting obligation under 45 C.F.R. § 164.528:
  - a. **Disclosure Tracking.** Business Associate will record each disclosure that Business Associate makes of PHI, which is not excepted from disclosure accounting under Section III.C.2.b.
    - i. The information about each disclosure that Business Associate must record ("Disclosure Information") is (a) the disclosure date, (b) the name and (if known) address of the person or entity to whom Business Associate made the disclosure, (c) a brief description of the PHI disclosed, and (d) a brief statement of the purpose of the disclosure or a copy of any written request for disclosure under 45 C.F.R. § 164.502(a)(2)(ii) or § 164.512.
    - ii. For repetitive disclosures of PHI that Business Associate makes for a single purpose to the same person or entity (including to the Plan or Employer), Business Associate may record (a) the Disclosure information for the first of these repetitive disclosures, (b) the frequency, periodicity or number of these repetitive disclosures, and (c) the date of the last of these repetitive disclosures.
  - b. **Exceptions from Disclosure Tracking.** Business Associate will not be required to record Disclosure information or otherwise account for disclosures of PHI (a) for Treatment, Payment or Health Care Operations, (b) to the Individual who is the subject of the PHI, to that Individual's personal representative, or to another person or entity authorized by the Individual (c) to persons involved in that Individual's health care or payment for health care as provided by 45 C.F.R. § 164.510, (d) for notification for disaster relief purposes as provided by 45 C.F.R. § 164.510, (e) for national security or intelligence purposes, (f) to law enforcement officials or correctional institutions regarding inmates, (g) that are incident to a use or disclosure that is permitted by this Agreement or the ASO Agreement, or (h) as part of a limited data set in accordance with 45 C.F.R. § 164.514(e).
  - c. **Disclosure Tracking Time Periods.** Business Associate will have available for the Plan the Disclosure information required by this Section III.C.2 for the six (6) years immediately preceding the date of the Plan's request for the Disclosure information.
  - d. **Provision of Disclosure Accounting.** Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Business Associate will make available to the Plan, or at the Plan's direction to the Individual, the Disclosure information regarding the Individual, so the Plan may meet its disclosure accounting obligations under 45 C.F.R. § 164.528.

#### **D. Confidential Communications**

1. Business Associate will respond to an Individual's request for a confidential communication as part of Business Associate's normal customer service function, if the request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the PHI Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Regulations. If an Individual's request, made to Business Associate, extends beyond information held by Business Associate or Business Associate's subcontractors, Business Associate will inform the Individual to direct the request to the Plan, so that Plan may coordinate the request. Business Associate assumes no obligation to coordinate any request for a confidential communication of PHI maintained by other business associates of Plan.
2. In addition, Business Associate will assist the Plan in responding to requests by Individuals that are made to the Plan to invoke a right of confidential communication under the HIPAA Regulations. Upon receipt of written notice (includes faxed and emailed notice) from the Plan, Business Associate will begin to send all communications of PHI directed to the Individual to the identified alternate address so that the Plan may meet its access obligations under 45 C.F.R. § 164.522(b).

#### **E. Restrictions**

1. Business Associate will respond to an Individual's request for a restriction as part of Business Associate's normal customer service function, if the request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Plan, Business Associate will respond to the request with respect to the PHI Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Regulations.
2. In addition, Business Associate will promptly, upon receipt of notice from Plan, restrict the use or disclosure of PHI, provided the Business Associate has agreed to such a restriction. Plan and Employer understand that Business Associate administers a variety of different complex health benefit arrangements, both insured and self-insured, and that Business Associate has limited capacity to agree to special privacy restrictions requested by Individuals. Accordingly, Plan and Employer agree that it will not commit Business Associate to any restriction on the use or disclosure of PHI for Treatment, Payment or Health Care Operations without Business Associate's prior written approval.

#### **IV. Safeguard of PHI**

- A. Business Associate will develop and maintain reasonable and appropriate administrative, technical and physical safeguards, as required by Social Security Act § 1173(d) and 45 C.F.R. § 164.530(a) and (c) and as required by the HIPAA Regulations, to ensure and to protect against reasonably anticipated threats or hazards to the security or integrity of health information, to protect against reasonably anticipated unauthorized use or disclosure of health information, and to reasonably safeguard PHI from any intentional or unintentional use or disclosure in violation of this Agreement.
- B. Business Associate will also develop and use appropriate administrative, physical and technical safeguards to preserve the Availability of electronic PHI, in addition to preserving the integrity and confidentiality of such PHI. The "appropriate safeguards" Business Associate uses in furtherance of 45 C.F.R. § 164.530(c), will also meet the requirements contemplated by 45 C.F.R. Parts 160, 162 and 164, as amended from time to time.

#### **V. Compliance with Standard Transactions**

Business Associate will comply with each applicable requirement for Standard Transactions established in 45 C.F.R. Part 162 when conducting all or any part of a Standard Transaction electronically for, on behalf of, or with the Plan.

#### **VI. Inspection of Books and Records**

Business Associate will make its internal practices, books, and records relating to its use and disclosure of PHI created or received for or from the Plan available to the U.S. Department of Health and Human Services to determine Plan's compliance with the HIPAA Regulations or this Agreement.

#### **VII. Mitigation for Non-Permitted Use or Disclosure**

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 the requirements of this Agreement.

#### **VIII. Plan's Responsibilities**

- A. **Preparation of Plan's Notice of Privacy Practices.** Plan shall be responsible for the preparation of its Notice of Privacy Practices ("NPP"). To facilitate this preparation, upon Plan's or Employer's request, Business Associate will provide Plan with its NPP that Plan may use as the basis for its own NPP. Plan will be solely responsible for the review and approval of the content of its NPP, including whether its content accurately reflects Plan's privacy policies and practices, as well as its compliance with the requirements of 45 C.F.R. § 164.520. Unless advance written approval is obtained from Business Associate, the Plan shall not create any NPP that imposes obligations on Business Associate that are in addition to or that are inconsistent with the NPP prepared by Business Associate or with the obligations assumed by Business Associate hereunder.
- B. **Distribution of Notice of Privacy Practice.** Plan shall bear full responsibility for distributing its own NPP as required by the HIPAA Regulations.
- C. **Changes to PHI.** Plan shall notify Business Associate of any change(s) in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such change(s) may affect Business Associate's use or disclosure of such PHI.

- D. **Minimum Necessary and Part 2.** Plan agrees to make commercially reasonable efforts to disclose only the minimum amount of PHI necessary, including such PHI that may be regulated under Part 2. Plan, to the extent that it operates as a Third Party Payer under Part 2, shall notify Business Associate of any information it transmits directly or indirectly to Business Associate that is subject to Part 2.

**IX. Disclosure of PHI to the Plan, Employer and Other Business Associates**

- A. The following provisions apply to disclosures of PHI to the Plan, Employer and other business associates of the Plan.
1. **Disclosure to Plan.** Unless otherwise provided by this Section IX, all communications of PHI by Business Associate shall be directed to the Plan.
  2. **Disclosure to Employer.** Business Associate may provide Summary Health Information regarding the Individuals in the Plan to Employer upon Employer's written request for the purpose either: (a) to obtain premium bids for providing health insurance coverage for the Plan, or (b) to modify, amend or terminate the Plan. Business Associate may provide information to Employer on whether an Individual is participating in the Plan or is enrolled in or has disenrolled from any insurance coverage offered by the Plan.
  3. **Disclosure to Other Business Associates and Subcontractors.** Business Associate may disclose PHI to other entities or business associates of the Plan if the Plan authorizes Business Associate in writing to disclose PHI to such entity or business associate. The Plan shall be solely responsible for ensuring that any contractual relationships with these entities or business associates and subcontractors comply with the requirements of 45 C.F.R. § 164.504(e) and § 164.504(f).

**X. Miscellaneous**

- A. **Agreement Term.** This Agreement will continue in full force and effect for as long as the ASO Agreement remains in full force and effect. This Agreement will terminate upon the cancellation, termination, expiration or other conclusion of the ASO Agreement.
- B. **Automatic Amendment to Conform to Applicable Law.** Upon the effective date of any final regulation or amendment to final regulations with respect to PHI, Standard Transactions, the security of health information or other aspects of the Health Insurance Portability and Accountability Act of 1996 applicable to this Agreement or to the ASO Agreement, this Agreement will automatically amend such that the obligations imposed on the Plan, Employer, and Business Associate remain in compliance with such regulations, unless Business Associate elects to terminate the ASO Agreement by providing Employer notice of termination in accordance with the ASO Agreement at least thirty (30) days before the effective date of such final regulation or amendment to final regulations.
- C. **Conflicts.** The provisions of this Agreement will override and control any conflicting provision of the ASO Agreement. All other provisions of the ASO Agreement remain unchanged by this Agreement and in full force and effect. This Agreement shall replace and supersede any prior business associate agreements executed between the parties relating to the ASO Agreement.
- D. **No Third Party Beneficiaries.** The parties agree that there are no intended third party beneficiaries under this Agreement. This provision shall survive cancellation, termination, expiration, or other conclusion of this Agreement and the ASO Agreement.
- E. **Interpretation.** Any ambiguity in this Agreement or the ASO Agreement or in operation of the Plan shall be resolved to maintain compliance with the HIPAA Regulations.
- F. **References.** References herein to statutes and regulations shall be deemed to be references to those statutes and regulations as amended or recodified.

**On behalf of the group health plan and employer:**

Group Health Plan/Employer:

Name:

Signature:

Title:

Date:

**On behalf of the business associate:**

Name of business associate:

Name:

Signature:

Title:

Date: