

# HIPAA PRIVACY RULES

The Health Insurance Portability and Accountability Act of 1996

# Agenda

- Background/What is HIPAA?
- HIPAA Privacy Rules
- What MMC Must Do
- What a Participant Can Do
- What the HR Community Must Do
- Tips/roleplay
- Questions

# Background/What Is HIPAA?

The Health Insurance Portability and Accountability Act of 1996 addresses:

- Special enrollment rights
- Creditability of coverage
- Privacy

# HIPAA Privacy Rules

- Require covered entities and health plans to institute appropriate safeguards to protect the use and disclosure of an individual's health information, known as **Protected Health Information (PHI)**.
- PHI includes individual health information relating to past, present and future health treatment, or payment for health care services—whether provided electronically, on paper, or verbally.
- The HIPAA privacy requirements, which become effective April 14, 2003, significantly impact the way covered entities and health plans handle, disclose and dispose PHI.

# Covered Entities

- Health plans
  - Insurers and HMOs
  - Employer health plans (e.g., ERISA group health plans)
- Providers
  - Hospitals
  - Doctors
  - Others who conduct transactions electronically
- Health care clearinghouses (third parties that perform financial or administrative transactions)

# Plans and Benefits Covered (generally)

- Medical plans
- Dental plans
- Vision plans
- Prescription drug plans
- Employee assistance programs
- Health care flexible spending accounts
- Wellness programs

# Plans and Benefits Not Covered

- Life insurance
- Accidental death and dismemberment
- Workers' compensation
- Short-term disability
- Long-term disability

# Disclosures Not Covered

- Necessary to prevent serious threat to health and safety
- Public health activities
- Victims of abuse, neglect or domestic violence
- Judicial and administrative proceedings
- Law enforcement purposes
- Decedents
- Organ, eye and tissue donations
- Research purposes



# What MMC Must Do

- Develop privacy policy for self-insured health plans.
- Issue privacy policy to all current and former employees (or family members) who are covered by a self-insured health plan. Participants in insured health plans will be sent privacy statements from their plans' insurers).
- Post privacy statement on Company's benefits website.
- Appoint privacy officer and complaint manager.

# MMC's Limited Role

- Determining and transmitting eligibility information to the claims administrators.
- Not to receive or maintain any health information on any current or former employees or their family members.
- In the event that PHI is inadvertently directed to MMC, the recipient must immediately notify Corporate Benefits, which will send the PHI to the applicable claims administrator and notify the participant to contact the claims administrator directly. All PHI must then immediately be shredded or, if e-mail, purged.

# MMC's Privacy Officer

- Will ensure that all complaints about privacy violations by a self-insured plan are reviewed according to the plan's procedures.
- Will take reasonable steps to cure any acts or a pattern of activity by a self-insured plan that are a material violation of our agreement with that plan's claims administrator.

# MMC's Complaint Manager

- Responds to complaints about a self-insured plan's policies and procedures, practices, and compliance with the HIPAA Privacy Rule.
- Plan participants can write to either the MMC Privacy Officer or the MMC Complaint Manager, c/o MMC Corporate Benefits Department.

# What a Participant Can Do

- Access, inspect and copy PHI.
- Amend PHI.
- Restrict the use of PHI.
- Require confidential communications.
- Require an accounting of non-routine disclosures.
- This right can be exercised by participant or participant's representative.
- The participant can authorize a plan to use or disclose PHI. (The plan must keep a copy of each authorization for at least six years.)
- Requests for PHI must be made in written or typed format and mailed directly to the privacy officer of the plan's claims administrator.
- The plan must respond to each request within the legal timeframe(s)—usually 30 but not more than 60 days.
- If the plan denies the request, it must provide the legal reasons for the denial.
- The plan must maintain requests and responses for six years.

# What the HR Community Must Do

- MMC's HR and Service Center representatives can assist participants with eligibility and plan provision questions, but must be careful how this assistance is provided.
- HIPAA imposes sanctions that all plans and employers protect PHI and develop disciplinary procedures for employees who violate the HIPAA Privacy Rule, whether intentional or unintentional, and whether the violation indicates a pattern or practice of improper use of PHI.
- Refer the participant directly to the claims administrator immediately; you cannot receive any participant health information either electronically, verbally, or in writing.

# Tips

- HR community and managers viewed as employee advocates.
- Need to balance advocacy role with plan compliance rules.
- Will require behavior modification by HR community, employees, managers, health plans and health providers.
- Penalties for non-compliance are steep, resulting in disciplinary action, including termination of employment.



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