



HIPAA and HITECH Compliance Changes

One year ago today, President Obama signed into law the American Recovery and Reinvestment Act of 2009 ("ARRA"), also known as the "stimulus bill."

ARRA has affected our industry in two major ways. The most obvious effect has been the changes made to COBRA administration. The other (and less well-known) change was the Health Information Technology for Economic and Clinical Health Act ("HITECH" or "HITECH Act"), which was passed into law as part of ARRA.

Put simply, HITECH requires certain protections with regard to electronic protected health information ("electronic PHI"). It also makes HIPAA "business associates" like AmeriFlex directly responsible for HIPAA and HITECH compliance (in the past, the direct burden for such business associate compliance had been placed solely on so-called "covered entities," such as health plans).

Many of the new rules take effect today, on the anniversary of the passage of ARRA. In light of this, AmeriFlex wants to make you aware of certain steps we have taken and will take with regard to the new HIPAA-HITECH world.

First, AmeriFlex has revised its business associate agreement language to reflect HITECH requirements. This new language is available [here](#). Our clients are free to consider this electronic version as binding and suitable for their purposes, and, if they choose, they may print out a copy of this statement for their files. Please be advised that AmeriFlex reserves the right to change or alter this statement at any time for the purposes of addition, subtraction, correction, or clarity.

Second, we are making our revised HIPAA-related policies available for our clients [here](#).

Third, AmeriFlex is in the process of reviewing its internal policies with regard to the provision of certain information to agents, brokers and other clients, who often use this information to perform audits, analyses and other functions for their own clients. HITECH has created a number of issues in this regard, not just for AmeriFlex but also for agents, brokers and other clients, who are almost always "business associates" under HIPAA themselves, and therefore also subject to these rules.

AmeriFlex is presently examining ways in which it can continue to provide such information while also protecting our clients, partners and plan participants. We expect to have more information very soon, but please be prepared for some changes.

We will send more detailed communications as deemed necessary.