



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

Highlights of the Month

1. Legislative Outlook for Retirement Plans in 2006
2. Legislative Outlook for Health and Welfare Plans in 2006
3. Congress Passes the Deficit Reduction Act
4. Changes in Financial Statement Reporting for Pensions and Other Postretirement Benefits
5. IRS Continues Focus on Employee Plan Examinations in 2006 Work Plan
6. Should You Audit Your Organization's Electronic Medical Records?

Legislative Outlook for Retirement Plans in 2006

During 2005, most of the legislative agenda relating to retirement plans revolved around pension funding. The Pension Protection Act (H.R. 2830) which was passed by the House on December 15th and the Pension Security and Transparency Act (S. 1783) which was passed by the Senate on November 16th contained several provisions that deal with enhancing benefits in defined contribution plans. The two bills differ significantly and, therefore, will go to the Conference Committee to work out the differences. The first meeting for the Conference Committee could be held as early as February with a bill possibly coming out of the Conference Committee in April.

Defined Benefit Plan Provisions in the Pension Security and Transparency Act (PSTA) include:

- ◆ **Funding target:** plan sponsors would be required to contribute more to their pension plans, aiming for 100%. The Pension Protection Act (PPA) provides that a plan's funding target for 2007 is 100%. However, the plan would not be considered to have a funding shortfall if it is funded at 92% in 2007, 94% in 2008, 96% in 2009, and 98% in 2010. Plans that are less than 60% funded would have to make up the shortfall based on at-risk liability funding targets. Under PPA funding shortfalls would be amortized over a 7-year period beginning with the current plan year.



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

- ◆ **Modified yield curve:** plans sponsors would be required to use a modified yield curve approach that provides a permanent interest rate for employers to calculate their pension contributions and more accurately measure their current pension liabilities as they come due, based on 3 categories: liabilities due within 5 years, liabilities due between 6 and 20 years, and liabilities due after 20 years. The yield curve would be based on an appropriate corporate bond rate comprised of several bond indexes. The PPA would also replace the corporate bond rate with a modified yield curve interest rate to determine funding, present value would be determined using 3 interest rates that are called segment rates to calculate funding obligations.
- ◆ **At-risk funding:** At-risk status would be determined both by the employer's credit rating and funding percentage. Employers that are below investment grade and have 2 years of declining bond ratings starting after 2007 and are below 93% funded would have to fund toward at-risk target liability in the third year that the sponsor is below investment grade. At-risk would be phased in at 20% per year, not including any year in which ratings have not declined.
- ◆ **Increased deduction limits:** the deductible limit for contributions to the pension plan would be increased to 180% of target liability. PPA provides for an increase in the maximum deductible limit up to 150% of the current liability.
- ◆ **Protect shutdown benefits:** Shutdown benefits would be preserved but the PBGC guarantee would be phased in over 5 years beginning with the date of shutdown. PPA provides that a single employer plan would be prohibited from providing benefits that are contingent upon the occurrence of a plant shutdown or any other unpredictable contingent event. However, a plan would be prohibited by the anti-cutback rules from removing any such provision to comply with the bill if enacted.
- ◆ **Benefit limitations:** No benefit increases would be permitted, with certain limited exceptions, if the plan is less than 80% funded. Lump-sum payments would be limited if the sponsor is bankrupt and the plan is less than 100% funded, or the plan is less than 60% funded. Lump-sum payments would be limited to 50% of the amount otherwise payable, not to exceed the present value of the participant's maximum eligible guarantee from the PBGC. PPA contains a provision that would prohibit increased benefits or lump-sum distributions if the plan is less than 80% funded unless an immediate contribution is made to the plan to entirely pay for the increase or payout. In addition, benefit accruals would be prohibited for plans less than 60% funded, which would freeze the plan.
- ◆ **Fair treatment for workers and executives:** An employer could not fund executive compensation plans if it is in bankruptcy or the defined benefit pension plan is funded below 60% (80% if the employer is in at-risk status). PPA prohibits the funding of nonqualified deferred compensation plans beginning in 2007 if the plan sponsor is in bankruptcy or is funded below 60% (80% if the sponsor is in at-risk status).



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

- ◆ **Airlines:** a 14-year funding transition period to preserve airline pension plans would be provided. No corresponding provision in PPA.
- ◆ **New disclosures:** Give workers timely and accurate information on pension plan finances by requiring that within 90 days after the close of each plan year, workers and retirees would be provided with a report that tells them how well funded their pension plan is, and comparing its funding level for the current year to the previous 2 years. Expansion of the information single employer and multiemployer plans must report. PPA adds an additional notice requirement whereby pension plans would be required to notify participants and retirees of the actuarial value of the plan's assets and liabilities as well as the funded percentage of the plan.
- ◆ **Cash balance conversions:** Protect older workers in cash balance conversions by providing clear legal guidance that cash balance plans are not inherently age discriminatory. Additionally, require that cash balance plans be more portable, so that they better serve a mobile workforce and provide transition benefits or a choice between the old pension and the new one. No corresponding provision in PPA.

Defined Contribution Plan Provisions in the PPA and PSTA

- ◆ **Automatic enrollment:** Both bills contain provisions regarding automatic enrollment. Under PPA, companies adopting qualified automatic enrollment would enjoy a safe harbor that exempts them from the participation, nondiscrimination and top-heavy rules. Both bills provide that employees would be enrolled at a 3% salary deferral level. Under PPA the deferral rate would increase 1% per year until the maximum automatic salary deferral was 6% of compensation. PSTA provides that the deferral rate would increase 1% per year until reaching 10% of compensation. Employees would still have the ability to opt out of the automatic enrollment or change the amount of salary deferral. The employer must match at least 50% of salary deferrals up to 6% of compensation (7% under PSTA) or contribute 2% of salary (3% under PSTA) for all employees. Under PPA, vesting would be accelerated so that employer contributions would vest after 2 years of service. Both bills would preempt state laws that interfere with automatic enrollment arrangements and provide fiduciary protection for employers' default elections.
- ◆ **Permanent EGTRRA Extension:** PPA would permanently extend EGTRRA's retirement savings provisions which include the saver's credit. No similar provision in PSTA.
- ◆ **Diversification of Employer Stock:** PSTA provides that employees would be able to immediately direct the investment of their elective deferrals. Employees would have the ability to diversify employer-contributed employer stock after 3 years of service. ESOPs would be exempt from the diversification requirements and plans that hold



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

stock on the date of enactment would have a 3-year phase-in period for stock held on the act's effective date. No similar provision in PPA.

- ◆ **Participant Disclosures:** Under PSTA, workers and retirees would receive quarterly statements if they are allowed to direct the investment of their accounts. If the plan is not participant-directed then annual statements would be required. The statements would be required to include total assets, vested benefits (or the vesting date), and the value of employer stock. The notice would also be required to explain any limits on participant's ability to direct the investment of their accounts. No similar provisions in PPA.
- ◆ **Investment Education:** PSTA would give protection under ERISA section 404(c) for investment advice if the advice is provided through an independent advisor who meets certain disclosure requirements. Between 2006 and 2010, employers could offer a choice of cash or qualified investment advice (up to \$1,000) on a pre-tax basis.

Legislative Outlook for Health and Welfare Plans in 2006

Most of Congress' attention for 2005 was focused on retirement plans and the current funding of those plans. However, several bills that impact healthcare were also introduced in 2005 and may be passed during 2006. Bills currently being considered deal with the following areas in healthcare:

- ◆ **Healthcare information technology**
 - Public Law 109-149 was enacted on December 30, 2005 and contained \$67.1 million for the Health Information Technology initiative to develop an interoperable national health IT infrastructure.
 - The bill also required the Department of Health and Human Services (HHS) to deliver a report within 90 days describing how HHS intends to address privacy issues in the information technology program.
 - Several bills have been introduced that would create an interoperable health IT system through the adoption of standards that will help reduce costs, enhance efficiency and improve overall patient care.
- ◆ **Patient safety and medical errors**
 - A Senate bill would require the Secretary of Health and Human Services (HHS) to develop and implement value-based purchasing programs under Medicare for acute-care hospitals, physicians and practitioners, Medicare Advantage plans, end-stage renal disease providers, and home health agencies.
 - Under the Senate bill physicians who report quality data would receive full Medicare reimbursement in 2007. Physicians who do not report quality data would have their updates reduced by 2%.



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

- Under the House bill physicians would receive a 1.5% payment increase in 2006. In 2007-2008, a physician that submits information on performance on the quality and efficiency measures selected with respect to individuals would receive the full update and those who do not would have their updates reduced by 1%.
- ◆ **Medical malpractice reform**
 - The House bill would set a cap of \$250,000 on pain and suffering (noneconomic) damages in healthcare lawsuits. It would also limit the amount of punitive damages to the greater of \$250,000 or twice the amount of economic damages.
 - The House bill would also impose a 3-year statute of limitations, except in certain cases, and damages would be subject to a “fair share” rule in which damages would be allocated in direct proportion to fault. The House bill would also limit attorney’s fees which would be based on a sliding scale:
 - 40% of the first \$50,000 awarded
 - 33.3% of the next \$50,000 awarded
 - 25% of the next \$500,000 awarded, and
 - 15% of any award over \$600,000.
 - The Senate bill would also impose a \$250,000 cap on noneconomic damages, joint liability and collateral source improvements and limit attorneys fees according to a sliding award scale. Punitive damages would be limited to the greater of \$250,000 or twice the amount of economic damages where providers are found to be grossly negligent.
- ◆ **High risk insurance pools**
 - Both houses of Congress have bills that would appropriate \$90 million for fiscal year 2006 to help states create new high risk pools.
 - The House bill would also authorize \$75 million annually for fiscal years 2007 through 2010 for operational expenses.
- ◆ **Tax incentives for health insurance coverage**
 - Increase the tax deduction for individual health premiums paid for a high deductible health plan (HDHP) by allowing an above-the-line tax deduction for the premiums, i.e., deduction is taken in calculating adjusted gross income.
 - Provides for an advanceable, refundable tax credit for low-income individuals that purchase health insurance coverage through a purchasing pool.
- ◆ **Prescription drug safety**
 - Creation of a new office in the Federal Drug Administration (FDA) to monitor the safety of medications after FDA approval.
 - Contains a requirement that drug manufacturers seek the approval of the new FDA office for advertising new drugs, high-risk medications, and those not tested in post-market clinical trials.



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

- ◆ **Prescription drug importation**
 - Pending legislation would allow the reimportation of prescription drugs from Canada and other countries, if exporters register with the FDA and meet other safety concerns.
 - Registered exporters would be required to pay an annual fee for anticipated costs of enforcing the amendments made by the bill.
 - Bipartisan legislation would allow importation of FDA-approved prescription drugs from 25 countries that have comparable regulation to that of the FDA within 1 year of the bill's enactment. Imported drugs would be tracked, examined and properly labeled by licensed pharmacists.
- ◆ **Military service and employer sponsored health coverage**
 - Pending legislation would allow reserve and National Guard members to reinstate their employer-sponsored health coverage after returning from military service and their premiums could not be increased unless the premiums for similarly situated other employees were also increased.
 - Another bill would require employers to continue health coverage to dependents of members of the National Guard and Reservists who are called to active duty for the entire duration of such service. The Department of Defense would reimburse employers for its share of health care premiums.
- ◆ **Medicare and Medicaid reform**
 - Medicare reform bills would amend the Medicare Modernization Act (MMA) to allow HHS to directly negotiate prescription drug prices with drug manufacturers.
 - Medicaid provisions would require self-insured plans or other third parties legally responsible for payment of a claim to turn over eligibility data to enhance existing Medicaid third-party recovery programs under state law.
 - The bill would also require employers that do more than \$1 million of business with Medicaid to have False Claims Act education programs for their employees.
- ◆ **Increasing access to health insurance**
 - Small employers would be provided with tax credits to reduce the premiums they pay to cover their employees.
 - Coverage for children under Medicaid would be expanded and tax incentives provided for health insurance coverage for children.
 - Amend ERISA to require group health plans to offer enrollees the option of purchasing dependent coverage for children under age 21 but would not require employer contributions for such dependent coverage.



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

◆ **Association health plans**

- This legislation would allow small businesses to band together through national trade associations to offer health insurance coverage to their employees across state lines.
- The intent is to increase small businesses' bargaining power with health care providers, and waive certain state mandated requirements.
- The Senate bill would allow small businesses and associations to pool their members together to create Small Business Health Plans (SBHPs).
- SBHPs would not be allowed to self-insure but be permitted to pool independently from the underlying small group market.
- SBHPs would be required to be federally certified, be established for reasons other than providing health coverage, and be in existence for at least 3 years.
- States would retain primary regulatory oversight over SBHPs.
- SBHPs would be required to include benefits that have been mandated by at least 45 states.

◆ **Tax incentives for long-term care (LTC) insurance**

- A current bill passed by the House would permit riders for LTC coverage to be included in annuity contracts and would update the rules regarding combinations of life insurance and LTC insurance contracts.
- The house bill would not permit income tax deductions for LTC premiums as medical expenses.
- The bill would allow a tax-free conversion of certain insurance contracts into annuities.

◆ **Health insurance for nonimmigrant temporary workers**

- These provisions are part of a broader border enforcement and immigration reform bill.
- This bill would require foreign countries to enter into bilateral agreements with the U.S. before foreign nationals would be allowed to participate in a temporary visa program or apply to mandatory departure which enables these nationals to voluntarily depart the U.S. and reenter as temporary workers.
- The participating foreign countries would be required to provide a minimum level of health coverage to these temporary workers.
- If the participating foreign country provides coverage below the minimums that are established by the Secretary of HHS, health coverage must be provided by the employer or obtained by the worker.



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

Congress Passes the Deficit Reduction Act

In our January edition we discussed the Deficit Reduction Act (DRA) which would increase PBGC premiums from \$19 per participant to \$30 per participant. Both the House and the Senate had passed the legislation prior to year-end 2005. However, the version passed by the House was different than the modified version that was passed by the Senate. On February 2, 2006, the House passed the modified version of the DRA which will now go to the President for signature. In addition, the DRA establishes an employer-paid termination premium of \$1,250 per plan participant for 3 consecutive years for companies that terminate their pension plans. The termination premium will sunset after 5 years.

Changes in Financial Statement Reporting for Pensions and Other Postretirement Benefits

In November 2005, the Financial Accounting Standards Board (FASB) voted to add a two-phased project to improve the financial reporting of pension and other postretirement benefit plans in financial statements. FASB's goal is to make the information more useful and transparent for investors, creditors, employees, retirees and other users. Specifically, FASB will reconsider the guidance in FAS No. 87, "Employers' Accounting for Pensions" and FAS No. 106, "Employers' Accounting for Postretirement Benefits Other Than Pensions."

The first phase of the project which will be completed in 2006 will address how the financial status of the company's plan(s) is reported in the company's financial statements. Currently, this information is reported in the footnotes but not in the basic financial statements. Therefore, in order to improve transparency in the company's financial statements, the company will be required to report the funded or unfunded status of its defined benefit and other postretirement benefit plans in its balance sheet. The funded or unfunded status of the plans will be measured by the difference between the fair market value of the plans' assets and current measure of the benefit obligation incurred for past employee service.

The second phase of the project will comprehensively address the remaining issues that include:

- ◆ How to best recognize and display in earnings and other comprehensive income, the various elements that affect the cost of providing retirement benefits;



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

- ◆ How to best measure the obligation, in particular the obligations under plans with lump-sum settlement options;
- ◆ Whether more or different guidance should be provided regarding measurement assumptions; and
- ◆ Whether postretirement benefit trusts should be consolidated by the plan sponsor.

During January 2006 FASB held its first meeting on this project and decided that the objectives and scope of the first phase are to:

- ◆ Improve the reporting of employers' obligations for pensions and other postretirement benefits by recognizing the overfunded/underfunded status of the defined benefit postretirement plans as an asset or liability in the statement of financial position. This means that the plan sponsor will recognize all previously unrecognized items, e.g., unrecognized actuarial gains and losses, even when the plan is fully funded.
- ◆ Not change how plan assets and benefit obligations are measured under FAS 87 and FAS 106, i.e., the asset or liability would be measured as the difference between the fair market value of plan assets and the benefit obligation. The benefit obligation is the projected benefit obligation for pensions and the accumulated postretirement benefit obligation for other postretirement benefits.
- ◆ Not change the basic approach for measuring the amount of annual net benefit cost reported in earnings.
- ◆ Implement phase I improvements as quickly as possible, with the goal of making them effective for years ending after December 31, 2006.

Additionally, FASB decided to:

- ◆ Require entities to report the overfunded/underfunded status measured as of the date of the financial statements.
- ◆ Not change the current accounting for defined benefit plans in interim-period financial statements.
- ◆ Require recognition of an asset for overfunded plans and a separate liability for underfunded plans.
- ◆ Recognize previously unrecognized items as follows:
 - Previously unrecognized actuarial gains or losses would be recognized as a charge or credit to other comprehensive income. Gains or losses recognized in other comprehensive income would be recycled out of other comprehensive income into earnings based on the amortization and recognition requirements in FAS 87 and FAS 106.
 - Previously unrecognized prior service costs or credits would also be recognized as a charge or credit to other comprehensive income. Again, these



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

- items would be recycled out of other comprehensive income into earnings based on the amortization and recognition requirements of FAS 87 and FAS 106.
- Previously unrecognized net transition assets or obligations would be recognized as an adjustment to retained earnings. These amounts would not be subsequently recycled through earnings.
- ◆ Codify into FAS 87 the guidance in Q&A 41 of “A Guide to Implementation of Statement 87 on Employers’ Accounting for Pensions,” that articulates the present requirement to recognize the current and noncurrent portions of the assets and liabilities recognized for postretirement benefits.
- ◆ Not require separate line item presentation of amounts recognized in the balance sheet. FASB noted that amounts recognized in other comprehensive income would be classified based on the nature of the item which is in accordance with FAS 130, “Reporting Comprehensive Income.”

IRS Continues Focus on Employee Plan Examinations in 2006 Work Plan

In announcing the Employee Plans (EP) FY 2006 Work Plan, it was stressed that EP shares the IRS’s 3 strategic goals of: improving taxpayer service; enhancing enforcement of the law; and modernizing the IRS through its people, processes and technology. One of the operating priorities for EP is increased focused examinations of employee plans. Beginning in FY 2002, Form 5500 returns for 401(k) plans in various market segments were assigned for examination. These returns were dispersed geographically throughout the United States. Based on this project EP identified the following ten issues for 401(k) plans.

- 1. Late deposit of 401(k) deferrals.**
- 2. Improper 401(k) accelerated deductions.** This issue has been identified as a tax shelter by the IRS.
- 3. Failure to use correct compensation.** This issue was one of the issues with the highest frequency. The following items resulted in the errors noted by the IRS.
 - a. Violation of the maximum compensation limit under Code section 401(a)(17).
 - b. Incorrect definition of compensation used when allocating contributions.
 - c. Misinterpretation of plan provisions, e.g., failure to include bonus in definition of compensation.
 - d. ADP test failure due to incorrect compensation used for HCEs, e.g., not applying the limits under Code section 401(a)(17).



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

- e. ADP test failure as a result of not including all deferrals in testing.
 - f. ADP test failure as a result of using current year data when plan document required use of prior year data.
- 4. Improper exclusion of eligible employees for purposes of ADP/ACP testing.**
Examples of this error included:
- a. Eligible employee who elected not to make 401(k) deferrals was left out of test rather than being included with a zero deferral rate.
 - b. Ineligible employees based on the plan document who were permitted to make deferrals.
 - c. Employees not being allowed to participate timely in the plan.
 - d. Not all participants included in the testing.
 - e. Incorrect classification of employees as HCEs and NHCEs.
- 5. Misclassification of employees as HCEs/NHCEs.** Failure to correctly identify all HCEs in the controlled group.
- 6. Failure to timely correct ADP/ACP failures.**
- 7. Incorrect matching employer contributions.**
- 8. Deferrals in excess of the Code section 402(g) limit.** Failure to distribute the excess deferrals plus related earnings before April 15th of the subsequent year.
- 9. Improper reliance on safe harbor provisions.** Plan sponsors fail to provide the annual notice to plan participants and/or improperly calculate the safe harbor contributions.
- 10. Failure to meet hardship distribution requirements.**

Other issues that the EP agent focuses on include:

- ◆ Potential vesting/distribution issues when there is a termination or partial termination.
- ◆ Timeliness and/or calculation of contributions for acquired companies.
- ◆ Failure to follow the terms of the plan document including failure to timely amend the plans to comply with new legislation.
- ◆ Distributions and loans
- ◆ Code section 415 failures when an employer sponsors several plans and the employer is making contributions to all plans.

Restructuring of the EP examination process means that the IRS will be able to examine more plans with fewer resources. The new EP examination procedure means that the EP agent will request a copy of the plan document when you are notified about the examination of the plan's Form 5500. After the EP agent has reviewed the plan document and amendments that you submitted, you will receive an appointment letter requesting the items necessary to resolve the issues that the EP agent has identified by reviewing the plan document and amendments. If you have conducted your own review



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

of the plan's operations and corrected any errors under the Employee Plans Compliance Resolution System (EPCRS), you may be able to have the EP agent close his/her examination based on the corrective action you have already taken. This allows the agent to close his/her examination in a timelier fashion.

Should You Audit Your Organization's Electronic Medical Records?

HIPAA mandates that covered entities are responsible for unauthorized disclosure of protected health information (PHI). While this mandate does not require that you conduct an audit of your electronic medical records, an audit is an effective means of heading off improper disclosure. Additionally, a good auditing program demonstrates your commitment to privacy compliance.

Before establishing an auditing program, you must take stock of its current status. HIPAA requires that all users must be assigned individual user logins and access levels. In addition, you must know where PHI resides. You should start by examining high-risk systems first and work from there.

The main health information system likely will be a top priority because of all the information that it contains. The next would likely be high-risk ancillary systems such as an emergency department, lab and any systems that hold psychiatric notes or information about substance abuse. The latter two items have more stringent privacy restrictions than does other PHI.

The next step is to assess existing auditing capabilities. Most information systems provide audit trails which will be the basis of the audit. If your information system does not have the audit trails, there are a couple of options. The first is that your current system can be upgraded to include the audit trails or secondly, you can choose to install an audit program over your existing software to monitor activity.

There are two methodologies that can be used to conduct the audit.

- ◆ **Random sampling.** Under this methodology, you would pull a random set of records and verify that each individual who accessed the record did so for appropriate reasons. This type of sampling often does not pick up violations but it does send the message that someone is watching the activity which serves as a deterrent.
- ◆ **Unusual patterns.** In performing this type of audit, you will need to determine what types of events you want to audit. Some scenarios to consider are:
 - Employees who are also patients.
 - VIPs



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 2 – February 7, 2006

- Physicians and/or their families who are patients.
- A patient that has the same name as a user.
- Emergency department browsing.
- Nighttime browsing.
- High volume of use by individual users.
- Patients who are in the news.
- Patients who have requested additional confidentiality.

When you settle on an audit methodology, you will need to determine whether your information system supports your audit plan. For most organizations, automating the audit process is essential for the audit to be successful. This part of the audit process will tell you who has accessed a patient's record not whether the access is appropriate.

The next step in the audit process is to determine who gets the audit results. Normally, the audit results are used internally and who is given access is governed by human resource policies and procedures. In most cases, the privacy officer will note when an employee has accessed a record and notify his/her supervisor. The supervisor must verify that the individual who accessed the record was doing so in the process of carrying out his/her job.

The audit results lead to process improvement. If the individual's supervisor verifies that the access was proper, no further action is necessary. If the access is in a gray area, the individual should be counseled by the supervisor and this area should be included in training classes for the future. If the access was inappropriate, the audit will trigger a formal disciplinary proceeding.

The conduct of regular audits will help you assess whether you are making progress complying with the privacy provisions that relate to PHI.