

Health Care Organization Loss Scenarios from Chubb



Lost iPad

COVERAGE	CyberSecurity by Chubb
Cause of action	Unfair Trade Practices, Violations of HIPAA, Negligence, Invasion of Privacy
Type of organization	Hospital
Number of employees	2800
Annual revenue	\$420 million

DESCRIPTION OF EVENT

A nurse lost an iPad containing names and protected health information for 25,000 patients vaccinated against the flu. A class action was filed against the nurse's employer, a hospital, alleging negligence and invasion of privacy. In addition, consistent with HITECH, an attorney general action was filed against the hospital for alleged violations of HIPAA, including failure to properly encrypt portable data and failure to provide timely notice to impacted individuals. Finally, the attorney general alleged violations of the state's unfair trade practice law.

RESOLUTION

The hospital incurred more than \$750,000 in expenses associated with notifying patients regarding the lost iPad, hiring a public relations firm, establishing a call center, providing monitoring and restoration services, and retaining independent counsel to assess notice and compliance obligations. In addition, following class certification and defense costs in the amount of \$500,000, the hospital resolved the litigation for approximately \$1 million. The hospital also paid \$500,000 in monetary fines and penalties as a result of the HIPAA and unfair trade practice violations and was required to implement new encryption and training protocols.

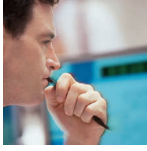


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Warren, NJ 07059
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Could this happen to your organization? Contact your trusted Chubb agent or broker.

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Privacy Notification Expenses Cost a Pretty Penny

COVERAGE	CyberSecurity by Chubb
Cause of action	Health Care Data Privacy/Security Event
Type of organization	Physician Group
Number of employees	11
Annual revenue	\$6 million

DESCRIPTION OF EVENT

Data files transferred from a physician group to a billing company contained the first initial and last names of 450 patients, their health care spending account numbers, and the dates of their last visit. The billing company posted these files on their public website in error for over a week. Both the physician group and the billing company became aware of the error when a patient alerted them that he had seen the information on the public website.

RESOLUTION

The billing company immediately removed the files from their website. The physician group contacted their attorney immediately to assess whether the release of this data constituted an actual “breach” under the law, and whether they were legally obligated to notify patients as a result. It was determined by their attorney that the event did qualify as a technical “breach” under federal law (HIPAA/HITECH) as well as the applicable state privacy law, such that the physician group was required to notify its patients by law. The physician group decided to offer the 450 affected patients both health record and credit monitoring services for a period of one year. The cost of notification services was \$22,000, and the health record and credit monitoring services (with 20% of those notified accepting the services) amounted to approximately \$25,000. The total breach response costs to the physician group, including legal and forensic costs, were over \$96,000. Both the physician group and the billing company were subsequently assessed a HITECH fine/penalty of \$150,000 each.



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Hackers Access Unencrypted PHI

COVERAGE	CyberSecurity by Chubb
Cause of action	Violation of HITECH Act
Type of organization	Physician Practice Group
Number of employees	30
Annual revenue	\$12 million

DESCRIPTION OF EVENT

A physician office's server, which contained unencrypted protected health information (PHI) for 2,500 patients, was accessed by hackers and encrypted. The hackers subsequently made an extortion demand of \$50,000 to decrypt the information and return control of the server back to the physician's office.

RESOLUTION

After retaining a negotiator at a cost of \$45,000 and complying with the hackers' financial demand, control of the server was returned to the physician's office. Thereafter, the practice incurred \$85,000 in expenses associated with notifying patients regarding the event, hiring a public relations firm, establishing a call center, providing monitoring services, and retaining independent counsel to assess notice and compliance obligations. A subsequent audit from the Office of Civil Rights resulted in a \$75,000 fine to the practice under the Health Information Technology for Economic and Clinical Health (HITECH) Act for not having encrypted the PHI.



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PHI Sent to Storage Facility Never Arrived

COVERAGE	CyberSecurity by Chubb
Cause of action	Violation of HITECH Act
Type of organization	Medical Imaging Center
Number of employees	50
Annual revenue	App. \$10 million

DESCRIPTION OF EVENT

A medical imaging center stored mammogram files on site and routinely sent both hard and/or electronic copies of patients' image reports to their corresponding physician's offices when requested. After sending a bulk shipment containing files and corresponding protected health information (PHI) for 2,000 patients to storage, it was discovered that the imaging files never arrived at the storage facility. The imaging facility reported the privacy breach to Health & Human Services (HHS) as required under the Health Information Technology for Economic and Clinical Health (HITECH) Act since more than 500 individuals' PHI was involved in the incident.

RESOLUTION

The imaging center incurred \$95,000 in expenses in connection with notification, identity monitoring, health record restoration services, and independent counsel fees. It also incurred approximately \$100,000 in legal defense costs and \$175,000 in fines and penalties after a regulatory investigation by HHS found that the imaging facility did not encrypt the mammogram imaging files or have proper safeguards in place to otherwise protect the security of the PHI contained in the files.

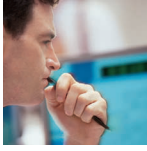


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Stolen Insulin Pumps Contained PHI

COVERAGE	CyberSecurity by Chubb
Cause of action	Violation of HITECH Act, Negligence
Type of organization	Community Hospital
Number of employees	225
Annual revenue	App. \$25 million

DESCRIPTION OF EVENT

A rural community hospital provided insulin pumps to its diabetic patients when prescribed by their physicians. The pumps contained protected health information (PHI) that was not encrypted, although the pumps were stored on site when not in use. A hospital employee conducting an inventory check discovered that more than 150 insulin pumps had been stolen from the hospital supply closet, which the employee reported to the hospital administration. After an unsuccessful attempt by the thieves to file fraudulent tax returns in the name of several of the affected patients, the patients filed a civil suit under the state privacy statute.

RESOLUTION

The hospital spent \$100,000 engaging counsel for compliance assessment and providing notification and call center services for the diabetic patients affected by the incident. The hospital also spent \$175,000 in defense costs responding both to the civil suit and a separate regulatory inquiry, as well as \$150,000 in Health Information Technology for Economic and Clinical Health (HITECH) Act fines and penalties for not having encrypted the PHI stored on the pumps and not having a more robust tracking system to secure the PHI.



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Missing Laptop Results in \$365,000 in Added Costs

COVERAGE	CyberSecurity by Chubb
Cause of action	Violation of HITECH Act, Negligence
Type of organization	Nursing Home
Number of employees	215
Annual revenue	\$17.5 million

DESCRIPTION OF EVENT

An employee took her laptop from the work premises to the train station on a trip to evaluate regional compliance with new-patient care mandates as prescribed by health care reform. The laptop contained unencrypted protected health information (PHI)—names, social security numbers, current status of medical conditions and diagnoses—for 750 nursing home patients. When the employee went to board her train, she discovered that her laptop was missing from the bench where she'd been sitting. She reported the theft to the nursing home's administrative staff, which in turn reported the incident immediately to the regional office of Health & Human Resources (HHS) as required by law for breaches affecting more than 500 individuals.

RESOLUTION

The nursing home spent \$115,000 performing forensics, engaging counsel for compliance assessment, and providing notification and call center services for the 750 nursing home patients whose PHI was missing as a result of the laptop theft. The nursing home also spent \$100,000 in defense costs responding to a regulatory inquiry from HHS, and it incurred \$150,000 in Health Information Technology for Economic and Clinical Health (HITECH) Act fines and penalties for not having encrypted the PHI stored on the laptop.



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Loss scenarios are hypothetical in nature and for illustrative purposes only. Whether or not or to what extent a particular loss is covered depends on the facts and circumstances of the loss and the terms, conditions, and endorsements of the policy as issued. It is impossible to state in the abstract whether the policy would necessarily provide coverage in any given situation. Consult your agent, broker, or other expert.

7/2013