

November 20, 2009



Re: The HITECH Act Amendment to Business Associate Agreement

Dear Highmark Blue Cross Shield General Agency:

As you may be aware, the recently enacted Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, (the "HITECH Act"), includes important revisions to the Health Information Portability and Accountability Act of 1996 (HIPAA), and its Privacy and Security Rules.

The HITECH Act requires, among other things, that Business Associates report certain breaches of unsecured protected health information to the appropriate Covered Entity without unreasonable delay. In order to comply with the HITECH Act, we must amend the business associate terms of your current contract with Highmark to ensure that you comply with the security measures required by the HITECH Act, including the prompt reporting of improper disclosures.

For your convenience, and in order to ensure that all contract documentation complies with the HITECH Act, Highmark Inc. will incorporate the following Amendments into the business associate terms of our current agreement with you (the "Agreement"). We remind you of your obligation to pass on these Amendments to any sub producer who writes Highmark business through you or your organization.

The HITECH Act Amendment:

1. The business associate (hereafter in this amendment referred to as "You") shall develop and implement policies and procedures to assure compliance with applicable provisions of the HITECH Act and any implementing regulations. The policies and procedures will be designed to further safeguard and preserve the integrity, confidentiality and availability of Protected Health Information ("PHI"), and to prevent unauthorized acquisition, access, use or disclosure of PHI. Such safeguards shall be consistent with applicable requirements of 45 C.F.R. Part 164, Subpart C, pertaining to the security of Electronic Protected Health Information ("E PHI"), and as required by the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, (the "HITECH Act"). You also shall develop and implement policies and procedures and maintain documentation of such policies and procedures to assure compliance with the Security Rule standards as required by the HITECH Act;

2. With regard to the specific “Access” and “Disclosure Accounting” provisions set forth in the Agreement, where applicable, you will comply with the HITECH Act.

3. You shall report to Highmark any use or disclosure of PHI not provided for in this Agreement of which You become aware within five (5) business days following discovery. In addition, You shall report, following discovery and without unreasonable delay, but in no event later than five (5) business days following discovery, any acquisition, access, use, or disclosure of “Unsecured Protected Health Information” (as defined by the HITECH Act and any implementing regulations) in a manner not permitted by the HIPAA Privacy Rule (45 C.F.R. Part 164, Subpart E). You shall cooperate with Highmark in investigating such unauthorized use or disclosure and in meeting Highmark’s obligations under the HITECH Act and any other security breach notification laws. For purpose of this section, “discovery” shall mean the time at which the unauthorized acquisition, access, use or disclosure is known, or in the exercise or reasonable diligence, should have been known, to a person (other than the person committing the breach) who is a member of your workforce or that of any of your agents.

Any such report shall include the identification (if known) of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by You to have been, accessed, acquired, or disclosed. You will make the report to Highmark Inc.’s Chief Privacy Officer not more than five (5) business days after You learn of such non-permitted use or disclosure. The report will:

- a) Identify the nature of the non-permitted access, use or disclosure, including the date of the event and the date of discovery of the event;
- b) Identify Highmark Protected Health Information accessed, used or disclosed (e.g., full name, social security number, date of birth, etc.);
- c) Identify who made the non-permitted access, use or disclosure and who received the non-permitted disclosure;
- d) Identify what corrective action You took or will take to prevent further non-permitted access, uses or disclosures;
- e) Identify what You did or will do to mitigate any deleterious effect of the non-permitted access, use or disclosure; and
- 6) Provide such other information, including a written report, as Highmark may reasonably request.

4. The requirements of the HITECH Act do not preempt more stringent requirements of the Centers for Medicare & Medicaid Services (CMS) applicable to Medicare Parts A and B. In the event of a "security incident" as defined by CMS, You are required to report to Highmark as soon as possible. For purposes of CMS data, the definition of "security incident" is: "the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system. Security incident also means the loss of data through theft or device misplacement, loss or misplacement of hardcopy documents and misrouting of mail, all of which may have the potential to put the data at risk of unauthorized access, use, disclosure, modification or destruction."

5. You shall store Highmark's PHI and confidential data only in secure data facilities located in the United States, and adopt security measures to assure that no person or entity physically located outside of the United States can access, acquire, use or disclose any such data.

Unless Highmark Inc. receives written notice from you to the contrary no later than Monday, December 21, 2009, the above HITECH Act Amendment will be incorporated into the Agreement and take effect automatically on Monday, February 1, 2010, without need of further action on your part.

Should you have any questions concerning the above, please contact me at (412) 544-2031.

Sincerely,

A handwritten signature in cursive script, appearing to read "Reginald E. Brown".

Reginald E. Brown
Director, Producer Affairs