



## HITECH Breach Results in Costly Settlement **Provider to Pay HHS \$1.5 Million**

Last month, the Department of Health and Human Services' Office of Civil Rights ([OCR](#)) announced a settlement of its first ever enforcement action under the HITECH Act Breach Notification Rule. Blue Cross Blue Shield of Tennessee will have to [pay \\$1.5 million](#) and implement a corrective action plan that requires updates to its privacy and security policies, employee training on HIPAA responsibilities and frequent monitor reviews to ensure compliance.

In October 2009, 57 unencrypted hard drives, containing protected health information (PHI) from over one million individuals, were stolen from an office in Chattanooga. In accordance with the Breach Notification Rule, Blue Cross Blue Shield timely reported the breach to OCR one month later, triggering an investigation. OCR found that although the network closet containing the hard drives was secured through biometric and keycard scans with a magnetic lock, as well as a separate door requiring a key for access, Blue Cross Blue Shield violated the rule by failing to maintain proper administrative and facility access safeguards for the PHI while completing the local office's relocation, which was in its final stages at the time of the theft. In particular, OCR noted that Blue Cross Blue Shield became aware of an unresponsive server at the facility on October 2, but did not begin investigating the problem until October 5.

Both OCR's investigation findings and the settlement terms should serve as a reminder to other entities covered under the Breach Notification Rule to have strong and continually enforced compliance policies, and that they must promptly address any potential violations.

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