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Press Release

Attorney General Sues Health Net For Massive Security Breach Involving Private Medical Records And Financial Information On 446,000 Enrollees

January 13, 2010

Attorney General Richard Blumenthal today sued Health Net of Connecticut, Inc. for failing to secure private patient medical records and financial information involving 446,000 Connecticut enrollees and promptly notify consumers endangered by the security breach.

Blumenthal is also seeking a court order blocking Health Net from continued violations of HIPAA (Health Insurance Portability and Accountability Act) by requiring that any protected health information contained on a portable electronic device be encrypted.

This case marks the first action by a state attorney general involving violations of HIPAA since the Health Information Technology for Economic and Clinical Health Act (HITECH) authorized state attorneys general to enforce HIPAA.

"Sadly, this lawsuit is historic -- involving an unparalleled health care privacy breach and an unprecedented state enforcement of HIPAA," Blumenthal said. "Protected private medical records and financial information on almost a half million Health Net enrollees in Connecticut were exposed for at least six months -- most likely by thieves -- before Health Net notified appropriate authorities and consumers.

"These missing medical records included some of the most personal, intimate patient information -- exposing individuals to grave embarrassment and emotional distress, as well as financial harm and identity theft.

"The staggering scope of the data loss, and deliberate delay in disclosure, are legally actionable and ethically unacceptable. Even more alarming than the breach, Health Net downplayed and dismissed the danger to patients and consumers.

"Failing to protect patient privacy blatantly violates federal law and Health Net's public trust. We are seeking a preliminary order to protect patients and consumers, and will fight for civil penalties."

As a health plan, Health Net is covered by HIPAA and must ensure the confidentiality and integrity of all electronic protected health information the defendant has created, receives, maintains and transmits.

On or about May 14, 2009, Health Net learned that a portable computer disk drive disappeared from the company's Shelton office. The disk contained

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protected health information, social security numbers, and bank account numbers for approximately 446,000 past and present Connecticut enrollees.

Blumenthal alleges that Health Net failed to promptly notify his office or other Connecticut authorities of this missing protected health and other personal and private information.

The missing information included 27.7 million scanned pages of over 120 different types of documents, including insurance claim forms, membership forms, appeals and grievances, correspondence and medical records.

According to an investigative report by Kroll Inc., a computer forensic consulting firm hired by Health Net, the data was not encrypted or otherwise protected from access and viewing by unauthorized persons or third parties, but rather was viewable through the use of commonly available software.

Despite its own policies and requirements of federal law, Health Net failed to encrypt this private and protected information or promptly notify Connecticut residents whose personal information may have been compromised.

It wasn't until six months after Health Net discovered the breach that it posted a notice on its website, and then sent letters to consumers on a rolling mailing basis beginning on Nov. 30, 2009.

Blumenthal's lawsuit alleges that Health Net failed to effectively supervise and train its workforce on policies and procedures concerning the appropriate maintenance, use and disclosure of protected health information.

Blumenthal's lawsuit also names UnitedHealth Group Inc. and Oxford Health Plans LLC. While those companies did not cause the data breach, the companies have acquired ownership of Health Net of Connecticut.

Blumenthal thanked those in his office who worked on the case -- Assistant Attorneys General Steve Courtney, Tom Ryan and Matt Fitzsimmons, under the direction of Phil Rosario, Arnold Menchel and Henry Salton.

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