

**NEWS ALERT****HEALTH CARE****\$85,000 OCR Settlement in HIPAA Patient Rights Case**

By Daniel J. Kagan | September 20, 2019

True to a promise made earlier this year to vigorously enforce HIPAA's patient rights provisions, the United States Department of Health and Human Services Office for Civil Rights ("OCR") announced an \$85,000 settlement with a Florida hospital due to the hospital not providing a mother with timely access to her child's fetal heart records. HIPAA generally requires a covered entity to provide a patient with his/her records within thirty (30) days. Here, the hospital first claimed that it did not have the requested records, and then later, after an attorney's involvement, provided an incomplete set of records. It was not until twenty-two (22) months after the mother's initial records request that the hospital finally produced all of the requested records.

This is the first OCR monetary settlement involving patients' access rights and signifies a shift within the agency to attach higher penalties to non-compliance with the patient access rules. As part of the settlement, OCR required the Florida hospital to enter into a corrective action plan. Not surprisingly, the corrective action plan requires the hospital to, among other requirements, develop access policies and procedures to ensure that it has a comprehensive process in place to respond appropriately to all patient records requests.

This settlement should serve as a wake-up call for all covered entities when it comes to patient access to records. Now is the time to examine HIPAA policies and procedures to ensure that the access processes are clear and compliant.

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