

Legislative Brief

HIPAA: Important Dates and Deadlines



There are a number of HIPAA regulatory compliance deadlines of which health plans should be aware. This issue of the Andreini Legislative Brief summarizes some topical compliance dates.

HIPAA Portability Rules – Special Enrollment Changes

HIPAA requires group health plans to provide special enrollment rights to certain individuals who lose eligibility for other health coverage or who acquire a new spouse or dependent. The **Children's Health Insurance Program Reauthorization Act of 2009** extended these special enrollment rights to employees and dependents who lose eligibility under a Medicaid plan or State Children's Health Insurance Program (CHIP) and employees and dependents who become eligible for a premium assistance subsidy under Medicaid or CHIP. Eligible individuals must be given 60 days after the loss of coverage or determination of eligibility for assistance to request coverage under the group health plan.

If necessary, group health plan documents must be amended to provide the new special enrollment rights. Appropriate notices of the amendment, such as a Summary of Material Modifications, should be provided to participants in accordance with the plan's existing procedures for providing such notices. Existing special enrollment notices provided to new enrollees should also be revised to contain information regarding the new provisions.

The effective date for these new special enrollment rights was **April 1, 2009**. If they have not yet done so, group health plans should review their plan documents and notices for compliance.

HIPAA Privacy Rule – Notice of Privacy Practices

The HIPAA Privacy Rule requires health plans to provide a **Notice of Privacy Practices** to all enrollees, or to remind them of its availability and how to obtain a copy, every three years. Health plans may satisfy this requirement by sending a Notice of Privacy Practices or reminder to all participants or by publishing the information in a newsletter or other plan publication. The notice should be updated to incorporate any material changes in a health plan's privacy policies or procedures.

Health plans that previously sent a notice by April 14, 2006 had until April 14, 2009 to send a new notice or reminder. They should send the next notice or reminder by **April 14, 2012**. Small health plans, which were required to send a notice by April 14, 2007, have until **April 14, 2010** to send the next notice or reminder.

Health plans should also be aware that the Notice of Privacy Practices must be provided in the following circumstances:

- To new enrollees at the time of enrollment;

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- Within 60 days of a material change to the notice; and
- Any time upon a participant's request.

HIPAA Privacy and Security Rules – Application to Business Associates

Under current law, Business Associates are not directly regulated by HIPAA. Instead, they are governed by the terms of the Business Associate Agreement that a Covered Entity, such as a health plan, must obtain before providing Protected Health Information (PHI) to the Business Associate. The American Recovery and Reinvestment Act of 2009 ("ARRA") has expanded the application of the privacy provisions reflected in the agreements and the security requirements to Business Associates. This change is effective **February 17, 2010** and will require changes to existing Business Associate Agreements.

Please contact your Andreini representative with any questions.

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