



Use this chart to determine the HIPAA level for each of your health plans. **Be sure to review the characteristics and determine the level of each health plan (medical, dental, vision, flex, etc.) separately.** Consider the notes below for more information as you review each plan.

**1A.**

Is this a “Health Plan”? – Only plans whose primary purpose is providing or paying for health care are covered under HIPAA. HIPAA specifically excludes life, disability, workers compensation and similar employee benefits plans. Flex plans that are “premium only” plans or which reimburse only for commuting or childcare expenses are not primarily health plans either (however medical reimbursement flex plans are health plans and are subject to HIPAA).

**1B.**

More than 50 eligibles or administered by someone else? – This two-part test can be kind of tricky. If your plan has more than 50 eligibles, regardless of how it is administered, select “YES”. If you plan has less than 50 eligibles as of the end of the prior plan year, you then need to think about how your plan is administered. If you have less than 50 eligibles and you administer you plan yourself (i.e. pay claims directly yourself – with no outside assistance), you would select “No”. If you use an insurance company, HMO, PPO, TPA or other such entity to process enrollment or claims for you, you must select “YES”.

**1C.**

Plan provides benefits solely through a contract for insurance with an insurance carrier or HMO? – This test is very narrowly cast, although many plans will answer “YES”. Basically, to be able to answer “YES”, you need to be really and truly fully insured. If you cannot answer all three parts of the test (plan provides benefits solely through a contract for insurance with an insurance carrier or HMO), however, you must answer “NO”. Some examples of health plans answering “NO” will include Sect 125 Flex plans, Sect 110 High Deductible plans, self-funded plans, partially self-funded plans, plans with risk corridors or risk pools, etc. Note that if you are not eligible for this exemption and select “NO”, the amount of data you actually receive is irrelevant

**1D.**

Do you receive only summary health information? – If the plan receives only enrollment information and summary health information – meaning claims information (this only refers to claims information) that has had all the individual identifies such as name, date of birth, social security number, etc. removed – you can select “Yes”. If you get any detailed, or individually identifiable, claims information, you must select “NO”.

For a more detailed treatment of these topics, go to [www.agent77.com/choice/2min](http://www.agent77.com/choice/2min). This brief exercise will walk you through the same questions, but provide additional details and explanation.