



FUNK & BOLTON

ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION  
TWELFTH FLOOR  
36 SOUTH CHARLES STREET  
BALTIMORE, MARYLAND  
21201-3111  
PHONE: 410.659.7700  
FAX: 410.659.7773  
www.fblaw.com

DAVID M. FUNK (MD)  
BRYAN D. BOLTON (MD, PA)  
REN L. TUNDERMANN (MD)  
CHARLES D. MACLEOD (MD)  
LINDSEY A. RADER (MD)  
DEREK B. YARMIS (MD, DC)  
JEFFERSON L. BLOMQUIST (MD)  
MICHAEL P. CUNNINGHAM (MD, DC)  
JAMES F. TAYLOR (MD)  
MARK A. BARONDESS (MD, DC, VA, CA)  
DONALD B. DAVIS, JR. (MD)  
ELISSA D. LEVAN (MD)  
ERIC S. SCHUSTER (MD, DC, PA)  
SCOTT R. JAMISON (MD, DC)  
KAREN J. KRUGER (MD)  
KIMBERLY Y. ROBINSON (MD)  
MARY T. PORTER (DC, MD)  
MICHAEL E. MCCABE, JR. (MD, DC, VA)  
MICHAEL V. FORLMI (MD)

SENIOR COUNSEL  
KAREN P. RUFF (MD)

ASSOCIATES  
PATRICK W. THOMAS (MD)  
JUSTIN S. LANDRETH (MD, NY)  
MARC A. CAMPSSEN (MD, DC, NY)  
MICHELLE R. SAWYER (MD)  
KIMBERLY M. BENNETT (MD)

OF COUNSEL  
STEPHEN P. CARNEY (MD)  
ROBERT H. LEVAN (MD)  
RONALD L. SOUDERS (PA, DC)  
AMY L. STRACHAN (PA, NJ)

## INSURANCE LAW BULLETIN

### Re: Court Rejects Private Right Of Action Under HIPAA

The United States District Court for the District of Columbia recently held no private right of action exists for an alleged violation of the Health Insurance Portability and Accountability Act (“HIPAA”), 42 U.S.C. §§ 1320d to 1320d-8.

Plaintiff sued a claims administrator of a self-funded health plan alleging an unauthorized disclosure of protected health information resulting in the termination of plaintiff’s employment. The claims administrator moved to dismiss the complaint arguing no private right of action exists under HIPAA.

Dismissing the complaint, the court recognized HIPAA authorizes the Secretary of Health and Human Services to impose civil and criminal penalties for violations of HIPAA, and this delegation of enforcement authority to the Secretary establishes Congressional intent to preclude private enforcement. The court further recognized its decision was consistent with prior federal court decisions holding no private right of action exists under HIPAA.

For further information or a copy of the opinion, please contact **Michael P. Cunningham**, who represented the claims administrator, at 410.659.4979 or [mcunningham@fblaw.com](mailto:mcunningham@fblaw.com). To learn more about our firm, or review past law bulletins, please visit [www.fblaw.com](http://www.fblaw.com).

October 17, 2011  
No. 2011-2