Critical Care for Compliance: Focus on HIPAA Administrative Simplification

Much of the focus on employee benefits compliance since 2010 has been on the Patient Protection and Affordable Care Act ("PPACA"), but other laws, such as the Health Insurance Portability and Accountability Act ("HIPAA"), deserve time and attention. In particular, the HIPAA administrative simplification provisions, which relate to privacy, security, and breach notification, are of critical concern in 2015 because multi-million dollar fines and a new HHS audit program signal an intense effort by the Department of Health and Human Services to ensure compliance. Covered entities, such as employer-sponsored health plans, and business associates have numerous significant obligations to meet, ranging from technical to administrative safeguards. Has your organization met critical action items required to maintain good compliance health for your employee benefits programs related to HIPAA’s Privacy, Security, and Breach Notification requirements?

1. Take your medicine over Notices of Privacy Practices. During the 2012 HIPAA audit pilot program, one common finding was a failure to timely provide a current Notice of Privacy Practices ("NPP"). An NPP must be provided at the time of an individual’s enrollment in a health plan. If a covered entity has a website that addresses benefits, a copy of the NPP must also be posted on the website. In addition, new NPPs must be provided when a material change to the notice occurs. The changes introduced by the 2013 HIPAA omnibus regulations were material and as such, required that updated NPPs be distributed. Are your health plans updating and distributing your Notice of Privacy Practices in a timely manner?

2. Ensure that individuals have access to their own PHI. Individuals have several rights under HIPAA, including the right to access their own PHI. As such, health plans thus must have processes in place to provide individuals with access to their own PHI that is transmitted, maintained, or received by the health plan. Failure to adequately respond to requests for access to PHI was another critical failure identified during the 2012 HIPAA audit pilot program. As a best practice, health plans should have forms for individuals to complete to request access to their own PHI and forms for workforce members to complete when responding to requests for access. Does your health plan have processes and forms in place to handle requests for access to PHI?

Employers should carefully evaluate their health and welfare plans to determine if they are in compliance with both federal and state law. To receive the full 10 point installment of Focus on HIPAA Administrative Simplification and learn how Gallagher constantly monitors laws and regulations impacting employee benefits and supports employers in their compliance efforts, please contact your GBS representative or click here to contact Gallagher via AJG.com.

The intent of this analysis is to provide you with general information. It does not necessarily fully address all your organization’s specific issues. It should not be construed as, nor is it intended to provide, legal advice. Questions regarding specific issues should be addressed by your organization’s general counsel or an attorney who specializes in this practice area.