

# Medicare Part D HITECH Business Associate Agreement (BAA) FAQ

## Why do I need a BAA with RHPP?

As specified in CMS guidance in Chapter 14 of the Medicare Prescription Drug Benefit Manual and consistent with the HIPAA Privacy Rule (45 CFR Parts 160 and 164) the Transaction Facilitation Contractor is a business partner of Part D sponsors for the purpose of performing TrOOP and COB functions when it receives data directly from the sponsor.

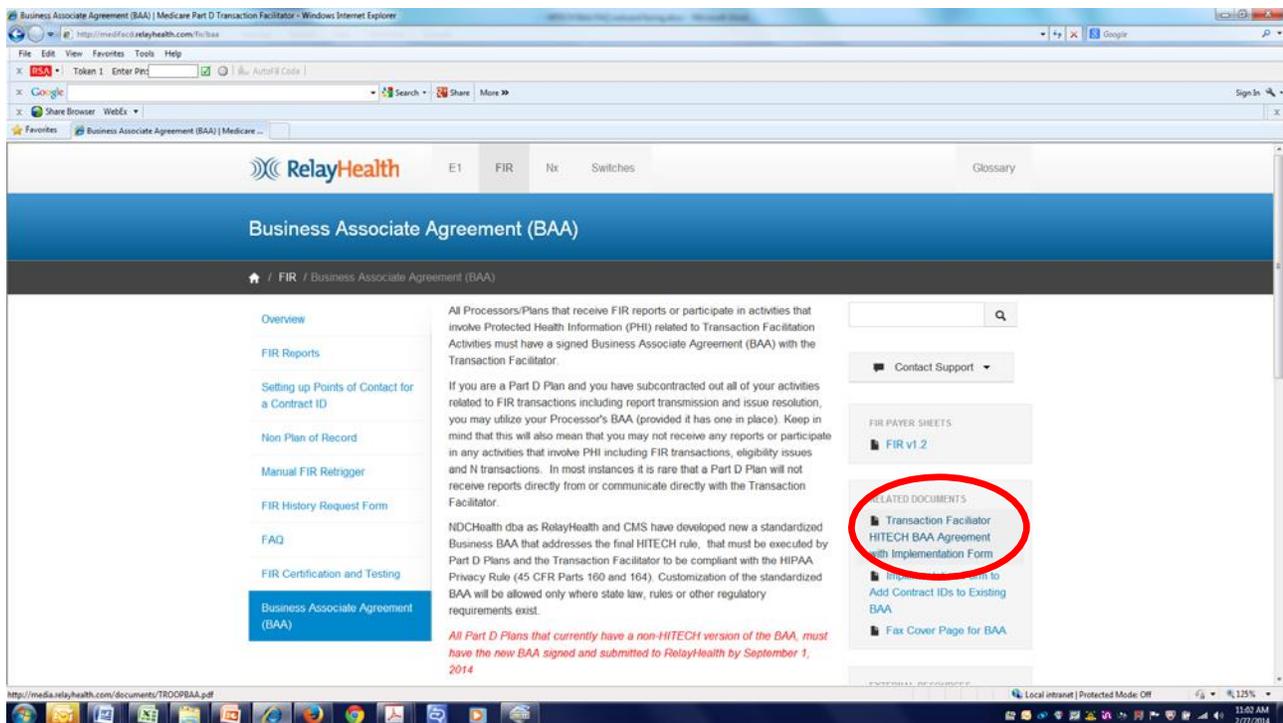
Currently, this happens whenever a beneficiary makes a contract-level enrollment change during the coverage year thereby triggering the automated TrOOP balance transfer process. In that process, the Transaction Facilitator receives data from the disenrolling Part D plan as well as from any prior Part D plan in which the beneficiary was enrolled during that coverage year. Please note that the BAA requirement is applicable not only to sponsors directly reporting the TrOOP accumulators to the Transaction Facilitator, but also to sponsors using a processor for the automated TrOOP balance transfer process. Therefore, it is critical that each Part D sponsor has a signed agreement with the Transaction Facilitator

## Why do I need to execute the HITECH BAA?

OCR Jan. 17 unveiled the rule embodying four final rules covering a broad range of HIPAA issues. Part of the rule extends Privacy and Security rule compliance obligations to business associates, those organizations that do business with covered entities (13 HCDR, 1/18/13). The final rule was published in the Jan. 25 Federal Register (78 Fed. Reg. 5,566, 1/25/13). According to the rule, covered entities and business associates have until Sept. 23 to comply with most provisions. In the case of existing business associate agreements, covered entities have until September 2014 to make changes.

## Where can I find the HITECH BAA?

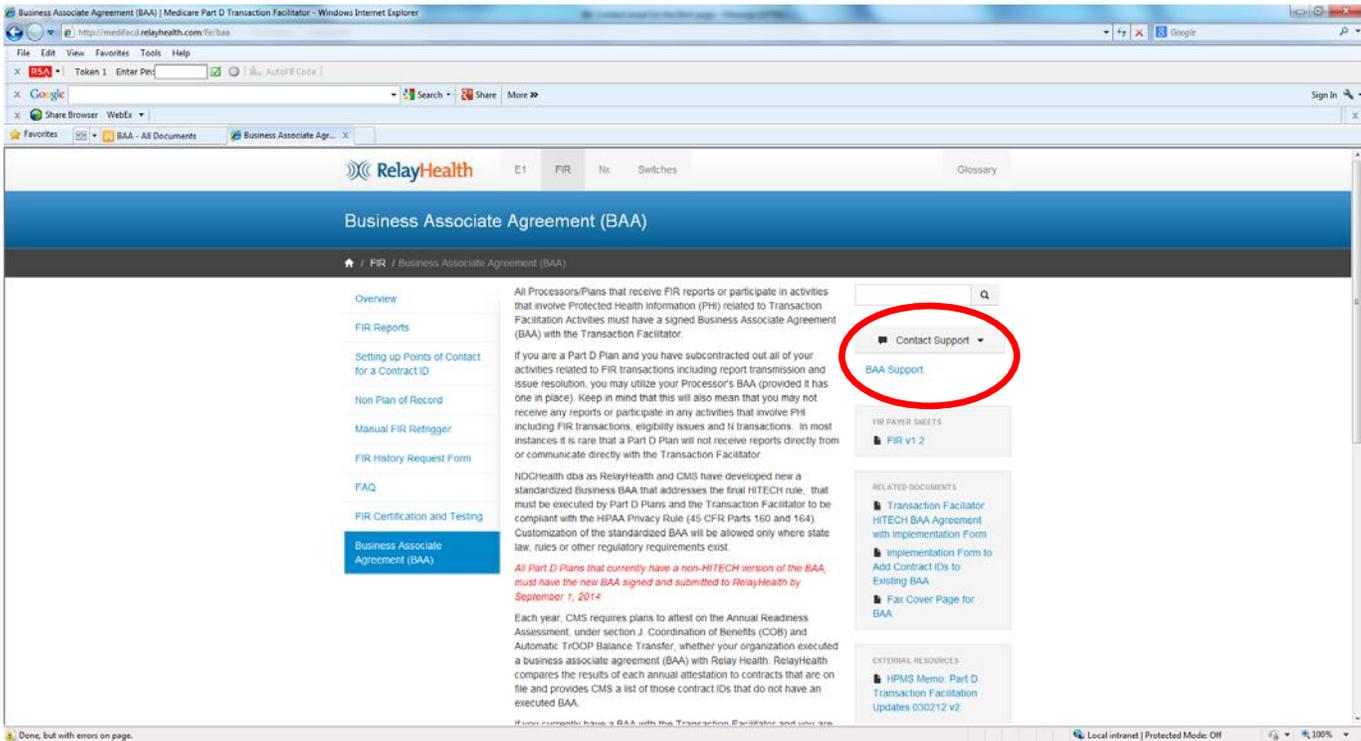
<http://medifacd.relayhealth.com/fir/baa> Click on icon labeled Transaction Facilitator BAA Agreement with Implementation Form (circled in red below).



The plan sponsor must complete the Implementation Form and sign two copies of the BAA. You can return them to RelayHealth via any of the three methods indicated on the website, however email is preferred.

### **I don't have internet access or can't get the forms to download, how can I get them?**

We can provide you with a faxed version of the forms. Please click on the contact us link at <http://medifacd.relayhealth.com/fir/baa> and select Contact us and choose BAA support. In the body of the email please indicate your request and provide your fax information.



### **What is the deadline for returning the implementation form and having a signed HITECH BAA?**

The deadline is 9-1-2014 if you have an existing non-HITECH BAA with us already.

### **What if I don't meet the deadline?**

Per CMS requirements, RelayHealth must report any plans that do not meet the deadline. CMS has indicated that this will result in some form of compliance action.

### **What if I have a signed BAA already?**

If the currently executed BAA is not the HITECH BAA you will need to sign and return the HITECH BAA and implementation form included with the BAA.

If you have already signed the HITECH BAA, Nothing additional is needed (unless you have added new plans not originally documented on the Implementation Form), however be sure to attest that you have completed the HITECH BAA in the 2015 readiness assessment and provide all contract numbers that are covered with the HITECH BAA.

## CMS refers to the Transaction Facilitator, but I signed an agreement with the Troop Facilitator, do I need to sign a new BAA?

Yes, if the only BAA agreement you have signed references the TrOOP Facilitator, this is not the HITECH BAA. You will need to sign and submit the HITECH BAA.

## My legal will not sign the NDCHealth BAA or has questions- who do I contact to discuss the issues?

The RelayHealth BAA contains CMS approved language and as such should not be modified unless required by state rule or regulation.

Please note that any requests for contract modifications must be approved by RelayHealth and CMS and as such will require additional time so these requests should be submitted to [TBTBAA@RelayHealth.com](mailto:TBTBAA@RelayHealth.com) and must be submitted early. These requests will not be counted as compliant until both parties have executed the custom BAA.

## I sent in my HITECH BAA documents and have not received them yet?

Due to the re-contracting efforts, RelayHealth has to execute an extremely large volume of BAAs. Estimated turnaround time is approximately 3 weeks. However, we do document the date the HITECH BAA was received such that you receive credit for submission and are marked as compliant provided you submitted the standard HITECH BAA.

## We have added/deleted plans since signing the HITECH BAA. Do I need to do anything?

The screenshot shows the RelayHealth website's Business Associate Agreement (BAA) page. The page is titled "Business Associate Agreement (BAA)" and features a navigation bar with "E1", "FIR", "Nx", "Switches", and "Glossary". The main content area includes a sidebar with links such as "Overview", "FIR Reports", "Setting up Points of Contact for a Contract ID", "Non Plan of Record", "Manual FIR Retrigger", "FIR History Request Form", "FAQ", "FIR Certification and Testing", and "Business Associate Agreement (BAA)". The main text area contains information about PHU transactions and a note about NDCHealth dba as RelayHealth and CMS. A red circle highlights the link "Implementation Form to Add Contract IDs to Existing BAA" in the "RELATED DOCUMENTS" section.

When adding plans, please submit an "Implementation Form to Add Contract IDs to Existing BAA" with the new plan Contract IDs. The form can be found at <http://medifacd.relayhealth.com/fir/baa>. See below.

**Our plan has been purchased by another company do I need to have an updated BAA?**

If the plan is continuing to operate under the same legal entity as the HITECH BAA previously executed remains in effect and nothing needs to be done. However, if the purchasing entity is a different legal entity, the new legal entity must also have a HITECH BAA with RelayHealth. If that entity is a current Part D sponsor with an existing HITECH BAA with RelayHealth, then they can add this plan to the existing agreement by completing and submitting an Implementation Form to Add Contract IDs to Existing BAA" with the new plan Contract IDs. Otherwise, they must execute a new HITECH BAA with RelayHealth.

**You indicate that there is not a HITECH BAA for any of my contracts, however I have a copy of a HITECH BAA with RPH. How do I get this fixed in your system?**

It may be likely that we may not have a HITECH BAA associated with a contract due to the naming convention of the signing entity on the HITECH BAA or because we have not received an updated Implementation form.

Please email a copy of the executed HITECH BAA and a COMPLETED Implementation Form so that we know what Part D contracts to assign to the BAA.

**You indicate that some of my contracts have a BAA but some of them do not. How do I get the BAA associated to the contracts that are missing a BAA in your system?**

In some cases there may be multiple BAAs for an organization. Please email a copy of the executed HITECH BAA and a COMPLETED Implementation Form so that we know what Part D contracts to assign to the BAA.

**I have noticed, searching my files, that we do have some BAA agreements between RHP and some of our legal entities (a legal entity may have more than 1 CMS contract), but they are dated in or around xx 2007. Am I correct that they are "out-of-date" and need to be updated?**

Yes, these are outdated. Please submit the HITECH BAA and a new Implementation Form.

**Our organization encompasses over XX number of CMS contracts. Do we have to write a separate HITECH BAA between RHP and each contract, or can we write one master HITECH BAA between RHP and our organization, and we can enumerate in an attachment the list of CMS contracts covered?**

Yes, you may sign one HITECH BAA that covers all of your contracts (this would be preferred). If you choose to do so, you will need to complete included Implementation Form and list all the contracts covered and submit with the signed HITECH BAA.