


 GUEST COLUMN

HIPAA rules apply to any company's group health plan

If you are an employer who offers group health insurance to your employees, you are required to comply with the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) on or before April 20 regardless of the number of employees in your organization.

Although an employer is not a "covered" entity under HIPAA, the HIPAA Privacy Rules apply to employers as the sponsors of group health plans to the extent that the employer has access to any personal health information. Access to personal information includes receiving a list of employees who are enrolled in a group health insurance plan just for billing purposes. The types of plans covered by HIPAA include: medical, dental, vision, prescription drug, employee assistance program, medical flexible spending accounts and long-term care plans.

The HIPAA Privacy Rules require employers to maintain the confidentiality and security of "individually identifiable health information." The general rule for the release of personal information under the privacy rules is that the employer may not use or disclose that information unless the individual authorizes the use or disclosure, or the use or disclosure is specifically "required" or "permitted" by the HIPAA regulations. Any disclosure other than limited "permitted" disclosures requires an employee to sign a written authorization form.



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Additionally, the employer must use or disclose the minimum amount of information to meet the intended purpose. These restrictions apply not only to disclosures of information to third parties, but also to internal uses of the information by the employer itself.

In addition to restricting the use and disclosure of personal information, the privacy rules give individuals certain rights with respect to their information, and require employers to adopt administrative policies and procedures to implement the privacy rules. The privacy rules have three core requirements: comply with the use and disclosure rules, provide individuals with a privacy notice explaining their rights and comply with administrative safeguard rules.

Employees have the right to request additional protections, have access to their health information, amend or correct it and receive an accounting or list of all disclosures going back six years.

The HIPAA Security Rules require that covered entities maintain reasonable and appropriate safeguards to ensure the integrity and confidentiality of electronic individually identifiable health information to protect against threats of security or unauthorized use or disclosure of information, and to otherwise ensure compliance with the security standards by their work force. The security regulations include:

- Apply the new security standards to all electronic health information pertaining to an individual that is maintained or transmitted by an entity required to comply.
- Set forth specific procedures, physical safeguards and technical security services that must be put in place by all such entities in order to guard electronic data integrity, confidentiality and availability.
- Describe the technical security mechanism that must be used by such entities to guard against unauthorized access to data that is transmitted over a communication network.

The proposed security rules are comprised of four components: administrative safeguards, physical safeguards, technical safeguards and documentation standards. All employers were obligated under the HIPAA Privacy Rules, as of April 2004, to enact myriad privacy-related procedures, including providing a notice of privacy practices, enacting authorization procedures, enacting training procedures, enacting procedures to protect the privacy of personal health information, and enacting procedures to provide participants a right of access to, amendment of and accounting of disclosures of their health information.

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