

Client Training HQ

HIPAA and Unemployment Insurance

This document is intended to provide information regarding the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as it relates to unemployment insurance matters.

What is HIPAA?

HIPAA is a federal law designed to protect patients' sensitive health information from being used and disclosed without appropriate authorization. HIPAA includes a Privacy Rule that applies to "covered entities" and to those entities' "business associates". HIPAA applies to health plans, health care clearinghouses, and health care providers and may apply to employers that operate in one or more of those capacities, for example if the employer provides a self-insured health plan. Generally, an employer will only deal with covered entities, not actually be one.

How Does HIPAA Relate to Unemployment Insurance?

According to the US Department of Health & Human Services, HIPAA does not apply to your employment records, even if the information in those records is health-related. In most cases, HIPAA does not apply to the actions of an employer as the employer is not engaging in HIPAA-covered transactions.

Many times, employers can be concerned about providing supporting documentation regarding a former employee for the purposes of an unemployment claim or hearing because they believe they will be in violation of HIPAA. This can be an issue when the claimant's separation was caused by an illness, injury, the claimant was out on a leave of absence, or the claimant was separated as a result of a violation of the employer's drug and alcohol policy.

However, HIPAA typically does not apply to the employer's employment records, even if the information in those records is health related. In most cases, the Privacy Rule does not apply to the actions of an employer. An employer may ask for a doctor's note or other health information if they need the information for sick leave, workers' compensation, wellness programs, or health insurance. Likewise, if medical related information is necessary and relevant to an unemployment separation, it may be disclosed for purposes of determining eligibility in an unemployment case. Generally, HIPAA applies to the disclosures made by a healthcare provider for a covered transaction, not the questions an employer may ask or the information that the state may need to determine eligibility for unemployment matters.

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