

KEEPING CURRENT . . . on COBRA & HIPAA[®]

ARRA/HITECH UPDATE

HHS published interim final regulations on August 24, 2009, (effective September 23, 2009) providing additional guidance on breach notification requirements for unsecured protected health information; the regulation allows a “Safe Harbor” for entities that utilize HHS’s approved methodologies and technologies, as outlined in the regulation.

We are still awaiting guidance from HHS on “Minimum Necessary” which should be published by August 2010; ARRA/HITECH defined “minimum necessary” as a “limited data set”.

COBRA CHANGES

As of this date, the COBRA “ARRA subsidy” will expire on December 31, 2009. Do you have procedures in place to revert to the “pre-ARRA” General and Election Notices? Are your employees prepared to accept the proper COBRA payments as of January 1, 2010?

HIPAA “TO DO” LIST

Are you prepared for a HIPAA Audit? In the past, HIPAA audits would occur only if a complaint was filed against you. ARRA/HITECH has greatly increased penalties for non-compliance, dictated enforcement, and mandated periodic audits. Following is a brief list of items you may need to complete to ensure you are prepared for an audit...

- Have you conducted your annual employee training?
- Have your Business Associates (BA) agreements been revised to include the new language required by ARRA/HIPAA?
- Have you re-evaluated your list of vendors/contacts to ensure you have the proper document in place to comply with the new expanded ARRA/HITECH definition of a Business Associate?
- Have you revised your Policies and Procedures to include the new notification requirements for breaches of unsecured PHI?
- Have you reviewed your use of PHI to ensure you are not using PHI for “marketing” as defined by ARRA/HITECH?
- If you are a Business Associate, have you taken steps to comply with HIPAA Privacy and Security requirements that ARRA/HITECH now impose? (*In essence, ARRA/HITECH has reclassified Business Associates as Covered Entities.*)

Have you completed a Written Assessment of PHI and ePHI?

Have you adopted Privacy And Security Policies And Procedures?

Have you developed a Privacy Notice and distribution procedures?

Have you implemented Security Administrative, Physical and Technical Safeguards?

If your company needs assistance to comply with the recent changes to HIPAA, Mehringer & Associates will be happy to discuss the process and nominal costs involved.

For more information on these topics, contact:

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