Introduction
A number of employers in the United States have begun to offer their employees access to personal health records (PHRs) as a means to improve their health, promote wellness programs, manage costs, and give employees greater access to and control over their own health information. PHRs offered by employers vary in scope and application, and the policies and practices governing the programs differ significantly. Employer-sponsored PHRs range from internally developed applications to third-party services. The costs of developing and maintaining an employee PHR and the lack of a clearly identifiable return on investment have led most employers to proceed cautiously. Additional barriers—including a lack of a sustainable business model and demonstrable economic benefits, weak consumer demand and use, and a confusing legal and regulatory regime around patient privacy and security—make the decision for employers to enter the PHR arena a complex one.

This issue brief provides a basic overview of PHRs, a snapshot of current PHR initiatives launched by leading employers, legal and policy issues posed by PHRs, and questions to consider in charting a way forward. It relies greatly on the insights shared by employer representatives during one-on-one interviews with representatives of large national employers during July and August 2006.

What Is a PHR?
A PHR can exist in many different forms, both electronic and paper. It can be as simple as a form created by an individual to record important medical information or as complex as a Web-based system accessed and populated by patients, health care providers, insurers, pharmacies, employers, and companies providing health-related content. Information in a PHR may include family history, medication and immunization registers, lab results, digital images of tests (such as mammograms and MRIs), claims data, health assessments, drug interaction warnings, drug refill reminders, guidance aimed at managing or preventing a particular condition or disease, and resources for locating and rating physicians and hospitals. A PHR can be created and maintained by individual patients, their caregivers, or family members.

A PHR system can be offered and managed by employers for the benefit of their workforce, providing for a range of access and control by employees, as well as providers, payers, and content providers. A PHR can be portable, stored on a card or a USB drive and viewed or edited by plugging the device into a computer at home or at the point of care, or it can be Web-based and accessible via the Internet.

PHRs should be distinguished from electronic health records systems (EHRs). While both offer the functionality to collect health information...
about an individual, PHRs focus on providing information of value to consumers, while EHRs focus on informing clinical practice and facilitating claims handling.

**Benefits of PHRs**

By consolidating and providing easier access to an individual’s comprehensive health information, PHRs can improve health care outcomes and efficiency. Specifically, PHRs have the potential to:

- Provide people access to their own comprehensive information in a manner that is useful and understandable so they may better assess and manage their health, both in the prevention and treatment of illness and disease;
- Make it easier and more efficient for providers and other participants in the health care delivery system to locate and share data;
- Reduce costs by avoiding unnecessary duplicate tests due to lack of available records and eliminating copying and shipping of paper records; and
- Improve health care communications by providing the capacity for providers, payers, and patients to share information easily, effectively, and securely.

**PHRs and Employers**

A number of employers are beginning to offer some form of a PHR to their employees. A key motivator is the recognition that as employees take on greater financial responsibility for their own care, they may benefit from having greater access to and control over their health and claims data. Some employers offer a PHR as an employee benefit using a third-party to host and operate the site.

Planning for and adoption of PHRs by employers is at an early stage. Some employers are developing a PHR capacity on their own, while others are focused on developing a consortium or collaboration with other companies. For instance, one organization is leading an industry collaborative to create a start-up public utility model for PHRs, providing data warehousing capacity and allowing PHR vendors to connect through a portal. The federal government now requires health plans covering federal employees to offer a PHR for access to claims data.

Existing employer-based PHRs run the gamut, offering a variety of services. Examples include:

- A PHR connected with the employer’s on-site medical clinics, with tracking software for paper records;
- A PHR for employer-generated health data related to employee-assistance plans, on-site clinics, and wellness programs for use by employers’ health care providers that employees can access only through those providers;
- A PHR for employees to track the use of their flexible spending accounts through claims data, with a planned expansion into combining claims and clinical data;
- A PHR for entering and checking key health measures (such as cholesterol, weight, drug interactions) and managing care (such as through online smoking cessation, stress and weight management programs) that employees can edit and view for themselves and their dependents. Employers offer an incentive of reduced premiums for employees who accumulate points for using the PHR. The PHR is portable if the employee leaves the company and joins a company that has a similar capacity with the third-party PHR vendor;
- A PHR for benefits administration, providing employees with access to claims data and tracking payments; and
- A PHR offered as part of a broader health management initiative, offering employees the ability to enter data and providing content related to wellness programs and health information.
relevant to the employee and dependents. Quality data is available on providers and hospitals. Medical and pharmacy claims are available, as well as health risk appraisals to be completed by the employee, which trigger check-up and medication reminders and health maintenance and prevention information.

**Barriers to Adoption**

Employers identify a number of barriers to adopting or expanding PHRs for their employees, despite the acknowledged benefits. Impediments range from concerns about cost to legal and policy uncertainties. Privacy fears are shared by employers and their employees, who worry about security breaches, unauthorized access and use, and misperceptions about employer access to identifiable health information. More specifically, identified barriers can be summarized as:

- Lack of a sustainable business model;
- Lack of significant research detailing benefits derived from PHRs;
- Privacy concerns regarding employer access to patient information; and
- Lack of consumer demand.

**The HIPAA Privacy Rule and Employer Use of PHRs**

The federal Privacy Rule, promulgated under authority of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and in force since April 2003, applies directly only to covered entities, namely health care providers and health plans. Self-insured employers are governed by the rule in their capacity as payers and are required to erect a firewall between benefits and personnel functions.

A covered entity under the privacy rule may use and disclose protected health information by contracting with a business associate—such as an employer—who is bound by the same obligations and limits as the covered entity. However, the privacy rule does not govern employers who collect information directly from employees for such things as pre-employment physicals and job applications or through employee assistance and wellness programs.

Therefore, a PHR created and maintained by an employer may or may not be governed by the HIPAA privacy rule. Very generally:

- In its capacity as a self-insured employer, a company may contract with a third party to administer benefits and offer a PHR to employees. In that instance, information in a PHR can be populated by the plan or by providers for treatment, payment, or health care operations without the patient's authorization, with some limitations.
- Under the privacy rule, patients have the right to see and amend information about them held by providers and plans. This means that a PHR can be populated directly by a patient or at the patient's direction.
- An employer can serve as a business associate of a provider or plan in sharing information directly with patients. In this instance, an employer is limited in how it can use and share the identifiable data.

Regardless of the form in which a PHR is offered and whether an employer's activities are covered by the HIPAA privacy rule, employers may feel compelled to outline to employees the legal rules governing the data, both to clarify the law and to dispel any misperceptions or apprehensions. Further, some employers may find that developing a set of voluntary practices and policies regarding the use of employee health information in a PHR creates an incentive for adoption by fostering trust.
Recommendations

In fostering the use of PHRs as a means to improve care and lower costs, there are a number of steps employers may consider to overcome barriers to adoption. Discussions with the employers interviewed for this paper yielded the following five recommendations:

1. Employers need a set of messages and tools for reassuring employees about the privacy and security of their health information contained in a PHR, including information shared by others, such as providers, payers, and content providers, as well as the data employees choose to enter about themselves and their dependents. Employers should offer clear and understandable corporate privacy notices that describe exactly what employers can and cannot do with the PHR and its data, and develop policies to ensure that they align with that notice.

2. Employers need some legal certainty as to how federal and state laws regulate an employer-driven PHR.

3. To the extent a PHR is not governed by federal and state laws, employers need to outline a voluntary framework of policies and practices.

4. Employers need to facilitate and adopt standards for PHRs to enable their development, use, and interoperability. At a minimum, these standards should address the privacy, confidentiality, and security of PHRs.

5. Where interest exists in a collaborative effort among employers to create PHRs, policies need to be developed to describe the scope of work.

While PHRs hold great promise, there remain many technical, organizational, legal, and financial hurdles. Employers, through their unique relationship with employees as purchasers of health care, have the potential to address and shape solutions to improve health care delivery and promote employee wellness and disease prevention.

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