



**HITECH - HIPAA BREACH NOTIFICATION RULES BECAME EFFECTIVE IN SEPTEMBER**

**O**n August 24, 2009 HHS published the final regulations clarifying the breach reporting obligations of the Health Information Technology for Economic and Clinical Health Act (HITECH Act) which is part of the overall American Recovery and Reinvestment Act of 2009 (ARRA). These rules further strengthen HIPAA. The key clarifications and changes to this rule are as follows:

- Covered entities are required to report any breaches of privacy that are discovered after September 23, 2009. However, the Secretary of HHS has determined that a further delay in enforcement of these regulations will enable covered entities and their Business Associates time to become compliant with breach reporting obligations.

- If there is a breach of protected health information (PHI) that is “unsecured”, the covered entity must notify each individual whose unsecured PHI has been breached or is reasonably believed to have been breached. The key definitions in this regard are “breach” which the government defines as “the acquisition, access, use, or disclosure” of PHI that violates the Privacy or Security Rules. The term “unsecured” refers to PHI that is “not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or a methodology specified by the Secretary”.

- A breach is further defined as an action that “poses a significant risk of financial, reputational, or other harm to the individual”. This element of breach is new to the HITECH Act. This risk of harm standard requires that covered entities undertake some form of risk assessment related to the breach based upon a good faith determination as to whether it is necessary to notify the individual of the actual breach.

- If a breach occurs and, if it is determined that it is in the best interest of the individual(s) whose PHI was breached to notify them, then five specific elements must be covered: 1) a brief description of what occurred with respect to the breach; 2) a description of the types of unsecured PHI that were disclosed during the breach; 3) a description of the steps the affected individual should take in order to protect him or herself from potential harm caused by the breach; 4) a description of what the covered entity (your practice) is doing to investigate and mitigate the breach and to prevent further breaches from occurring; and, 5) provide directions for the individual to contact the covered entity.

- There are specific steps that must be taken if the unsecured PHI that was breached involves more than 500 residents of a state. In these cases the covered entity must notify not only the individuals but also media outlets and the Secretary of HHS.

Help is on the way...

Gates, Moore & Company has published a Supplement to our previously released Health Insurance Portability and Accountability Act Privacy and Security Manuals. As with our previously published manuals, this manual will provide a step-by-step, how-to guide to enable you to successfully implement various elements of the HITECH Act in your practice.

Go to [www.gatesmoore.com/hipaa.htm](http://www.gatesmoore.com/hipaa.htm) and click on the Supplement Manual tab.

**Save the Date!**  
 January 20, 2010 11am - 2pm  
**2010 CPT Coding and Compliance Update**

- Learn how to implement the major CPT coding changes into your practice’s documentation and billing.
- Discover the latest on government audit activity involving the RACs, MACs, MICs, etc.
- Learn tips for proactive compliance efforts to decrease audit and recoupment risk.

*Plan to attend the new extended version of our annual coding seminar. This conference will devote time to the topics you need to know for compliant billing and audit protection in 2010.*

**Watch for registration details.**

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## EDUCATION SAVINGS 101

With education costs rising faster than the rate of inflation, the importance of starting early and saving for your children's education has become a priority for many parents and grandparents.

There are several factors to consider when choosing the right savings plan for your family. One will need to consider how much you would like to save and whether or not you would like to save for elementary and secondary schools as well as college. It is also important to consider your typical investment strategy and choose a plan within your comfort level.



There are a number of educational investment vehicles available including plans that offer significant tax savings. Your choices range from traditional accounts such as: US savings bonds, custodial accounts, savings accounts and trusts; to plans that offer tax savings such as the 529 College Savings Plan (529 Plan) and the Coverdell Educational Savings Accounts (CESA). The focus of this article is on the tax beneficial 529 Plan and the CESA as these have been increasing in popularity in the past number of years.

Formally called Qualified Tuition Programs, the 529 Plan is named after Section 529 of the Internal Revenue Code and is a program that allows you to contribute to an account established for the sole purpose of paying a student's qualified education expenses at the college level. The plans are sponsored at the state level and the earnings grow tax free. Distributions from the accounts are tax free as long as the amount distributed is not greater than the beneficiary's qualified education expenses. Qualified education expenses include the following:

- Tuition, books, fees, supplies and equipment required for enrollment.
- Reasonable costs of room and board. Reasonable is defined as the cost of on campus housing provided by the institution (i.e. dorm).
- Expenses for special needs services.
- New in 2009: The American Recovery and Reinvestment Act of 2009 considers expenses paid in 2009 and 2010 for computer technology and equipment including internet access as an eligible education expense.

Every state now has at least one 529 Plan available and each state can determine what options they offer as long as they meet certain guidelines. You are not limited to choosing a school within the state that your 529 Plan is operated nor are you limited to having to choose a plan within the state you reside. Some states offer tax incentives for residents to establish a plan within their state. For example, Georgia allows a taxpayer to deduct contributions of up to \$2,000 for each beneficiary.

The donor stays in control of the 529 Plan account. The named beneficiary has no rights to the funds. The donor decides how the funds are invested and when withdrawals are taken and for what purpose. Each plan is professionally managed and you can begin saving before your child is actually born. There is no limit on how much you can contribute annually and there are no income restrictions on the individual contributors.

Another attractive investment savings plan is the Coverdell Education Savings Account (CESA) which is formally known as an Educational IRA. The CESA is a custodial account created for the sole purpose of saving for qualified education expenses. The CESA typically works similar to a Roth IRA as the contributions are nondeductible but the account grows tax free. You will not pay tax on withdrawals as long as they are used for education costs which include elementary and secondary schools as well as college. Qualified education costs within the CESA are similar to the 529 plan but also include academic tutoring.

The advantage of the CESA is that it allows you to use the funds for elementary and secondary (i.e. private or religious) schools in addition to college. However, there are some limitations to consider. The annual dollar contribution is limited to \$2,000 for each beneficiary and individual contributors must have a modified adjusted gross income of less than \$110,000 (\$220,000 if married filing joint) in order to make a contribution. With smaller contributions even a small maintenance fee charged by the custodian could significantly affect your overall investment return.

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Education Savings 101 continued

All contributions to the CESA account must stop when the beneficiary reaches the age of 18 and the account balance must be distributed to the beneficiary within 30 days after he turns 30 years old. It is important to note that the money in the account is considered to be the student's and cannot be turned over to the person who established the account.

For comparison purposes, here are some points of the Section 529 Plan and CESA at a glance:

<b>Question</b>	<b>529 Plan</b>	<b>CESA</b>
1. Where can the account be established and where is it maintained?	Account established and maintained at the state level.	Custodian must be a bank or an entity approved by the Internal Revenue Service.
2. What is the annual contribution limit per designated beneficiary?	No limit	\$2,000
3. Who can contribute?	Anyone -- No restrictions	Organizations such as corporations, trusts and individuals with modified adjusted gross income of \$110,000 (\$220,000 on joint returns).
4. Are contributions deductible for federal income tax purposes?	No	No
5. Can contributions other than cash be made?	No	No
6. What is an eligible educational institution?	College or university eligible to participate in student aid.	College or university eligible for student aid and elementary and secondary private, public or religious schools.
7. When must contributions stop?	No age restriction unless imposed by the program.	When beneficiary turns 18 years of age.
8. Does the income in the account grow tax-free?	Yes	Yes
9. Are distributions tax-free?	Yes, as long as used for "qualified" expenses. 10% penalty tax may apply to earnings if distributions used for non-qualifying expenses.	Yes, as long as used for "qualified" expenses. 10% penalty tax may apply to earnings if distributions used for non-qualifying expenses.
10. Can you change beneficiaries?	Yes, to family members.	Yes, to family members.
11. Who retains control of the account?	Donor	If account is not used, the balance is paid to the beneficiary at 30 years of age.
12. What are the investment options?	Generally age-based or static investment strategies developed by the program.	Broad range of securities and certain other investments available by the Custodian.
13. Federal Gift Tax Treatment	Contributions are treated as completed gifts where one needs to apply \$13,000 annual exclusion. Can elect to spread the contributions of more than \$13,000 but less than \$65,000 over a five year period.	Contributions are treated as completed gifts where one needs to apply \$13,000 annual exclusion.

# Company News

## 10 YEAR ANNIVERSARIES – TIME FLIES!

During the past few months we've had the opportunity to congratulate two long-term employees for ten years of loyal, dedicated service to Gates, Moore & Company.

Shannon Euart, CPA, celebrated her tenth anniversary as a Senior Accountant with Gates, Moore & Company in August. Barbara Grant, CPA, AIBA, Principal, celebrated her tenth anniversary, also in August.

We want to thank these two individuals for all that they have brought to the company. Numbered among these traits are not only their skills and expertise, but also their unfailing ability to create and sustain client satisfaction and the resulting outcome: client loyalty. Please join us in congratulating Shannon and Barbara on their years of accomplishment with Gates, Moore & Company.

## SUMMER OF CERTIFICATION

While many of us had a chance for a nice vacation or "staycation" this summer, the accounting and consulting staff of Gates, Moore & Company was busy increasing their knowledge base. We experienced some great achievements this summer that we would like to share with you.

Regina Dukes and Theresa Cheng of our accounting department completed course study and obtained a Certificate of Completion for the National Institute of Pension Administrators Distribution Certificate Program.

Tracy Pope, Consultanting Coordinator, completed her study and course work and received a certificate as a Certified Professional Coder-Apprentice, as issued by the American Association of Professional Coders.

Tynan Olechny, Senior Consultant, and Barbara Grant, Principal, completed a week-long course sponsored by the National Association of Certified Valuation Analysts (NACVA). Having passed the intensive exam, Tynan and Barbara are well on their way to gaining NACVA certification as business appraisers.

Gates, Moore & Company has always put a great deal of emphasis on continuing education, but this summer yielded a bumper crop! Please join us as we congratulate these individuals on their hard work, dedication, and accomplishments in achieving their various certifications and achievements. All of this advanced training continues to bolster our abilities to meet the ever changing needs of our tax and accounting and consulting clients.



*Update: Practice Management is published quarterly for clients by Gates, Moore & Company. Your questions and comments may be directed to:*

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