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Special:

**TO: FINANCIAL OFFICERS AND HEALTH BENEFIT OFFICERS OF  
CONTRACTING PUBLIC AGENCIES**

**SUBJECT: HIPAA - HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY  
ACT**

CalPERS is aware of the administrative regulations which have been adopted by the U.S. Department of Health and Human Services (DHHS) pursuant to the Health Insurance Portability and Accountability Act (HIPAA). Under HIPAA, DHHS is authorized to regulate four primary areas related to health information:

- Standards for administrative transactions and code sets;
- Privacy of individually identifiable health information;
- Security; and
- National Identifiers.

CalPERS has determined that it is a covered entity and is undertaking steps to ensure compliance with the above-mentioned regulations. At present, only two of the standards have been adopted by DHHS in final form: the transactions and code sets standards and the privacy regulations. Compliance with these regulations is required by October 16, 2002, for the transactions and code sets standards, and April 14, 2003 for the privacy regulations. CalPERS has filed for an extension with DHHS for implementation of the transactions and code sets standards pursuant to the Administrative Simplification Compliance Act which extended the deadline for compliance to October 16, 2003, for covered entities that request an extension and submit a compliance plan to DHHS by October 15, 2002.

Recently, many of our contracting agencies have been seeking our feedback on whether they are a "covered entity" under HIPAA. It is our interpretation of the regulations that the mere fact that an agency contracts with CalPERS for health benefits under the Public Employees' Medical and Hospital Care Act (PEMHCA) does not, by itself, make a contracting agency a covered entity under HIPAA.

However, CalPERS cannot provide legal advice or make a determination of an agency's status under HIPAA with regard to other health benefits administered by the employer, such as vision or dental, or with regard to any healthcare-related activities of the agency. Therefore, each agency should conduct its own analysis to determine whether it is a covered entity under HIPAA.

If you have any questions, please feel free to contact Nathan Schmidt, Senior Legal Counsel, at (916) 326-3778, or Doug McKeever, Assistant Chief, Health Benefit Services Division, at (916) 326-3943.

Tom Fischer, Chief  
Health Benefit Services Division