

Benefit Brief



SUBJECT: HIPAA Privacy and Security Update

DATE: February 1, 2005

This Benefit Brief summarizes the HIPAA privacy requirements that were effective April 1, 2004, and outlines the next phase – Security provisions to be effective April 1, 2005 for large employers and a year later for all other employers.

The privacy and security regulations of the Health Insurance Portability and Accountability Act of 1996 set strict requirements for employers in dealing with the health information of the participants in their group health plans. The regulations require that employers, as sponsors of these plans, protect this information, including entering into an agreement with any other company that uses or discloses this information on the employer's behalf.

The privacy regulations apply to health information in both electronic and paper format, while the security regulations apply to health information only in electronic format. Most of the requirements under the privacy and security regulations do not apply to a health plan if the plan is insured and it does NOT have access to any health information.

However, if the plan is insured and an insurance broker (COBRA administrator, auditor or other company) has access to health information on behalf of the group health plan, the employer is required to comply with the privacy requirements on behalf of the plan. Benecon is able to provide additional assistance and guidance to those employers who have complied with the HIPAA privacy rules because it will have access to specific and detailed claims information relating to the plan. This information can be used to analyze claim trends, predict future claims and to provide you with a better understanding of how your employees' utilization of the health plan has affected your health plan costs.

If the employer provides any health benefit that is self-funded, i.e. the claims are paid out of the employer's assets rather than by an insurance company, the plan **must** comply with the HIPAA privacy rules (unless the plan's claims are paid by the employer and the employer has 50 or fewer employees). A health care flexible spending account and a health reimbursement arrangement (HRA) are two types of health plans that are always considered self-funded. If there is any electronic data involved, the employer will also have to comply with the HIPAA security rules.

The privacy regulations became effective for applicable health plans sponsored by all employers on April 14, 2004 and the security regulations will become effective for health plans on either April 20, 2005 or April 20, 2006. They become effective on the earlier date for those health plans that either pay more than \$5 million in premiums per year or that pay over \$5 million in claims (for self-insured plans). The security regulations require health plan sponsors to assess the security of all systems, including email programs, that receive, maintain or transmit protected health information.

Benecon will provide updated information about the HIPAA security rules in the future. If you have any questions about how the HIPAA privacy and security rules apply to your health plans, or if you have any questions about complying with these rules, please contact Judy Griffith at The Benecon Group at jgriffith@benecon.com, or the number shown below.