

# HIPAA Portability, Privacy & Security: The Short Course

## A. This Short Course Is for You

If you thought HIPAA sounded like some sort of zoo animal, keep reading. You're the company's accountant or recently promoted employee assigned by the boss to "figure out this HIPAA stuff." You're the new hire in HR assigned to communicate to participants about their health care. You work for a third-party administrator (TPA) that administers dozens of health plans for its clients. We know from the feedback we get at our seminars that you want to understand the big picture.

This short course is just for you. No legal citations and no court cases. Just a simple guide to where you're going. Once you get the big picture, it will be easy to find detailed answers to your specific questions in EBIA's comprehensive *HIPAA Portability, Privacy & Security* manual. Many readers have told us that our *HIPAA* manual is the very best treatise on HIPAA portability, privacy, and security—a practical, authoritative resource for employers, administrators, and advisors.

**What Is HIPAA?** HIPAA is the Health Insurance Portability and Accountability Act of 1996. It is far-reaching legislation designed to improve the portability of health coverage, to standardize health care transactions, to impose privacy and security requirements, and to make other changes to the health care delivery system.

**Word of Warning.** This short course is general and simple. The laws governing HIPAA are detailed and complex. Sometimes the rules are vague or even contradictory. Getting them wrong can have serious legal consequences. This course only orients you. You must read the rest of EBIA's comprehensive *HIPAA* manual to understand the details.

While this short course is designed primarily for sponsors and administrators of health and welfare plans, it is important to remember that HIPAA is, after all, an act designed to improve access to health coverage and to make other changes to the health care delivery system. In other words, HIPAA's primary purpose is to protect the interests of participants and dependents. In recognition of this, we will not only address issues applicable to plan sponsors and administrators, but we will also deal directly with the protections afforded to participants and dependents, including the planning opportunities available to such individuals.

**Communicating With Participants.** In this short course, we will discuss some of the HIPAA issues most important to participants. Those issues will usually be presented in text boxes like this.

## B. What You Will Learn in the Short Course

In this short course, we begin by addressing HIPAA's portability rules, including:

- HIPAA's restrictions on preexisting condition exclusions (PCEs);
- the requirement to reduce PCE periods for creditable coverage;
- the obligations of the old plan and the new plan regarding the certificate of creditable coverage;
- when participants are entitled to special enrollment;
- what types of discrimination are prohibited;
- the role of the employer, including obligations to provide notices; and
- the rights of participants and beneficiaries.

Then, we provide an overview of HIPAA's insurance market rules.

Finally, we cover HIPAA's privacy, security, and other administrative simplification provisions, including:

- how the privacy and security rules affect employers and plan sponsors;
- special requirements for business associates;
- use and disclosure rules;
- individual rights, including the privacy notice;
- administrative requirements;
- security requirements; and
- standard transactions.

This short course is not intended to be exhaustive—for that, look to EBIA's comprehensive *HIPAA Portability, Privacy & Security* manual. See the front of this booklet for ordering information.

## C. HIPAA Applies to Most Group Health Plans

HIPAA's portability requirements (including PCE restrictions, special enrollment, and nondiscrimination requirements) generally apply to group health plans and issuers of group health plan insurance coverage. This means that both the plan itself and the insurer (if any) are obligated to comply.

HIPAA's privacy and security rules apply to "covered entities," a term that means health plans, health care clearinghouses, health care providers that conduct certain transactions electronically, and enrolled sponsors of the Medicare prescription drug discount card. Thus, a group health plan will be required to comply with HIPAA's portability and privacy requirements unless an exception applies.

*A health plan* is a plan that provides (or pays the cost of) medical care.

*A group health plan* is a health plan maintained by an employer.

HIPAA contains exceptions for some types of plans.

- *Exempt From HIPAA.* Plans providing only certain incidental types of coverages, including accident, disability income, liability insurance, and workers' compensation, are exempt from HIPAA.
- *Exempt From HIPAA's PCE, Special Enrollment, and Nondiscrimination Requirements.* HIPAA's PCE, special enrollment,