

Red Flags Rule Enforcement Delayed Until August 2009

On April 30, 2009, the Federal Trade Commission (“FTC”) announced that it will delay enforcement of the Red Flags Rule (“Rule”) until August 1, 2009 so that creditors and financial institutions have additional time to develop and implement written programs to detect and prevent identity theft. The FTC previously had extended the initial enforcement deadline for the Rule from November 1, 2008 until August 1, 2009 following significant confusion among medical and dental practices, along with other entities, as to whether they were “creditors” under the Rule.

Doctors are required to comply with the Red Flags Rule since they are considered creditors by definition. As such, a Red Flags Rule compliance manual is required by law. To aid you in complying with the new rules, we are enclosing a sample Red Flags Rule compliance manual.

Additional information regarding the Red Flags Rule can be found at www.ftc.gov/opa/2009/04/redflagsrule.shtm. For members of the Kentucky Medical Association information is also available at www.kyma.org. For members of the American Dental Association information is available at www.ada.org.

If you have any questions please contact Paulita at (502) 896-5846.

Jack T Wilson DMD
Policies and Procedures
Identity theft prevention and detection and Red Flags Rule compliance

Policy:

It is the policy of Jack Wilson DMD to follow all federal and state laws reporting requirements regarding identity theft. Specifically, this policy outlines how Jack Wilson DMD will 1) identify, 2) detect and 3) respond to “red flags”. A “red flag” as defined by this policy includes a pattern, practice, or specific account or record activity that indicates the possibility of identity theft.

It is the policy of Jack Wilson DMD that this Identity theft prevention and detection and Red Flags Rule compliance program is approved by Mariana Meyer as of August 1, 2009 and that the policy is reviewed and approved no less than annually.

It is the policy of Jack Wilson DMD that Mariana Meyer is assigned the responsibility of implementing and maintaining the Red Flags Rule requirements. Furthermore, it is the policy of this office that this individual will be provided sufficient resources and authority to fulfill these responsibilities. At a minimum, it is the policy of Jack Wilson DMD that there will be one individual designated as the privacy official.

It is the policy of Jack Wilson DMD that, pursuant to the existing HIPPA Security Rule, appropriate physical, administrative and technical safeguards will be in place to reasonably protect health information and sensitive information related to patient identity from any intentional or unintentional use or disclosure.

It is the policy of Jack Wilson DMD that its business associates must be contractually bound to protect sensitive patient information to the same degree as set forth in this policy. It is also the policy of Jack Wilson DMD that associates who violate their agreement be dealt with first by an attempt to correct the problem and if that fails by a termination of their services from the business associate.

It is the policy of Jack Wilson DMD that all employees have been trained by the August 1, 2009 compliance date on the policies and procedures governing compliance with the Red Flags Rule. It is also the policy of Jack Wilson DMD that new members of our workforce receive training on the matters within 24 hours of joining our workforce. It is the policy of Jack Wilson DMD to provide training to all employees should any policy or procedure related to the Red Flags Rule change, within a reasonable amount of time. Furthermore it is our policy that all training related to the Red Flags Rule be documented to include the employee name, date and subject matter of the training.

Procedures:

- I. Identity red flags. In the course of caring for our patients, Jack Wilson DMD may encounter inconsistent or suspicious documents or activity that may signal identity theft. Jack Wilson DMD identifies the following as potential red flags, and this policy includes procedures on how to detect and respond to these red flags:

1. A complaint or question from a patient based on the patients receipt of a bill for another individual, a bill for a product or service they deny receiving, a bill from a provider that the patient has never patronized, or an Explanation of Benefits for health care services never received.
 2. Records showing medical treatment that is inconsistent with a physical exam or with a medical history as reported by the patient.
 3. A complaint or question from the patient about the receipt of a collection notice from a bill collector.
 4. A patient of health insurer report that legitimate hospital stay is denied because insurance benefits have been depleted or a lifetime cap has been reached.
 5. A complaint or question from a patient about information added to a credit report by a health care provider or health insurer.
 6. A dispute of a bill by a patient who claims to be the victim of any type of identity theft.
 7. A patient who has an insurance number but never produces an insurance card or other physical documentation of the insurance.
 8. A notice or inquiry from an insurance fraud investigator for a private health insurer or a law enforcement agency, including but not limited to Medicare and Medicaid fraud agency.
- II. Detect red flags. Jack Wilson DMD's staff will be alert for discrepancies in documents and patient information that suggest risk of identity theft or fraud. Jack Wilson DMD will verify patient identity, address and insurance coverage at the time of patient check-in. When a patient calls in for an appointment they will be asked to bring the following forms of identification: Driver's License or other photo ID, insurance card and a separate form of identification such as utility bill if no photo ID is available. If the patient is a minor the parent or guardian should bring the information listed above. This information should be updated every six months. The staff will be alerted for look for ID that appears to be altered and for photo IDs that do not resemble the person presenting it. The staff will alert the proper person should any of the information seem suspicious, non-existent or fictitious.
- III. Respond to Red Flags. If an employee of Jack Wilson DMD detects fraudulent activity or if a patient claims to be a victim of identity theft, Jack Wilson DMD will respond and investigate the situation. If the fraudulent activity involves protected health information (PHI) covered under the HIPPA security standards. Jack Wilson DMD will apply existing HIPPA security and procedures to the response. The employee shall take the following steps, gather all documentation and provide to supervisor. The supervisor will then determine whether the information is fraudulent or authentic. If the activity is determined to be fraudulent, Jack Wilson DMD will take immediate action. The actions may include canceling the transaction, notifying appropriate law officials, notifying the affected person, notifying the affected physician and assessing the impact on the practice.

If a patient claims to be a victim of identity theft:

1. The patient should be encouraged to file a police report for identity theft if he/she has not already done so.

2. The patient should be encouraged to complete the ID Theft Affidavit developed by the FTC, along with supporting documentation.
3. Jack Wilson DMD will compare the patient's documentation with personal information in the practice's records.
4. If following investigation, it appears that the patient has been a victim of identity theft; Jack Wilson DMD will promptly consider what further actions may need to be taken.
5. The physician will review the affected patient's medical record to confirm whether documentation was made in the patient's medical record that resulted in inaccurate information in the patient's record. If inaccuracies due to identity theft exist, a notation should be made in the record to indicate identity theft.
6. The practice medical staff will determine whether any records and/or ancillary service providers are linked to inaccurate information. Any additional files containing information relevant to identity theft will be removed and the appropriate action taken. The patient is responsible for the contacting of ancillary service providers.
7. If following investigation, it does not appear that the patient is a victim of identity theft; Jack Wilson DMD will take whatever action is deemed appropriate.