

Update on Enforcement of "Red Flag" Rule to Help Prevent Identity Theft

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Enforcement of the "Red Flag" Rule has been delayed until August 1, 2009!

In addition, below are frequently asked questions (FAQ's) received from providers:

1. Is our organization required to comply with the Rule?
All providers that are "creditors" and have "covered accounts" must comply. The definitions of "creditor" and "covered accounts" are extremely broad, so providers should comply unless they *always* collect payment in full from patients/clients *before* services are provided.
2. Do providers have to comply if they have only a few "accounts," as defined by the Rule?
The Rule says that *providers that have just one (1) "account" must comply.*
3. What are the specific requirements of the Rule?
The Rule is broad and flexible. The basic requirements are as follows:
 - Providers must implement a Policy that identifies relevant red flags, helps ensure detection of "red flags," and prevents and mitigates identity theft.
 - The governing body must review and approve the initial Policy, which should be documented in a resolution of the governing body.
 - Providers must train employees who are involved in activities included in the above Policy.
 - Providers must require contractors or "service providers" to comply.
4. Is the rule the same in all states?
The Red Flag Rule is a federal rule, so it applies in all states.
5. Is compliance with the Red Flag Rule required by the Health Insurance Portability and Accountability Act (HIPAA)?
The Red Flag Rule is related to HIPAA because both require protection of patient information, but the Rule is not part of HIPAA.
6. Why is the Red Flag Rule applicable to health care providers?
Recent reports in the press have included instances in which information was stolen from health care providers for the purpose of identity theft. Many health care providers have most, if not all, of the information about patients required for identify theft; including social security numbers, birthdates, drivers' license numbers, etc. It seems reasonable that providers with such information should be required to take action to protect it from theft.
7. Is there minimal activity in which most providers should engage in order to prevent identify theft?
At a minimum, providers should ask for photo identification of patients upon admission. If patients do not provide a photo ID, providers should document their request and the reasons, if any, as to why patients did not provide a photo ID. Any discrepancies that providers identify should be resolved. Although many providers are already burdened by paperwork, this activity seems to be the minimum required to prevent identity theft.
8. Is compliance burdensome for providers?
NO! In fact, many post-acute providers can comply with minimal expenditure of resources.

Many post-acute providers have successfully overcome significant challenges in the industry in the recent past. Compliance with the Red Flag Rule pales in comparison.

We have developed materials for you to use to meet the requirements of the Rule. The materials are appropriate for use by all providers, including home health agencies; private duty agencies; hospices; HME suppliers; and individual providers, such as therapists, ALF's/ILF's, physicians, etc. The materials include a comprehensive Policy, as required by the Rule, which should be used to provide training that is also mandated by the Rule. In addition, the materials include a resolution to be adopted by the governing body per the Rule.

The cost of these materials is \$200.00. Please send a check made out to Elizabeth E. Hogue, Esq. to: Fulfillment, 107 Guilford, Summerville, SC 29483. We are unable to accept credit cards. Please be sure to include the name and e-mail address of the person who should receive the materials. We will e-mail them to the designated recipient upon receipt of payment. If you are a current client of ours, please let us know that you would like to receive the materials. We will send them to you immediately and add the cost to our next invoice.

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