

HIPAA Privacy and Security Audit Program Begins This Month

November 18, 2011

HIPAA-covered entities, including employer health plan sponsors, should watch the mail for a letter from the Office for Civil Rights (OCR).

The Health Information Technology for Economic and Clinical Health (HITECH) Act requires the Department of Health and Human Services to conduct periodic audits of covered entities and business associates to ensure compliance with the HIPAA privacy and security rules and breach notification standards. Beginning this month and running through 2012, OCR's new pilot program will audit 150 covered entities.

OCR's independent third-party auditor will select a wide variety of covered entities for audit during the pilot program. Selected covered entities will have 10 days to provide documentation of their HIPAA privacy and security compliance after they receive notification.

During the pilot program, every audit will include a site visit during which auditors will interview key personnel and observe processes and operations to help determine compliance. Covered entities should expect between 30 and 90 days' notice prior to a site visit, which will last between 3 and 10 business days, depending upon the complexity of the covered entity and the access given to materials and staff.

Following the site visit, the auditor will provide the covered entity with a draft report, and the covered entity will have 10 business days to provide written comments back to the auditor. The auditor will then submit a final audit report to OCR.

OCR has presented the audit pilot program as a "compliance improvement activity" aimed at enabling OCR to better understand compliance efforts, additional types of technical assistance that would be useful, and the effectiveness of various corrective actions. However, covered entities should be mindful that if an audit reveals a serious compliance issue, OCR may initiate a compliance review to address the problem.

Covered entities should consider conducting a "self-audit" before OCR comes knocking to ensure the following:

- Business associate agreements are up to date
- Current HIPAA privacy and security documents, procedures, and notices are in place
- Individuals who handle protected health information are trained, and their training is documented

Morgan Lewis can help covered entities prepare for a possible OCR audit and, if necessary, help manage the audit. If you have any questions, please contact one of the following Morgan Lewis attorneys:

Chicago

David Ackerman	312.324.1170	dackerman@morganlewis.com
Andy R. Anderson	312.324.1177	aanderson@morganlewis.com
Saghi “Sage” Fattahian	312.324.1744	sfattahian@morganlewis.com
Brian D. Hector	312.324.1160	bhector@morganlewis.com

Dallas

John A. Kober	214.466.4105	jkober@morganlewis.com
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New York

Craig A. Bitman	212.309.7190	cbitman@morganlewis.com
Gary S. Rothstein	212.309.6360	grothstein@morganlewis.com

Philadelphia

Robert L. Abramowitz	215.963.4811	rabramowitz@morganlewis.com
Brian J. Dougherty	215.963.4812	bdougherty@morganlewis.com
I. Lee Falk	215.963.5616	ilfalk@morganlewis.com
Amy Pocino Kelly	215.963.5042	akelly@morganlewis.com
Robert J. Lichtenstein	215.963.5726	rlichtenstein@morganlewis.com
Joseph E. Ronan, Jr.	215.963.5793	jronan@morganlewis.com
Steven D. Spencer	215.963.5714	sspencer@morganlewis.com
Mims Maynard Zabriskie	215.963.5036	mzabriskie@morganlewis.com
David B. Zelikoff	215.963.5360	dzelikoff@morganlewis.com
Georgina L. O’Hara	215.963.5188	go’hara@morganlewis.com

Pittsburgh

Lisa H. Barton	412.560.3375	lbarton@morganlewis.com
John G. Ferreira	412.560.3350	jferreira@morganlewis.com
Lauren B. Licastro	412.560.3383	llicastro@morganlewis.com
R. Randall Tracht	412.560.3352	rtracht@morganlewis.com

Washington, D.C.

Althea R. Day	202.739.5366	aday@morganlewis.com
David R. Fuller	202.739.5990	dfuller@morganlewis.com
Mary B. (Handy) Hevener	202.739.5982	mhevener@morganlewis.com
Gregory L. Needles	202.739.5448	gneedles@morganlewis.com

San Francisco

W. Reece Hirsch	415.442.1422	rhirsch@morganlewis.com
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Palo Alto

S. James DiBernardo	650.843.7560	jdibernardo@morganlewis.com
Zaitun Poonja	650.843.7540	zpoonja@morganlewis.com

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