



## Healthcare Law News

# Recent HIPAA Settlements Indicate Providers are still not getting the Encryption Message

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*For at least the last four years, consultants, law firms, and CMS itself have been beating the drum about increased HIPAA enforcement under the new HIPAA and HITECH regulations. In particular, interested parties have been highlighting the importance of encrypting protected health information (PHI).*

In January of 2013, the director of CMS's Office of Civil Rights (OCR), the office tasked with HIPAA enforcement, released a statement in conjunction with a HIPAA data breach settlement that encryption "is an easy method for making lost information unusable, unreadable and undecipherable." The settling provider in that instance was a small hospice that had lost an unencrypted laptop containing PHI.

Despite these warnings, in late April of this year, OCR announced two additional settlements, (<http://www.hhs.gov/news/press/2014pres/04/20140422b.html>) both of which involved the theft or loss of unencrypted laptops containing PHI.

In both instances the providers had identified that encryption was a problem and had taken some steps to mitigate the problem, but were still allowing laptops into the wild with unencrypted PHI. Between the two providers, the settlement amount was almost two million dollars. In addition to the encryption issues, CMS also cited incomplete or insufficient security and risk analyses.

If you are a provider, or represent a provider, do not let yourself be the next star in an OCR press release. The cost of encryption compared to the cost of a HIPAA settlement is miniscule; likewise the cost of a proper risk assessment. Contact experienced counsel or consultants to make sure your organization is not at risk.



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