

Information for Insurance Agents

What do you need to know about HIPAA?

The Health Insurance Portability and Accountability Act (HIPAA)¹ was passed on August 21, 1996. Among other things, it included rules covering administrative simplification, and making healthcare delivery more efficient. Portability of medical coverage for pre-existing conditions was a key provision of the act as was defining the underwriting process for group medical coverage. It also provided standardization of electronic transmittal of billing and claims information.

HIPAA was not passed to interfere with healthcare or group medical plans or legitimate transferring of information. Yes, it will impact how things are done. It was made law to guarantee the information, especially the medical history, of individuals is protected. It is not an unreasonable law. After all, would you not want your personal information protected? Identity theft is a huge, growing problem and it was not addressed in HIPAA. The basic concept of HIPAA is the people that collect other individuals personal information MUST PROTECT IT through penalties of law. HIPAA compliance will take some effort and additional cost, and yes the law can seem overwhelming. We all felt the same when ERISA was passed, and the same for the Cobra. You could refer to it as mandated common sense. In some ways it is too bad the law is directed at only a relatively small group of people that have this information. Regardless, HIPAA is the law.

Your job as a group medical insurance agent/broker is to bring the word to your clients. You need to have an understanding on several key points:

1. HIPAA is not an option just the same as Cobra is not an option. It is the law. In fact it's law right now. The teeth and penalties apply for small plans on April 14, 2004. They already apply to large plans since April 2003.
2. Who does HIPAA actually apply to? There is much confusion as to which healthcare plans and employers have to contend with HIPAA. You need to know the criteria and understand who is affected. You may have clients that are affected.
3. When must the compliance be completed? April 14, 2003 for plans with more than \$5,000,000 in total premiums or claims. April 14, 2004 for plans smaller than that but with more than 50 eligible employees.
4. What must an employer do to make their healthcare plan HIPAA compliant? It will require your employers to make changes in how they have been administrating their healthcare plans but it is not impossible to comply with.
5. What is your key resource for HIPAA information? (ER.HIPAAps.com is an excellent choice, but of course, we are somewhat bias.)

6. Know what it means to be a Business Associate (BA) and accept *you are a Business Associate* to the employers you insure and the insurance companies that you use. All your medical insurance companies and most of your clients need you to sign a BA Agreement guaranteeing that you will protect this information. Know the procedures you must implement and do it.
7. *You need to be the messenger of HIPAA to your employer clients.* They will not have the information access you have to what HIPAA is all about. You need to be a resource and help their HIPAA process, they very likely do not know HIPAA applies to them. And you very well may have some liability, ethical if not legal, if you do not make an effort to enlighten your clients. Who else do they work with that has this HIPAA awareness? How will you feel when one of your clients is called for HIPAA audit, and they don't have a HIPAA clue and you did nothing to inform them about HIPAA.
8. Be proactive and be a HIPAA leader.

ER.HIPAAps.com can help you with this process. We recognize that insurance brokers are key agents for employer HIPAA compliance. Our President, Dennis P. Begley CLU ChFC, has been in the insurance business for over 30 years and has his own employee benefit business. With his direction, we developed this web site to assist you with your clients. We have taken a more conservative approach than most towards HIPAA and the employer, following the path that it is better to err on the conservative side. We do not feel that an employer can rid himself of all HIPAA requirements. If the employer's plan is a covered entity, he is in the HIPAA water. What he does with his compliance steps determines how deep he is in that HIPAA water. An employer is a Business Associate to his health care plan with HIPAA responsibilities. At best an employer can reduce the plan's HIPAA exposure but cannot eliminate it. The Plan *must create* a HIPAA Manual outlining their HIPAA policies and procedures. And that is what ER.HIPAAps.com does for the employer.

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