



THE UNIVERSITY OF ARIZONA  
HEALTH PLANS

**SUBJECT: OFFSHORE OUTSOURCING**

**POLICY: CP 6032**

**Department of Origin: Compliance and Audit Department**

**Responsible Position: Compliance Director**

**Date(s) of Review and Revision: 11/11, 06/12, 02/14; 3/15; 4/16**

**Policy Replaces: CP 1832 S**

**Department Approval:**



Approval has  
completed on CP 603.

**PURPOSE**

To ensure that The University of Arizona Health Plans (Health Plans) takes appropriate measures to ensure that Offshore Subcontractors protect beneficiary Protected Health Information, and that no Offshore Subcontractors are utilized for all AHCCCS lines of business.

**APPLICABILITY**

This policy applies to all Lines of Business.

**POLICY**

The Health Plan will submit to CMS specific subcontract information and an attestation that the Health Plan takes appropriate steps to address the risk associated with the use of Offshore Subcontractors, and attests to AHCCCS that no Offshore Subcontractors being utilized by the Health Plan have access to Protected Health Information (PHI).

**DEFINITIONS**

Please refer to the link below for full definitions for the following terms:

<http://sharepoint/sites/hppandp/new/Lists/Definitions/PP%20Definitions.aspx>

**First Tier, Downstream and Related Entities (FDR)**

**Medicare-related work**

**Offshore**

**Offshore Subcontractors**

**Subcontractor**

## PROCEDURE

- 1.0 The Health Plan submits to CMS Offshore Subcontractor attestations whenever the Health Plan (a) enters into a contract with an Offshore Subcontractor for the first time to perform Medicare-related work; or (b) changes the functions that a current Offshore Subcontractor performs; or (c) a Subcontractor outsources part or all of its responsibilities that includes providing Health Plan member PHI to an Offshore company.
  - 1.1 Subcontractor information and attestations should be entered into the CMS HPMS module within thirty (30) calendar days after the Offshore Subcontract is signed.
  - 1.2 If changes are made to the functions that a current Offshore Subcontractor performs, the Health Plan submits an attestation with a modified listing indicating the changed function within thirty (30) calendar days of the change.
  - 1.3 To ensure that the Health Plan is compliant with CMS regulations for Offshore subcontracting, contracts with Subcontractors based in the United States and its territories include language that the Subcontractor will inform the Health Plan when and if the Subcontractor outsources part or all of its responsibilities that includes providing Health Plan member PHI to an Offshore company.
- 2.0 The Health Plan representative will submit the Offshore Subcontract information and completed attestation through the Offshore Subcontract data module in the CMS Health Plan Management System (HPMS).
- 3.0 The Offshore Subcontract Information includes the following:
  - 3.1 Legal name of Health Plan.
  - 3.2 Offshore Subcontractor Information:
    - 3.2.1 Offshore Subcontractor name.
    - 3.2.2 Offshore Subcontractor address.
    - 3.2.3 Describe Offshore Subcontractor functions.
    - 3.2.4 State proposed or actual effective date for Offshore Subcontract.
  - 3.3 Offshore Subcontractor Information:
    - 3.3.1 Describe the PHI that will be provided to the Offshore Subcontractor.
    - 3.3.2 Discuss why providing PHI is necessary to accomplish the Offshore Subcontractor's objectives.
    - 3.3.3 Describe alternative considered to avoid providing PHI and why each alternative was rejected.
- 4.0 The Attestation includes the following information and requirements that must be verified and completed by the Health Plan:
  - 4.1 Attestation of safeguards to protect Health Plan member PHI in the Offshore Subcontract:
    - 4.1.1 Offshore Subcontractor arrangements have policies and procedures in place to ensure that PHI and other personal information remains secure.
    - 4.1.2 Offshore Subcontractor arrangement prohibits Subcontractor's access to data not associated with the Health Plan contracts.

- 4.1.3 Offshore Subcontractor arrangement has policies and procedures in place that allow for immediate termination of the Subcontract upon discovery of a significant security breach.
- 4.1.4 Offshore Subcontractor arrangement includes all required CMS language (e.g., record retention requirements, compliance with all Medicare Part C and D requirements, etc).
- 4.2 Attestation of audit requirements to ensure protection of Health Plan member PHI:
  - 4.2.1 The Health Plan Department that is the subject-matter expert will conduct an annual audit of the Offshore Subcontractor.
  - 4.2.2 The Compliance Department will validate the annual audit results.
  - 4.2.3 Audit results will be used by the Health Plan to evaluate the continuation of its relationship with the Offshore Subcontractor.
  - 4.2.4 The Health Plan agrees to share Offshore Subcontractor's audit results with CMS, upon request.
- 5.0 For AHCCCS, any services that are described in the specifications or scope of work that directly serve the State of Arizona, its clients, or AHCCCS members, and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this requirement does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

## **PERFORMANCE AND OUTCOME MEASURES**

- 1.0 Health Plan will protect Health Plan member's PHI when utilizing Offshore Subcontractors.
- 2.0 For AHCCCS, the Health Plan will perform all services that involve access to secure or sensitive data or personal client data within the defined territories of the United States.

## **REFERENCES**

- 1.0 HPMS memos 07/23/2007, 09/20/2007 and 08/26/2008
- 2.0 Government Accountability Office's (GAO) Report entitled *Privacy: Domestic and Offshore Outsourcing of Personal Information in Medicare, Medicaid, and Tricare*
- 3.0 AHCCCS Contract, Section E, Paragraph 33, Off-Shore Performance of Work Prohibited

## **ASSOCIATED POLICIES AND PROCEDURES**

- 1.0 Health Plan Policy - CP 6014; First Tier, Downstream, and Related Entity Oversight

## **ATTACHMENTS**

- 1.0 Offshore Subcontracting Survey
- 2.0 Offshore Subcontract Information and Attestation

## OFFSHORE SUBCONTRACTING SURVEY

**Contractor shall not engage any subcontractor to perform any tasks related to the underlying agreement without prior written approval by UAHP. Completion of this Attestation is required and the Contractor has a continuing obligation to immediately update this Attestation and information contained in this Attestation in the event of any change.**

Contractor Name:

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Contractor Address:

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**Do you use offshore subcontractors that involves receiving, processing, transferring, handling, storing, or accessing protected health information (PHI)?**      No    Yes

The Centers for Medicare and Medicaid Services defines an offshore subcontractor as the following: The term “subcontractor” refers to any organization that a Medicare Advantage Organization or Part D sponsor contracts with to fulfill or help fulfill requirements in their Part C and/or Part D contracts. Subcontractors include all first-tier, downstream and/or related entities. The term “offshore” refers to any country that is not one of the fifty United States or one of the United States territories (American Samoa, Guam, Northern Marianas, Puerto Rico, and Virgin Islands). Examples of countries that meet the definition of “offshore” include Mexico, Canada, India, Germany, and Japan. Subcontractors that are considered offshore can be either American-owned companies with certain portions of their operations performed outside of the United States or foreign-owned companies with their operations performed outside of the United States. Offshore subcontractors provide services that are performed by workers located in offshore countries, regardless of whether the workers are employees of American or foreign companies.

If “No,” the survey is complete and you do not need to complete or submit the attached attestation.

If “Yes,” continue completing the attached attestation and provide a copy to:

The University of Arizona Health Plan

Attn: \_\_\_\_\_

2701 East Elvira Road

Tucson, AZ 85756

If a new offshore subcontractor is added, the full attestation must be completed and sent to The University of Arizona Health Plans immediately at the address.

\_\_\_\_\_  
[Signature of individual authorized to sign on behalf of organization]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
[Date]

# OFFSHORE SUBCONTRACT INFORMATION AND ATTESTATION (CY2007 & CY2008) – INSTRUCTIONS

*A. CMS requests MAOs and PDP sponsors to provide offshore subcontracting information as follows:*

## **Part I. Medicare Part C Organization and Part D Plan Sponsor Information**

1. Provide legal name of MAO or PDP sponsor.
2. Identify MAO or PDP sponsor contracts or prospective contracts (e.g., H1234 or S1234).

## **Part II. Offshore Subcontractor Information**

1. (a) Provide offshore subcontractor name.
1. (b) Provide offshore subcontractor address.
2. Describe offshore subcontractor functions (narrative discussion).
State proposed or actual effective date for offshore subcontract.

## **Part III. Precautions for Protected Health Information (PHI)**

1. Describe the PHI that will be provided to the offshore subcontractor.
2. Discuss why providing PHI is necessary to accomplish the offshore subcontractor's objectives.
3. Describe alternatives considered to avoid providing PHI, and why each alternative was rejected.

*B. CMS requests the MAO or PDP sponsor to complete, sign, and return the following attestation:*

**ATTESTATION CONCERNING THE USE OF OFFSHORE CONTRACTORS**

Name of MAO or PDP Sponsor.
Medicare Contract Identification Number (e.g., H1234, S1234).

**Part I. Attestation of Safeguards to Protect Beneficiary Information in the Offshore Subcontract.**

	Yes or No	Attestation
I.1		Offshore subcontracting arrangement has policies and procedures in place to ensure that PHI and other personal information remains secure.
I.2		Offshore subcontracting arrangement prohibits subcontractor's access to data not associated with the sponsor's contracts.
I.3		Offshore subcontracting arrangement has policies and procedures in place that allow for immediate termination of the subcontract upon discovery of a significant security breach.
I.4		Offshore subcontracting arrangement includes all required Medicare Part C and D language (e.g., record retention requirements, compliance with all Medicare Part C and D requirements, etc.)

**Part II. Attestation of Audit Requirements to Ensure Protection of PHI**

	Yes or No	Attestation
II.1		Organization will conduct an annual audit of the offshore subcontractor.
II.2		Audit results will be used by the Organization to evaluate the continuation of its relationship with the offshore subcontractor.
II.3		Organization agrees to share offshore subcontractor's audit results with CMS, upon request.

\_\_\_\_\_  
*[SIGNATURE OF INDIVIDUAL AUTHORIZED TO SIGN ON BEHALF OF ORGANIZATION]*

\_\_\_\_\_  
*[TITLE]*

\_\_\_\_\_  
*[DATE]*