

Self-Funded Group Health Plan Responsibilities

1. Amend Plan Document to include the following specific provisions:

- A list of the permitted and required uses and disclosures of protected health information with examples, including for payment and processing of claims;
- A provision that plan participants may access their personal health information (including copying it), amend the information, receive an accounting, on request, of all their PHI disclosures, and follow a specific process to address complaints;
- Ensure availability to the HHS of the plan's internal practices, books and records on uses and disclosures of protected health information.
- A certification that the plan document is amended to comply with the privacy regulations and that the plan sponsor agrees to comply with the privacy requirements.
- See **Action Item 1**

2. Contracts with Business Associates

- Require in its written contracts that the plan's business associates that receive protected health information (such as administrative service providers including claims administrators and utilization review and quality assurance companies) incorporate and comply with privacy rules.
- Negotiate or revise written contracts with TPAs, PBMs, insurers, HMOs and other managed care providers, and other service providers that use and disclose plan members' PHI to include the same specific privacy provisions as stated in the plan documents (employers can use Business Associate model language from the HHS as a base, see enclosed sample.)
- See **Action Item 2 & Sample Business Associate Form**

3. Privacy Official, Participant Rights

- **Appoint a privacy officer** to develop and maintain procedures to protect health information and be responsible for training plan administration employees in proper handling of such information. The privacy officer at a small company may be the office manager, who will have other non-privacy related duties; the privacy officer for a large health plan may be a full time position, and may have the regular support and advice of a privacy staff or board. The regulations do not include any formal qualifications for a privacy official.
- **Implement procedures to enable participants**, according to their privacy rights with respect to their PHI, to review and copy, amend, and obtain an accounting of the plan's uses and disclosures of their PHI.
- See **Action Item 3**

4. Authorization, Policy Notice

- **Obtain from the participant a completed authorization form** to use or disclose PHI for other purposes than treatment, payment and health care operations (TPO). See enclosed Authorization Form.
- **Provide in writing a detailed policy notice**, in plain English, outlining the plan's practices on privacy of health information (see enclosed Privacy Notice amendment). Upon request, the plan also must provide an accounting of all uses and disclosures of information (including the date, name of the individual or entity receiving the information, and the reason for the use and disclosure).
- See **Action Item 1 & Sample Authorization Form**

5. Plan Administration, Complaints

- **Separate health plan administration** and PHI from other company functions and from administration of the company's other ERISA plans.
- **Train all member of the plan's work force** on the policies and procedures with respect to PHI. The training must be provided by no later than the compliance date for the plan (April 14, 2003 for large plans.) After initial training is completed, each new member of the work force must be trained "within a reasonable period of time after the person joins the work force." A plan also must document that the training required by the regulations has taken place.
- **Document all privacy procedures, communications and plan actions** in written or electronic form. A covered plan must retain the documentation for six years from the date of its creation or the date when it last was in effect, whichever is later.
- **Implement a procedure to address complaints** about policies and procedures or of compliance with these and document all complaints, including disposition. Plans may not take punitive action against participants that file complaints or persons that participate in investigations.
- See **Action Item 4**

Action Items

- Claims Procedures and Privacy Rule Amendments
- Business Associate Agreements (BAA)
- Designation of a Privacy Officer
- Written Procedures

Action Item 1

Claims Procedures

HIPAA requires that plans amend the claims procedures effective with the fiscal year beginning July 1, 2002 or after, but no later than January 1, 2003.

In a nutshell, the requirements shorten the determination time for claims and simplify the appeal process. One of the major impacts of these changes could be in the way in which claims are funded. The requirement is that claims are determined within 30 days of receipt. This means either denial or check sent, ready for cashing, within 30 days of receipt of the claim. If your group health plan currently prints or funds claims checks only once a month, you will not be able to meet the 30 day requirement.

Privacy Rule

The Privacy Regulation is intended to safeguard health plan participant's confidential information. Although the effective date is April 14, 2003, ChoiceNet/InterCare is encouraging all of our clients to comply January 1, 2003. There are several reasons for this: 1) The Plan Document has to be amended, and since a claims procedure amendment is also required, it is just easier to do them at the same time and inform the plan participants of the changes simultaneously. 2) Privacy procedures* must be written by the group health plan. By complying January 1st, you will have time to make any changes you deem necessary in your procedures.

Action Item 2

Business Associate Agreements (BAA)

BAAs will be required between the group health plan and its business associates who have access to Protected Health Information (PHI), such as TPA, reinsurance carrier, PPO, Rx provider, insurance carriers (life, VGL, LTD, STD, etc.).

ChoiceNet/InterCare Health Plans is including the BAA in all Administrative Service Agreements upon renewal of the contract, as are most other vendors.

Action Item 3

Action:

As a group health plan, you must **designate a Privacy Officer**, and put the phone number for this person in the Plan Document Privacy section.

Action Item 4

Action:

You must also **write procedures** for handling Protected Health Information (PHI) First of all, write down how you currently handle confidential health information. Some of the things to consider are:

1. Types of PHI
 - a. HR records
 - b. Benefit Plan Enrollment Cards
 - c. Verbal Information
 - d. Claims checks registers
 - e. Claims reports
 - f. List billings
2. Who has access to PHI – Privacy Officer, fax machine attendants, etc.
3. Procedures for handling PHI
 - a. Receipt/disbursement by fax, e-mail or hard copy
 - b. Storage in file cabinets (locked or unlocked), limited access areas, closed doors
 - c. Written documentation by department and/or function
 - d. Consequences for violation
4. Release of PHI
 - a. Authorizations are required when a plan participant wants someone to receive PHI for any reason (the request is usually made to help solve a problem).
 - b. Authorizations are not required for purposes of treatment, payment and health care operations.
5. Security of PHI
 - a. Electronic Firewalls – computer passwords.
 - b. Physical Firewalls – closed doors, separate offices, cubicles arranged so that computer screens are not visible to visitors.
6. Complaint Process for Participants who believe their privacy has been violated
 - a. Written procedure for who to contact
 - b. Refrain from intimidation and retaliatory acts against any person who complains or reports a privacy violation
7. Consequences of privacy violation

You must then **train** all personnel handling PHI and **document** the training.

Action Item 5

Transaction Rules

HIPAA requires large group health plans (those with annual receipts of \$5 million or more) to be able to receive electronic claims in a specific format by October 16, 2002. As a precautionary measure, ChoiceNet/InterCare Health Plans has filed for an extension for the TPA as well as for all large plans administered by ChoiceNet/InterCare. The extension is automatically granted until October 16, 2003. This has been completed by ChoiceNet/InterCare Health Plans