

Health Information Compliance Alert

YOU BE THE SECURITY EXPERT: ARE OFF-SITE CLINICS THAT BILL MANUALLY EXEMPT FROM HIPAA?

Read the situation below and decide how you would handle it before you compare it to our expert's advice.

Question: We're a large hospital and we have several small, clinical/primary care facilities at off-site locations. One of these off-site facilities consists of a very small after-hours clinic with a few full-time employees. These employees perform all of their billing functions manually using the phone and fax, and they submit bills on paper, so I'd consider them exempt from HIPAA. However, since they bill using the hospital's tax ID number, are they still considered exempt from HIPAA?

Answer: First of all, if the hospital's covered, then the clinic's covered as well because it's all a part of the same entity, says health care attorney **Robert Markette** with **Gilliland & Caudill** in Indianapolis. However, he says there is a way around this issue, and that would involve taking advantage of the "hybrid entity provisions" of HIPAA. For example, take county health departments, which traditionally have both covered and non-covered functions. "A classic example is that they have clinics they bill Medicare for. Most bill electronically, and those are covered under HIPAA, but then they may do flu clinics at schools they're not billing for, and those are just public services" that aren't covered by HIPAA.

As HIPAA provides, one part of an entity is covered under the hybrid entity definition, while the entire entity's covered period. "And if you recognize a hybrid entity status, you can designate a 'health care component,' which is the component of the entity that is covered and must comply with HIPAA," says Markette.

In this case, the hospital's tax ID number doesn't make a difference with respect to the after-hours under HIPAA, since the clinic could say it recognizes that it's a CE and has both covered and non-covered functions and that it's making the following hybrid entity designation. "Just be sure to formally designate in writing that you're making that designation as a hybrid entity status," he advises.

The Bottom Line: While the clinic may use the hospital's tax ID number for billing purposes, using the number doesn't affect the clinic with regard to HIPAA, and the clinic is still covered under the reg.