



DEPARTMENT OF HEALTH & HUMAN SERVICES

Voice - (212) 264-3313, (800) 368-1019
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<http://www.hhs.gov/ocr/>

OFFICE OF THE SECRETARY

Office for Civil Rights, Region II
Jacob Javits Federal Building
26 Federal Plaza, Suite 3312
New York, NY 10278

(b)(6),(b)(7)(C)

SEP 27 2013

Re: OCR Transaction Number: 13-152550

Dear

(b)(6),(b)(7)(C)

On November 30, 2012, the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR), received your complaint alleging that Caremark, the covered entity, has violated the Federal Standards for Privacy of Individually Identifiable Health Information and/or the Security Standards for the Protection of Electronic Protected Health Information (45 C.F.R. Parts 160 and 164, Subparts A, C, and E, the Privacy and Security Rules). Specifically, you allege that the covered entity impermissibly disclosed your protected health information (PHI) to an unintended third-party, (b)(6),(b)(7)(C) when it mailed your prescription medications to her address. You further allege that (b)(6),(b)(7)(C) granddaughter's PHI was impermissibly disclosed to you when you received the granddaughter's medication in the mail. This allegation could reflect a violation of 45 C.F.R. §§ 164.502(a), and 164.530(c)(1) & (c)(2)(i).

Thank you for bringing this matter to OCR's attention. Your complaint is an integral part of OCR's enforcement efforts.

OCR enforces the Privacy, Security, and Breach Notification Rules, and also Federal civil rights laws which prohibit discrimination in the delivery of health and human services because of race, color, national origin, disability, age, and under certain circumstances, sex and religion.

Please be advised, a covered entity may not use or disclose an individual's PHI without an authorization unless permitted or required by the Privacy Rule. Please be further advised, that a covered entity must implement reasonable physical, technical, and administrative safeguards in order to protect PHI from impermissible uses and disclosures.

We are pleased to inform you that your complaint in this matter has been resolved. As part of its investigation, OCR has provided Caremark with guidance to comply with the Privacy Rule. Specifically, Caremark has taken the following steps toward coming into compliance with the Privacy Rule:

1. Conducted a risk assessment with respect to your PHI, pursuant to the Breach Notification Rule.

2. Took steps to mitigate the harm associated with the disclosure, such as reclaiming the medications sent to both you and (b)(6), (b)(7)(C) for destruction.
3. Retrained the responsible employee and department on Caremark's shipping policies and procedures to ensure a similar incident does not recur in the future; more specifically, staff members were reminded that if a ship order comes off a box, the ship order should be brought to a pharmacist so that the medication contents can be reviewed.

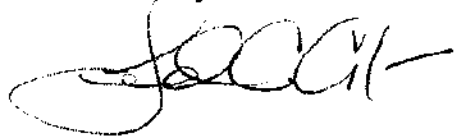
For your informational purposes, OCR has enclosed material regarding the Privacy Rule provisions related to safeguarding PHI.

Based on the foregoing, OCR is closing this case without further action, effective the date of this letter.

Under the Freedom of Information Act, we may be required to release this letter and other information about this case upon request by the public. In the event OCR receives such a request, we will make every effort, as permitted by law, to protect information that identifies individuals or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

If you have any questions regarding this matter, please contact Simone Peart, Investigator, at (212) 264-3375 (Voice) or (212) 264-2355 (TDD).

Sincerely,



Linda C. Colón
Regional Manager



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New York, NY 10278

(b)(6),(b)(7)(C)

Privacy Specialist
CVS Caremark
9501 E. Shea Blvd
Scottsdale, AZ 85260

SEP 27 2013

Re: OCR Transaction Number: 13-152550

Dear (b)(6),(b)(7)(C)

On November 30, 2012, the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR), received a complaint alleging that Caremark Specialty Pharmacy (Caremark), the covered entity, has violated the Federal Standards for Privacy of Individually Identifiable Health Information and/or the Security Standards for the Protection of Electronic Protected Health Information (45 C.F.R. Parts 160 and 164, Subparts A, C, and E, the Privacy and Security Rules). Specifically, the complainant, (b)(6),(b)(7)(C) alleges that Caremark impermissibly disclosed his protected health information (PHI) to an unintended third-party, (b)(6),(b)(7)(C) when it mailed his prescription medications to her address. The complainant further alleges that (b)(6),(b)(7)(C) granddaughter's PHI was impermissibly disclosed to him when he received the granddaughter's medication in the mail. This allegation could reflect a violation of 45 C.F.R. §§ 164.502(a), and 164.530(c)(1) & (c)(2)(i).

OCR enforces the Privacy, Security, and Breach Notification Rules, and also Federal civil rights laws which prohibit discrimination in the delivery of health and human services because of race, color, national origin, disability, age, and under certain circumstances, sex and religion.

Please be advised, a covered entity may not use or disclose an individual's PHI without an authorization unless permitted or required by the Privacy Rule. Please be further advised, that a covered entity must implement reasonable physical, technical, and administrative safeguards in order to protect PHI from impermissible uses and disclosures.

OCR is pleased that, in response to our investigation, Caremark has taken the following steps toward coming into compliance with the Privacy Rule:

1. Conducted a risk assessment with respect to the complainant's PHI, pursuant to the Breach Notification Rule.

2. Took steps to mitigate the harm associated with the disclosure, such as reclaiming the medications sent to both the complainant and (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) for destruction.
3. Retrained the responsible employee and department on Caremark's shipping policies and procedures to ensure a similar incident does not recur in the future; more specifically, staff members were reminded that if a ship order comes off a box, the ship order should be brought to a pharmacist so that the medication contents can be reviewed.

OCR has determined that the following corrective actions are needed to bring Caremark into compliance with the Privacy Rule:

1. OCR has determined that the disclosure of the complainant's PHI constitutes a breach, as the mailing of incorrect medication had a strong likelihood of resulting in a physical harm to the patient. As such, Caremark will comply with the requirements of the Breach Notification Rule, including but limited to, filing a breach report with the Secretary of HHS and notifying the complainant of the breach.
2. Document the disclosure of (b)(6),(b)(7)(C) granddaughter's (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) PHI in her accounting of disclosure log.
3. Conduct a risk assessment with regards to (b)(6),(b)(7)(C) PHI, to determine whether the disclosure of her PHI resulted in a breach.
4. If Caremark determines that the disclosure of (b)(6),(b)(7)(C) PHI resulted in a breach, Caremark will comply with the requirements of the Breach Notification Rule, including but limited to, filing a breach report with the Secretary of HHS and notifying (b)(6),(b)(7)(C) of the breach.

Please note that, after a period of six months has passed, OCR may initiate and conduct a compliance review of Caremark related to your compliance with the Privacy Rule.

Based on the foregoing, OCR is closing this case without further action, effective the date of this letter. OCR's determination as stated in this letter applies only to the allegations in this complaint that were reviewed by OCR.

Under the Freedom of Information Act, we may be required to release this letter and other information about this case upon request by the public. In the event OCR receives such a request, we will make every effort, as permitted by law, to protect information that identifies individuals or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

If you have any questions regarding this matter, please contact Simone Peart, Investigator, at (212) 264-3375 (Voice) or (212) 264-2355 (TDD).

Sincerely,

A handwritten signature in black ink, appearing to read 'Linda C. Colón', with a long horizontal flourish extending to the right.

Linda C. Colón
Regional Manager