

### ATTORNEYS:

Donald J. Christl  
Thomas E. Funk  
Jeffrey R. Fuller  
Mary A. Brauer  
Steven D. Huff  
Anne W. Reed  
Kristin M. Bergstrom  
Denise P. Goergen  
Bennett E. Choice  
John E. Mossberg  
Gail M. Olsen  
William H. Tobin  
Philip R. O'Brien  
Gregory A. Storm  
Christina M. Korona  
Susan U. Ladwig  
William T. Daniels  
Erica A. Buckingham  
Lucas J. Pagels  
Stephanie S. Weiler  
Rebecca E. Greene  
Carolyn McAllister  
Keith L. Johnson  
(Of Counsel)

### PARALEGALS:

Ellen L. Heib  
Colleen Schmitz  
Mary Ellen Raney  
Jeanne Scherkenbach  
Sheryl M. Deer  
Laurie Matthews  
Tammy Taddey  
Pamela Lyons

## Employee Benefits E-News

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### APRIL 20, 2006, HIPAA SECURITY DEADLINE FOR SMALL PLANS

The security provisions of the HIPAA Administrative Simplification Rules (the "Security Rule") go into effect for small health plans on April 20, 2006. A plan is a small health plan if it has annual receipts of \$5 million or less. For an insured plan, receipts will equal the amount of premiums paid for the year. For a self-insured plan, receipts will equal the total claims paid for the year.

Under the Security Rule, covered entities, including group health plans, must protect the confidentiality, integrity and availability of electronic protected health information ("ePHI"). The Security Rule requires covered entities to implement administrative, physical and technical safeguards to protect ePHI in their care. The Security Rule affects how plans transmit, record or store participants' protected health information through electronic means. The Security Rule includes the following requirements:

1. Security Officer. Plan sponsors must appoint a security officer.
2. Plan Amendments. If plan sponsors intend to receive ePHI, they should prepare plan amendments that allow them to receive ePHI. Plan sponsors may also receive deidentified health information (health information that does not identify a connection to a plan participant) electronically or receive PHI through non-electronic means to avoid the burdens of complying with the Security Rule.
3. Business Associate Agreements. Plan sponsors must enter into updated business associate agreements with plan service providers.
4. Administrative Safeguards—Policies and Procedures. Plan sponsors must conduct a risk analysis regarding their use of ePHI and adopt administrative safeguards in the form of written policies and procedures, outlining how the health plan will protect ePHI. These safeguards will be specific to each health plan and its circumstances. The Security Rule provides standards and implementation specifications for compliance with this requirement.

1000 North Water Street  
P.O. Box 2965  
Milwaukee, Wisconsin  
53201-2965  
414-298-1000  
800-553-6215

22 East Mifflin Street  
P.O. Box 2018  
Madison, Wisconsin  
53701-2018  
608-229-2200  
800-728-6239

W233 N2080  
Ridgeview Parkway  
P.O. Box 2265  
Waukesha, Wisconsin  
53187-2265  
262-951-4500  
800-928-5529

483 North Mulford Road  
Rockford, Illinois  
61107-5191  
815-484-1900  
800-840-5420

Penthouse  
8400 East Prentice Avenue  
Greenwood Village, Colorado  
80111  
303-843-6042

5. Technical and Physical Safeguards. Plan sponsors must conduct and document a review of technical and physical safeguards with respect to their office spaces and computer systems. The Security Rule also includes standards and implementation specifications for these requirements.

6. Training. Plan sponsors must ensure that any employees handling ePHI are trained to comply with the changes required by the Security Rule.

The requirements of the Security Rule will be limited for those plans that contract with a third party administrator that handles a majority of the plan's administration. Those plans that are self-administered should confirm that the plan office is prepared to comply with the requirements of the Security Rule.

This *Employee Benefits Update* provides general information about employee benefits issues. It should not be construed as legal advice or a legal opinion. Readers should seek legal counsel concerning specific factual situations confronting them.