

**VILLAGE OF DOWNERS GROVE**  
**REPORT FOR THE VILLAGE COUNCIL WORKSHOP**  
**MARCH 27, 2007 AGENDA**

| SUBJECT:                 | TYPE:  | SUBMITTED BY:                              |
|--------------------------|--|--|
| HIPAA Opt-Out Resolution | ✓ Resolution<br>Ordinance<br>Motion<br>Discussion Only | Wesley Morgan,<br>Human Resources Director |

**SYNOPSIS**

A resolution has been prepared to authorize staff to file the necessary election documents with the Federal Department of Health & Human Resources allowing the Village to opt-out of certain provisions of the Federal and Illinois Health Insurance Portability and Accountability Acts (HIPAA and IHIPAA, respectively) for the Village health plan year 2007.

**STRATEGIC PLAN ALIGNMENT**

The Village goals for 2011 include *Exceptional Municipal Organization*. A supporting objective of this statement is to provide *Responsible Stewardship of Village Finances and Resources*.

**FISCAL IMPACT**

N/A

**RECOMMENDATION**

Approval on the April 3, 2007 consent agenda.

**BACKGROUND**

The Village of Downers Grove has elected to opt out of compliance with phase one of the Health Insurance Portability and Accountability Act (HIPAA) since it was passed in 1996. Phase one of this Act contains certain requirements which include limitations on pre-existing condition exclusions. The basis for opting out of this section of HIPAA was that it was determined that compliance could increase Village health care costs between two and four percent. Based on past experience, it is our belief that it is in the best financial interest of the Village to once again elect to opt out of compliance with phase one of HIPAA for the plan year 2007.

**ATTACHMENTS**

Resolution

Election Form

Notice (to employees) of Election Opting Out of Certain Provisions of HIPAA

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION TO OPT-OUT OF COMPLIANCE  
WITH THE PROVISIONS OF THE FEDERAL AND ILLINOIS  
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY  
ACTS FOR THE VILLAGE HEALTH PLAN YEAR 2007**

WHEREAS, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires that group health plans, including the Village's self-funded health insurance plan, comply with certain requirements including limits on preexisting condition exclusions (See 42 U.S.C. 300gg et seq. & 45 CFR 144.101 et seq.); and

WHEREAS, the Village's self-funded health insurance plan is a non-federal governmental plan as defined in HIPAA; and

WHEREAS, nonfederal governmental plans may elect to opt-out of compliance with most of the requirements of HIPAA including the limitations on preexisting condition exclusions; and

WHEREAS, the State of Illinois has also adopted a Health Insurance Portability and Accountability Act (IHIPAA) with provisions similar to HIPAA including the ability for non-federal governmental plans to opt-out of compliance with most of the IHIPAA requirements (See 215 ILCS 97/1 et seq.); and

WHEREAS, the Village's Plan Administrator, has estimated that compliance with HIPAA and IHIPAA could increase the Village's health care costs between two to four percent each plan year; and

WHEREAS, to control health care costs and adequately maintain the self-funded health plan, the Village Council desires to opt-out of the requirements of HIPAA and IHIPAA,

NOW, THEREFORE, BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the provisions of the preamble are incorporated herein.
2. That the Village shall exercise its ability as a nonfederal government health plan to opt-out of compliance with the following provisions of HIPAA, and the corresponding provisions in IHIPAA, for the health plan year 2007.
  - (a) Limitations on preexisting condition exclusion periods. (45 CFR 146.111)
  - (b) Special enrollment periods for individuals (and dependents) losing other coverage. (45 CFR 146.117)
  - (c) Prohibitions against discriminating against individual participants and beneficiaries based on health status. (45 CFR 146.121)
  - (d) Standards relating to benefits for mothers and newborns. (Section 2704 of the PHS Act)

- (e) Parity in the application of certain limits to mental health benefits. (Section 2705 of the PHS Act)

3. The Village Manager and staff are authorized to draft and execute the necessary election documents to be submitted to the appropriate state and federal officials.

4. To the extent of any conflict with this resolution, all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

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Mayor

Passed:

Attest: \_\_\_\_\_  
Village Clerk

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**VILLAGE OF DOWNERS GROVE, DUPAGE COUNTY, ILLINOIS**

**ELECTION FOR EXEMPTION FROM THE PROVISIONS OF THE HEALTH INSURANCE  
PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) AND THE  
ILLINOIS HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (IHIPAA)**

The Village of Downers Grove, an Illinois Municipal Corporation, with offices at 801 Burlington Avenue, Downers Grove, Illinois, operates a self-funded health insurance program which is administered by a third party administrator. Plan information is as follows:

Village of Downers Grove  
Employee Benefit Plan

Administrator: GCG Financial  
3000 Lakeside Drive  
Suite 200  
Bannockburn, IL 60015

No portion of that program is provided through health insurance coverage. The health insurance program is a nonfederal governmental plan as defined in the Illinois Health Insurance Portability and Accountability Act (IHIPAA). (See 215 ILCS 97/5)

Under the authority of Section 2721(b)(2) of the Public Health Service (PHS) Act, and 45 CFR 146.180 of the Federal Regulations of HIPAA and the corresponding provisions in IHIPAA, the Village of Downers Grove elects to be exempt from the following provisions of Title XXVII of the PHS Act, the portions of Chapter 45 of HIPAA and the corresponding sections of IHIPAA:

1. Limitations on preexisting condition exclusion periods.
2. Special enrollment periods for individuals (and dependents) losing other coverage.
3. Prohibitions against discriminating against individual participants and beneficiaries based on health status.
4. Standards relating to benefits for mothers and newborns.
5. Parity in the application of certain limits to mental health benefits.

Attached hereto and made a part hereof are the following documents:

1. Resolution adopted by the Downers Grove Village Council on \_\_\_\_\_, 2007, electing to opt out of the provisions of HIPAA and IHIPAA as noted above for the group health plan year 2007.
2. A copy of the notice to be provided to all plan participants at the time of enrollment in the plan and also on an annual basis as required under 215 ILCS 97/45(c).

As Mayor of the Village of Downers Grove and pursuant to the resolution adopted by the Downers Grove Village Council, I certify that I have the power and authority to execute this election document on behalf of the Village of Downers Grove.

Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor Brian J. Krajewski  
Village of Downers Grove

Attest: \_\_\_\_\_  
Village Clerk

**NOTICE TO ENROLLEES OF ELECTION OPTING OUT OF CERTAIN  
PROVISIONS OF THE STATE AND FEDERAL HEALTH INSURANCE  
PORTABILITY AND ACCOUNTABILITY ACTS**

In general, the state and federal Health Insurance Portability and Accountability Acts (Acts) require group health plans to provide the following:

1. Limitations on preexisting condition exclusion periods.
2. Special enrollment periods for individuals (and dependents) losing other coverage.
3. Prohibitions against discriminating against individual participants and beneficiaries based on health status.
4. Standards relating to benefits for mothers or newborns.
5. Parity in the application of certain limits to mental health benefits.

However, the Acts authorize local governmental employers that sponsor health plans to elect to exempt a plan from these requirements for any part of the plan that is "self-funded" by the employer. The Village's self-funded health insurance program is a nonfederal governmental plan. On \_\_\_\_\_, 2007, the Village Council adopted Resolution 2007-\_\_\_\_ electing to opt-out of all the requirements set forth above for the health plan year 2007.

The exemption from these requirements will be in effect for the year, January 1, 2007 through December 31, 2007. The election may be renewed for subsequent plan years.