

Report on Patient Privacy Volume 22, Number 12. December 07, 2022 OCR Video Breaks With Guidance, Rulemaking History

By Theresa Defino

Now that the HHS Office for Civil Rights (OCR) has released a video on what constitutes “recognized security practices” (RSPs), covered entities and business associates may find some of their questions answered about how they can lessen the impact of possible enforcement by OCR (see story, p. 1).^[1]

Under a 2021 law retroactive to 2016, OCR is required to take such practices into account if they were in place 12 months prior to “making certain determinations,” such as whether to impose fines, forge a resolution agreement—usually with mandatory corrective actions—or shorten an audit.

The video is one of only 11 currently posted on the agency’s YouTube channel and appears to be the first uploaded in nine years. Why OCR deviated from expectations agency officials themselves set for the issuance of formal regulations or guidance on RSPs by uploading a video remains unclear. Whether OCR plans to use the video format similarly for other issues is also unknown. An agency spokesperson did not respond to *RPP*’s questions on this issue.

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