



BULLETIN:

HITECH: New HIPAA Privacy and Security Rules

genworth.com

February 19, 2010

Effective: **02-19-10**

On February 16, Genworth began mailing to all distributors contracted to sell LTCI, Medicare Supplement insurance or Linked Benefit products, a Business Associate Amendment that amends the Multipurpose Confidentiality Agreement you have received in connection with your Genworth sales agreement. This amendment is in response to the HITECH Act passed by Congress in 2009.

Compliance is issuing this bulletin to help address questions you may have pertaining to the mailing and your responsibility to safeguard protected health information (PHI) of LTCI, Med Supp and Linked Benefit customers.

What is HITECH?

HITECH, which stands for the Health Information Technology for Economic and Clinical Health Act, added new privacy and data security provisions to the original HIPAA Privacy Rule. The privacy provisions apply to, among others, health plans, Long Term Care insurance, Medicare Supplement insurance and Linked Benefit products, such as Total Living Coverage®.

What is HITECH requiring now that HIPAA did not require?

The HITECH Act makes significant changes to the privacy and data security requirements of HIPAA. Just a few of the changes include:

- The HIPAA privacy and security standards now apply directly to business associates, and business associates are now subject to the direct jurisdiction and enforcement of the Secretary of Health and Human Services.
- Potential fines for HIPAA violations have been increased substantially.
- HITECH added new notification rules for breaches involving “unsecured” PHI (information is “unsecured” if it is not “encrypted” or “destroyed” in compliance with federal regulations).

Genworth Financial companies include:

Genworth Life and Annuity Insurance Company, Richmond, VA

Genworth Life Insurance Company, Richmond, VA

Genworth Life Insurance Company of New York, 666 Third Avenue, 9th Floor, New York, NY 10017

Only Genworth Life Insurance Company of New York is licensed to conduct business in New York.

Long term care insurance products issued by Genworth Life Insurance Company and in New York by Genworth Life Insurance Company of New York.

Variable products issued by Genworth Life and Annuity Insurance Company and in New York by Genworth Life Insurance Company of New York.

Principal Underwriter: Capital Brokerage Corporation (dba Genworth Financial Brokerage Corporation in Indiana)

6620 West Broad Street, Building 2, Richmond, VA 23230, Member FINRA

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Contact: If you have any questions, please contact the Genworth Fraud and Information Security Referral Team, the Internal Sales Desk or Compliance.

What types of communications/tools are impacted by HITECH?

Any tool or communication that includes protected health information such as e-mails, PCs, laptop computers, paper files are covered under the law.

I use Genworth provided electronic tools to submit business. Do I need to do anything special or are they already protected?

The e-tools offered by Genworth for submission of long term care business, --eQuick Request, eApp and Application Wizard-- all use encryption tools to transfer the data.

Should I purchase encryption software for my electronic devices?

Genworth **STRONGLY** recommends agents/producers equip their electronic devices for using, storing and transferring electronic PHI. Encrypting data protects the information and minimizes or eliminates the need to notify state or regulatory authorities if the information is lost or stolen.

What encryption software should I buy?

There are many encryption software programs available and the cost is more reasonable now than ever. But what works for your organization may not work for others.

When selecting encryption software, consider software with **key lengths of 128 bits or more**. Because encryption depends heavily on keys, one normally measures the **effectiveness or strength** of encryption in terms of key length (number of bits in the key). Make sure to validate this when purchasing encryption software.

Examples of companies that sell encryption software for laptops, PC's and other electronic devices are:

- **Safeboot (by McAfee): www.McAfee.com or at 1-866-622-3911**
- **PGP Corporation (www.pgp.com): 877-228-9747**
- **SecureDoc (by WinMagic) www.winmagic.com or at 1-888-879-5879**

Again, these are only a few examples as there are various packages that allow you to choose the tool that will work best for you.

If I encrypt my laptop, PC and PDA's, will it be necessary to report a potential breach?

You will still need to report the incident to Genworth if any Genworth policyholder information is involved. But if data is secured through encryption, then it may mitigate the need to make a report to the state and federal regulatory authorities. That's why encryption is so important.

How can I determine if a breach of PHI should be reported or not? How quickly should I report?

You should report a suspected breach within 24 hours but no later than 72 hours. It is preferable to report incomplete information earlier rather than delay reporting for perfectly complete information.

Who do I contact if I discover a breach of protected health information?

If you discover or suspect a breach of protected health information, please contact the Genworth Fraud and Information Security Referral Team at 1(866)381-2906. Additionally, you may contact the **Internal Sales Desk** or **Compliance**.

Who do I contact with additional questions?

Feel free to contact the Internal Sales Desk or the following Compliance associates:

- Mark Grimmatt 804.662.2564
- Scott Wolfe 804.281.6551