



BENEFIT *Advisor*

In This Issue

In this special alert, we will discuss the Michigan law recently enacted to reduce the potential for identity theft. The Social Security Number Privacy Act of 2004 is effective on March 1, 2005 with several components becoming effective January 1, 2006. The intent of this law is to require that certain security measures be taken when individuals or organizations use or maintain social security numbers as part of their business operations.

We welcome your comments and suggestions regarding this issue of our technical bulletin. For more information on this Benefit Advisor, please contact your Account Manager or visit the McGrawWentworth web site at www.mcgrawwentworth.com.

Special Alert:

“Social Security Number Privacy Act of 2004”

The Social Security Number Privacy Act recently went into effect and may impact how your organization uses, stores and maintains records that include an individual’s social security number. The official effective date is March 1, 2005; however, several elements have a January 1, 2006 effective date.

This law will apply to any person or organization that obtains one or more individual social security numbers in the ordinary course of business.

The law’s requirements are organized in two major sections:

- Privacy policy
- Prohibited uses of the social security number of employees, students, or other individuals

We will address these requirements in detail as well as penalties for non-compliance and the potential impact on your organization.

Privacy Policy

Affected individuals and entities must create a privacy policy by January 1, 2006 that addresses the security measures that apply to the social secu-

rity numbers collected and/or maintained as part of their business practices. The privacy policy must address measures taken by the organization that:

- Ensure to the extent practical, the confidentiality of the social security numbers.
- Prohibit unlawful disclosure of the social security numbers.
 - Limit access to the documents or information that contain the social security numbers.
 - Describe how to properly dispose of documents that contain social security numbers.
- Establish penalties for a violation of the privacy policy.

The privacy policy must be published in the employee handbook, in a procedures manual or in one or more similar documents which may be made available electronically.

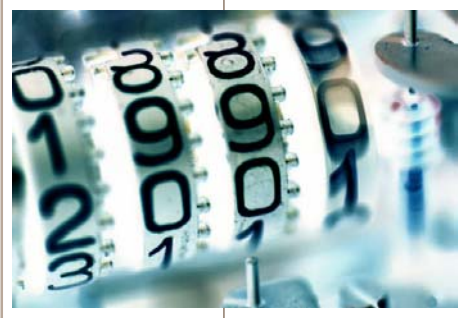
The privacy policy requirement is waived for organizations that utilize social security numbers in the normal course of business and are in compliance with Fair Credit Reporting Act (15 USC 1681 to 1681v) or are in compliance with subtitle A of the Gramm Leach Bliley Act.



Prohibited Uses of the Social Security Number of Employees, Students, or Other Individuals

This law dictates that a person shall **not** intentionally do any of the following with an employee, student or any individual's social security number:

- Publicly display all or more than 4 sequential digits of the social security number.
- Subject to any exceptions noted below, use all or more than 4 sequential digits of the social security number as the primary account number for the individual.
- Print all or more than 4 sequential digits of the social security number on any identification badge or card, membership card, permit or license. If a person or organization already has a plan to implement a change in the printing of the social security number on any of the above identification cards, the effective date of this requirement is the earlier of the date of project completion or January 1, 2006.
- Require an individual to use or transmit all or more than 4 sequential digits of the social security number over the Internet, a computer system or a network unless the connection is secure or the transmission is encrypted.



- Require an individual to use or transmit all or more than 4 sequential digits of the social security number to gain access to an Internet site, a computer system or a network unless the connection is secure, the transmission is encrypted, or a password or other unique individual personal identification number or other authentication device is required to gain access.
- Include all or more than 4 sequential digits of the social security number in or on any document mailed or otherwise sent to an individual if the social security number is visible, without manipulation, from the outside of the envelope or packaging.
- Include all or more than 4 sequential digits of the social security number in a document mailed to a person beginning January 1, 2006. This requirement does not apply if:
 - State or federal law, rule, authorization or court order permits or requires the social security number be included in the document.
 - The document is sent as part of an application or enrollment process initiated by the individual.
 - The document is sent to establish, confirm status of, service, amend or terminate an account, contract, policy, or employee or

health insurance benefit or to confirm the accuracy of the social security number of an individual who has an account, a contract, policy, or employee or health insurance benefit.

- The document is mailed by a public body under any of the following circumstances:
 - ◆ The document is a public record and mailed in compliance with the Freedom of Information Act.
 - ◆ The document or information is a copy of a public record filed or recorded with a county clerk or register of deeds office and is mailed to the person entitled to receive that record.
 - ◆ The document is a copy of a vital record recorded as provided by law and is mailed to the person entitled to receive the record.
 - ◆ The document is mailed by request of the individual whose social security number appears in the document.
 - ◆ The document is mailed to comply with Gramm Leach Bliley Act, HIPAA, or sections of the Insurance Code.

The requirements of this section do not apply to the following:

- The use of the social security number that is authorized or required by state or federal law, rule, regulation, court order, or pursuant to the legal discovery process.

- The use of the social security number by a title IV D agency, law enforcement agency, court, or prosecutor as part of a criminal investigation or prosecution.
- It is not a violation to use more than 4 sequential digits from a social security number to do any of the following:
 - Verify an individual's identity or similar administrative purpose in regard to an account, transaction, product, service, or employment.
 - Investigate an individual's claim, credit, criminal, or driving record.
 - Detect, prevent, or deter identity theft, or any other crime.
 - Lawfully pursue or enforce a person's legal rights including, but not limited to, an audit, collection, investigation, or transfer of a tax, employee benefit, debt, claim, etc.
 - Lawfully investigate, collect or enforce child support payments.
 - **Provide or administer employee or health insurance or membership benefits, claims or retirement programs, or to administer the ownership of shares of stock or other investments.**
 - If the use of the social security number begins before March 1, 2005 and the use is ongoing,

continuous and in the ordinary course of business, this rule does not apply. If the use is stopped for any reason, this exception will no longer apply.

Penalties

A person who violates the **Prohibited Uses of the Social Security Number of Employees, Students, or Other Individuals** section with intent is guilty of a misdemeanor, punishable by no more than 93 days of imprisonment or a fine of not more than \$1,000, or both. A person who is harmed by a violation of this section may bring civil action to recover actual damages and attorney fees.

Conclusion

The Social Security Number Privacy Act has slipped under the radar and may have an impact on your organization. While many of the employee benefit functions that use the social security number are excepted from the requirements of this rule, other areas of your organization may be affected.

Your organization should examine how social security numbers are used in the course of your business. The use of your employees' social security numbers should be reviewed, as well as any client's social security numbers your organization may maintain.

Once you determine how the social security numbers are used, you need

to determine if the two key parts of this law apply to your situation:

- The privacy policy requirement applies unless your organization uses social security numbers in the normal course of business and is in compliance with Fair Credit Reporting Act (15 USC 1681 to 1681v) or is in compliance with subtitle A of the Gramm Leach Bliley Act.
- The "Prohibited Uses" requirements will apply unless all your uses of social security numbers fall under the exceptions listed in that section.

Many insurance carriers and third party administrators have discontinued using the social security numbers as the health plan contract number. While this may be a bit of an inconvenience, it can assist in protecting your employees against identity theft. For example, Blue Cross Blue Shield of Michigan is currently changing their administrative practices to assign a "de-identified" contract number. The changeover process should be complete by January 1, 2006.

If you have any questions, please contact your McGraw Wentworth Account Director or Account Manager. **MW**



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