



BENEFIT NEWS BRIEFS

Update on OCR HIPAA Privacy and Security Rule Audits

According to industry reports, at a recent health care conference a representative of the Office of Civil Rights (OCR), the enforcement agency overseeing the HIPAA Privacy Audit initiative, noted that the goal of conducting 150 random audits has been cut back to 115. All of the audits will be done by the end of summer 2012. For background on the audits, see [Client Bulletin 2011-74](#).

[According to the speaker](#), most of the remaining audit candidates have been notified of their selection to be included in the audit process. Once finished, OCR will evaluate the audit results and determine if such audits will continue in the future. The purpose of the audits is to ensure that *covered entities* and *business associates* are complying with the *HIPAA Privacy and Security Rules*.

One violation that was uncovered during the audits concerned the use by a physician's office of a "cloud" based computing application that had no privacy or security controls which led to the release of patient's protected health information (PHI) on a publicly available calendar. Furthermore, the "cloud" provider had not signed a business associate agreement with the physician's office.

The OCR speaker cautioned covered entities that use cloud-based computing systems to make the provider a business associate and require them to sign a business associate agreement. If the service provider refuses to sign a business associate agreement, the speaker advised not to use the provider.

Business associates of covered entities that use cloud-based computing for data that involves PHI should make sure their service provider signs a business associate subcontractor agreement.

Examples of OCR *HIPAA Privacy/Security* enforcement activities can be found at: <http://www.hhs.gov/ocr/privacy/hipaa/enforcement/examples/index.html>.

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