

DECISION DIGEST

Actual cases and rulings from Princeton Claims Management

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Violation of HIPAA is Misconduct – No Exceptions

Background

A medical laboratory technologist (employee) was terminated for accessing her daughter’s medical record without authorization. The employee did not have a job-related purpose to access the record. Her daughter did not give her permission to review it and wanted to keep her medical condition private. The HIPAA violation was uncovered during a computer user audit. The employee acknowledged she was familiar with HIPAA, but did not feel she violated it because the breach concerned her daughter. The employee was suspended, pending an investigation and later terminated for violation of the employer’s policy.

Process

The former employee (claimant) filed an unemployment claim and was held disqualified for misconduct due to her deliberate violation of the employer’s HIPAA policy. The Deputy ruled that since the claimant had been advised by the employer of the company’s policy, her actions “constituted a willful and deliberate disregard of the standards of behavior the employer had a right to expect.” She disagreed with the determination and filed an appeal.

The claimant and employer witness with Princeton Claims Management appeared for the hearing. There was no dispute that the claimant accessed her daughter’s medical record without authorization. She argued that although she did not have written permission to access the daughter’s record, she was her mother and did so out of concern and did not think her daughter would object. The employer testified that unless she had written permission from her daughter or had a legitimate business reason for accessing the record, doing so was prohibited under HIPAA and a terminable offense under the hospital’s policy.

Judgment

The Appeal Tribunal examiner opined that since the claimant did not have authorization from her daughter, nor the employer, to access the medical record in question, her actions were in violation of the employer’s HIPAA policy and her disqualification for misconduct under N.J.S.A. 43:21-5(b) is affirmed.

This case illustrates that there are no exceptions for privacy protections under HIPAA regarding familial relationships without proper authorization or job-related purpose. Any unauthorized access to a patient’s file is prohibited and a deliberate disregard of the employer’s policy, which constitutes work related misconduct under NJ’s UI Law.

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