



## The IRS Has Requested Protected Health Information – Now What?

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Regulations provide for protection of healthcare information. These rules impose penalties for the unauthorized disclosure of “protected health information” even when disclosure is made to the Internal Revenue Service (IRS).

The HIPAA rules allow disclosure of certain “protected health information” to “business associates” such as lawyers, accountants, consultants and others hired to handle billing and administrative services. The IRS, however, is not considered to be a “business associate” and is therefore NOT covered under the “business associate” rules.

Protected health information may generally be provided to the IRS under the following scenarios:

- De-identified information may be provided under a safe harbor rule
- Information may be provided with the consent of the patient subject
- Information may be provided pursuant to an IRS summons
- Information may be provided pursuant to a court order or certain discovery rules

The third bullet above suggests that protected information can be provided pursuant to a summons from the IRS. Care should be taken when document requests are received from the IRS. During the normal investigative process, the IRS may issue Information Document Requests (IDR). Taxpayers should not disclose protected health information under such a request as it does not satisfy the privacy exception rules. IDR's are general document requests and disclosure of protected health information pursuant to an IDR could result in a HIPAA violation.

If and when the taxpayer receives a Summons or Civil Investigative Demand (CID), protected information can be disclosed as this type of request is enforceable in a court of law and, therefore, meets one of the disclosure exceptions.

As you can see, the privacy rules are complicated. Care should be given before disclosing protected health information since the disclosure of such information even to the IRS could result in HIPAA violations.

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Best Regards,



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