



LEGAL ADVICE FOR HEALTH PLANS

PRIVACY LAW ALERT
April 23, 2014

**Health Insurer, Provider Pay \$1.9 Million for Breaches
Settlement Arises from Self-Reported Breaches**

The Department of Health and Human Services' Office for Civil Rights (OCR) announced yesterday that a health insurer and a health care provider had (collectively) agreed to pay over \$1.9 million "to resolve potential violations of the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security Rules." In each case, the OCR initiated an investigation of the breach as a result of the covered entity's self-report of the breach, as required by the HITECH Act. And, in each case, the breach occurred when a laptop containing unencrypted protected health information was stolen from the covered entity. [Click here](#) for an OCR press release on the subject.

These settlements are indicative of a continuing trend in which OCR uses the self-reporting required by the HITECH Act and the HIPAA Breach Notification Rule (45 C.F.R. Part 164, Subpart D) to investigate violations of the Privacy and Security Rules. Moreover, OCR appears to be looking especially closely at breaches involving portable media containing unencrypted protected health information. Health plans should therefore consider reviewing internal policies and business associate agreements to ensure that, at a minimum, protected health information stored on portable electronic media is encrypted. Similarly, entities that serve as business associates should consider imposing encryption requirements on members of their workforce and their subcontractors with respect to protected health information saved on portable media.

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