

# HIPAA Opt-Out

## IN GENERAL

HHS has issued interim final rules that classify the opt-out from HIPAA by non-federal government entities that self-fund their health care plans. Those portions of HIPAA for which an opt-out is permitted are as follows:

- Preexisting conditions
- Special enrollment periods
- Non-discrimination
- Electronic data transmission.

There are certain HIPAA requirements from which an opt-out is permitted:

- Privacy
- Newborns' and Mothers' Health Protection
- Mental Health Parity
- Women's' Health and Cancer Rights.

## SPECIFIC RULES WITH OPT-OUT

These rules, promulgated by CMS are as follows:

- Exemption must be requested; it is not automatic.
- Request must be in writing.
- Administrative unit is CMS.
- Opt-out is per plan year (or bargaining agreement term).
- Renewal is affected by a written request for renewal.
- Participants must be notified in writing and Certificates of Creditable Service be provided.
- CMS must be given a copy of the Notice to Participant.