

# HIPAA

The Health Insurance Portability and Accountability Act is an all-encompassing law that does the following:

- Provides for continuation of health insurance coverage for American workers and their families if there has been a change or loss of jobs;
- Reduces health care fraud and abuse;
- Mandates industry-wide standards for health care information on electronic billing and other processes; and
- Requires the protection and confidential handling of protected health information.

Insured and self-funded group health plans and health insurance carriers that offer group health insurance coverage must comply with HIPAA's pre-existing condition, special enrollment and nondiscrimination requirements.

HIPAA is broken down into five titles and employers should become familiar with HIPAA's [Privacy Rule](#), as it may impact your organization – especially if you provide a self-insured policy. The Privacy Rule protects individuals from unauthorized use or disclosure of protected health information (PHI). The rule applies to “Covered Entities” which are defined as health plans, health care clearinghouses, health care providers who transmit health information electronically, and “Business Associates.” The later refers to vendors that have access to PHI while conducting business on behalf of covered entities.

Generally speaking, if you provide health coverage that is fully insured, the insurance company bears the responsibility for complying with HIPAA. However, if the employer receives PHI from the insurer it will subject itself to HIPAA. For employers that sponsor a health plan that is self-insured, they become the entity responsible for HIPAA compliance.

## **What about employment records?**

The regulations state, “Protected health information excludes individually identifiable health information...in employment records held by a covered entity in its role as an employer.” For the most part, information contained in employee files is not governed by HIPAA.

## **What about work comp claims?**

In most cases, the privacy rule allows for covered entities, such as a medical provider, to disclosed treatment information without violating HIPAA.

Employers should recognize that they may be subject to state privacy laws and it is in your best interest to protect information. As an agency, we recommend taking certain steps to ensure protection of information, including appropriate consent forms.

Employers should also become familiar with [GINA](#) and the [Americans with Disabilities Act](#) as these laws affect employee medical records and what type of information can be collected pursuant to the offering of a group health plan.