

# Employee Benefits Update

## HIPAA's Approaching Compliance Deadline: October 16, 2002

("HIPAA") aim to make health care more efficient by, among other things, requiring health plans, health care clearinghouses, and health care providers to use standardized electronic transactions and code sets. While employers that sponsor large health plans (plans that have annual receipts of more than \$5 million) have been focused on the April 14, 2003 deadline for complying with HIPAA's privacy regulations, the October 16, 2002 deadline for complying with HIPAA's electronic transaction and code set regulations is closer at hand.

The Department of Health and Human Services ("DHHS") issued electronic transaction and code set regulations in 2000. The compliance deadline for most entities, except small health plans, is October 16, 2002. Because of broad-based concern about meeting the deadline, the Administrative Simplification Compliance Act ("ASCA") was enacted to extend the compliance deadline by one year (to October 16, 2003) for large health plans that file a compliance plan with DHHS no later than October 15, 2002. ASCA did not extend the compliance deadline for small health plans (plans that have annual receipts of \$5 million or less) because small health plans already had until October 16, 2003 to comply.

Many employers with self-insured health plans have delegated payment and claim activities that involve the electronic transactions and code sets to third party administrators. Similarly, employers with insured health plans probably do not handle electronic transactions and code sets because the health plan insurer handles them. Furthermore, the electronic transaction and code set regulations make clear that employers are not covered entities. Nonetheless, employers who sponsor a self-funded or insured health plan are ultimately responsible for ensuring that their health plan complies. As a result, employers sponsoring health plans should take the following steps to comply with the regulations:

The administrative simplification provisions of the Health Insurance Portability and Accountability Act

### File a Compliance Plan

Employers sponsoring large health plans (plans that have annual receipts of more than \$5 million) should file a compliance plan with the DHHS to extend the compliance deadline to October 16, 2003. The DHHS has published a model compliance plan, a copy of which is attached to this update in a pdf file. Employers may also complete and file the model compliance plan on line at the following web page:  
<http://www.cms.gov/hipaa/hipaa2/TCSFormInstructions.asp>.

DHHS estimates that it takes 15 to 20 minutes to complete the model compliance plan, which consists of 26 questions on 4 pages. A number of the questions in the model compliance plan are check the box. The model compliance plan requires certain contact information, the reason(s) for filing the extension, and information about implementation (including such items as budget, strategy and HIPAA awareness).

### Update Insured Health Plan Agreements to Require Compliance

Employers sponsoring insured health plans, whether large or small health plans, should review their agreements with the health plan insurer to verify they include or modify them to include a provision that states the insurer will comply with the electronic transaction and code set regulations by the applicable deadline.

### Update Third Party Administrator Agreements To Require Compliance

Employers sponsoring self-insured health plans, whether large or small health plans, should review their agreements with their third party administrator to verify they include or modify them to include a provision that states the third party administrator will comply with the electronic transaction and code set regulations by the applicable deadline.

## Compliance Deadlines

As noted above, large and small health plans have different compliance deadlines. In addition, the HIPAA regulations have different compliance deadlines. The following table lists these different compliance deadlines.

Compliance Deadline	Large Health Plans	Small Health Plans
HIPAA Electronic Transaction and Code Set Regulations	October 16, 2002 (unless the health plan files a compliance plan no later than October 15, 2002, in which case the deadline is extended to October 16, 2003)	October 16, 2003
HIPAA Privacy Regulations	April 14, 2003	April 14, 2004

Note that the deadline to comply with HIPAA's privacy regulations has *not* been extended and continues to be April 14, 2003 for large health plans.

## Conclusion

HIPAA's electronic transaction and code set regulations require large health plans either to comply with the regulations as of October 16, 2002 or to file a compliance plan no later than October 15, 2002. Filing a compliance plan will automatically extend the compliance deadline to October 16, 2003. If you have questions relating to HIPAA's electronic transaction and code set regulations or about filing a compliance plan, please contact the attorney you work with in the Employee Benefits Department. You can also call Mike Punt, our department's Communications Coordinator, at 612-340-2867 to be connected to an attorney.

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