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HIPAA Privacy Rule Enforcement Actions Announced **Two Health Care Providers to Pay Over \$5 Million**

In February 2011, the U.S. Department of Health and Human Services' [Office of Civil Rights](#) (OCR) imposed its first-ever civil monetary penalty for violations of the Privacy Rule under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). [Cignet Health](#) was required to pay \$4.3 million for [a pair of major Rule violations](#). Separately, [Massachusetts General Hospital](#) and OCR [agreed to a \\$1 million settlement](#) of alleged Rule violations stemming from a major leak of protected health information (PHI) in March 2009.

OCR found that during a 13-month period from September 2008 through October 2009, Cignet failed to provide 41 patients with medical records each had requested within 30 days (and not more than 60 days), a violation of 45 C.F.R. § 164.524. Second, when each patient filed a complaint with OCR, Cignet ignored 45 C.F.R. § 160.310 (b), which requires compliance with OCR investigations, by refusing to provide the medical records demanded by OCR, even after being subpoenaed in U.S. District Court. Only after obtaining a default judgment against Cignet Health in March 2010 did OCR receive any of the patients' medical records.

In the case of Mass General, one of its employees left PHI for 192 patients, some with HIV/AIDS, on board a subway car while commuting to work. The documents lost included a patient schedule with names and medical record numbers, as well as billing encounter forms for 66 of the patients. The latter forms included information such as diagnoses and insurer and provider names. In addition to the monetary settlement, Mass General also agreed to implement and train its employees in complying with a stronger privacy policy.

Both the Cignet Health and Mass General cases indicate that OCR's enforcement of the Privacy Rule will be much stricter in 2011 and beyond. Providers should ensure that they have strong programs in place to foster compliance with the Rule and avoid the potentially severe consequences of an OCR investigation.

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