



Q&A: HIPAA RULES! | 4.4.18

Your questions answered by Pete Iverson, Esq., our in-house ERISA counsel

Q: Are HSAs subject to HIPAA Privacy & Security Rules?

A: A high deductible plan that goes along with an HSA is subject to HIPAA Privacy & Security, but a health savings account by itself is not considered a health plan.

Q: Based on the presentation, an employee's name, DOB, and SSN together does not reflect PHI?

A: Information must be individually identifiable + health information + maintained/distributed by a covered entity. If it is individually identifiable, but is not health information, it is not considered PHI. If health information is included (example: info includes the name of the health plan they are covered by or who the insuring party is, as well as a host of other items that are health related), then it would be PHI.

Q: Is providing invoices and enrollment information to an internal finance department considered a HIPAA violation if finance requires SSN and plan enrollment information?

A: Sometimes it is, and sometimes it isn't. Enrollment and disenrollment information is not PHI if it is created by and remains in the hands of the employer. This may include information obtained by an employer at open enrollment or at the start or termination of employment. However, that same information, when held by or received from the health plan, would be PHI. This highlights the importance of distinguishing and segregating PHI from similar information that is not PHI.