

# BakerHostetler

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July 3, 2014

## **VIA OVERNIGHT DELIVERY**

Office of the Attorney General  
33 Capitol Street  
Concord, NH 03301  
Attn: Attorney General Michael A. Delaney

*Re: Incident Notification*

Dear Assistant Attorney General Delaney:

On behalf of our client, the Montana Department of Public Health and Human Services ("DPHHS"), please allow the following to supplement our June 23, 2014 notice to your office regarding the malware incident discovered by DPHHS on May 15, 2014.<sup>1</sup>

As previously provided, DPHHS, with the assistance of an independent forensic investigator, on May 22, 2014 determined that an agency computer server had been hacked. The forensic investigation was ordered on May 15, 2014 when suspicious activity was first detected by DPHHS officials. As soon as the suspicious activity was discovered, agency officials immediately shut down the server and contacted law enforcement. The investigation also revealed that the server was likely first accessed in July 2013. However, DPHHS only became aware of a potential issue in May 2014. The information potentially accessible may have included information related to agency employees, clients receiving services from the department, and individuals for which the Department may have records.

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<sup>1</sup> On June 23, 2014, we provided to your office that on the same date, DPHHS was notifying current and former employees affected by the incident, including approximately two New Hampshire residents. We also indicated that DPHHS, as a covered entity, would be notifying clients affected by the incident in a separate mailing, and that DPHHS would update your office accordingly regarding the number of residents, if any notified.

DPHHS has completed its determination of clients and individuals with information contained on the server. As to DPHHS clients, the information on the server included demographic information, such as names, addresses, dates of birth, and Social Security numbers. The server may also have included information regarding DPHHS services clients applied for and/or received. Client information may include information related to health assessments, diagnoses, treatment, health condition, insurance, and bank account numbers. The information potentially accessible for each client is different. This incident should not impact DPHHS services as none of the information contained on the server was lost and DPHHS has a complete back-up of the information.

As to individuals with information on the server, the information on the server may have included individual names, addresses, dates of birth, Social Security numbers, and bank account numbers. The information potentially accessible for each individual is different.

DPHHS has no reason to believe that any information contained on the server has been used improperly or even accessed. However, out of an abundance of caution, DPHHS is offering one year of complimentary credit monitoring and identity theft protection services through Experian. DPHHS is also providing call center support for those affected. In addition, DPHHS is recommending individuals to regularly review their credit reports and explanation of benefits statements received from their health insurer for unauthorized activity and providing resources regarding identity protection.

Protecting the information it maintains is a priority for DPHHS. In addition to all DPHHS has already done to date, DPHHS is taking additional steps to strengthen and enhance the security of information on its servers.

Commencing on July 3, 2014, DPHHS is notifying approximately 132 New Hampshire residents, who are DPHHS clients or individuals for which the Department may have records, in substantially the same form as the sample letters attached hereto.<sup>2</sup>

As a covered entity under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), DPHHS is required to maintain procedures for responding to a breach of security, and notification to New Hampshire residents who are DPHHS clients is being provided in compliance with these procedures. *See* 45 C.F.R. §§ 160.103 and 164.400 et seq. Of the New Hampshire residents affected by the incident being notified on July 3, 2014, approximately 36 residents are DPHHS clients notified pursuant to HIPAA.

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<sup>2</sup> As DPHHS is a state agency of the State of Montana, DPHHS is not a "person" as defined under N.H. Rev. Stat. Ann. § 359-C:19(III) and thus, New Hampshire's notification statute, N.H. Rev. Stat. Ann. § 359-C:20(b), does not apply. Therefore, this letter is not, and does not constitute, a waiver of personal jurisdiction and/or sovereign immunity.

Assistant Attorney General Delaney  
July 3, 2014  
Page 2

Please do not hesitate to contact me if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Theodore J. Kobus III". The signature is written in a cursive style with a large, prominent initial 'T'.

Theodore J. Kobus III

Enclosure



Return Mail Processing Center  
PO Box 6336  
Portland, OR 97228-6336

<<Mail ID>>

<<Name>>

<<Street Address>>

<<City>>, <<State>> <<Zip>>

<<Date>>

Dear <<Insert Name>>:

As you may be aware, the Montana Department of Public Health and Human Services (DPHHS) recently announced that hackers gained entry to an agency computer server. We want to reassure you that at this time, we have no knowledge that any information on the server was used inappropriately, or was even accessed. We apologize for this incident and want to provide you with information on what happened and the steps we are taking to protect you.

#### **What happened?**

On May 22, 2014, an independent forensics investigation determined that an agency computer had been hacked. The forensic investigation was ordered on May 15, 2014 when suspicious activity was first detected by DPHHS officials. As soon as the suspicious activity was discovered, agency officials immediately shut down the server and contacted law enforcement.

The information on the server may have included your demographic information, such as your name, address, and date of birth. Your Social Security number was not affected. The server may also have included information regarding DPHHS services you applied for and/or received. Client information may include information related to health assessments, diagnoses, treatment, health condition, prescriptions, and insurance.

This incident should not impact DPHHS services as none of the information contained on the server was lost and we have a complete back-up of the information.

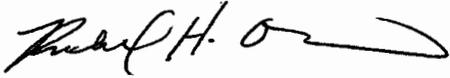
#### **What is DPHHS doing to protect your information?**

We have no reason to believe that any information contained on the server has been used improperly or even accessed. However, we want to let you know that this happened and assure you that we are diligently investigating the incident. Out of an abundance of caution, we are offering a one-year membership to a product that will help detect possible misuse of your personal information and provides you with identity theft protection support focused on immediate identification and resolution of identity theft. The product is Experian's® ProtectMyID® Alert. We will cover the cost of your membership to ProtectMyID Alert, and enrolling in this program will not hurt your credit score. Unfortunately, due to privacy laws, we are not able to enroll you directly. For more information on ProtectMyID Alert and instructions on how to activate your complimentary one-year membership, please see the instructions included in this letter. We also recommend that you regularly review the explanation of benefits statement that you receive from your health insurer. If you identify services listed on your explanation of benefits that you did not receive, please immediately contact your insurer.

If you have any questions or need further assistance, please call our incident response line at 866-940-3613 from 7 A.M. to 7 P.M. (Mountain Time). Or you may visit [www.dphhs.mt.gov](http://www.dphhs.mt.gov) for more information.

Again, we sincerely apologize for this incident. Please be assured that protecting your information is a priority for us. In addition to all we have already done to date, we are taking additional steps to strengthen and enhance the security of information on our servers.

Sincerely,



Richard H. Opper  
Director  
Montana Department of  
Public Health and Human Services



Ron Baldwin  
State Chief Information Officer  
Department of Administration  
State of Montana

### Activate ProtectMyID Now in Three Easy Steps

1. **ENSURE That You Enroll By: October 7, 2014** (Your code will not work after this date.)
2. **VISIT the ProtectMyID Web Site to enroll: [www.protectmyid.com/redeem](http://www.protectmyid.com/redeem)**
3. **PROVIDE Your Activation Code: [code]**

If you have questions or need an alternative to enrolling online, please call 866-252-8836 and provide Engagement #:

#### **ADDITIONAL DETAILS REGARDING YOUR 12-MONTH PROTECTMYID MEMBERSHIP:**

A credit card is not required for enrollment.

Once your ProtectMyID membership is activated, you will receive the following features:

- **Free copy of your Experian credit report**
- **Surveillance Alerts for:**
  - **Daily Bureau Credit Monitoring:** Alerts of key changes & suspicious activity found on your Experian, Equifax® and TransUnion® credit reports.
- **Identity Theft Resolution & ProtectMyID ExtendCARE:** Toll-free access to US-based customer care and a dedicated Identify Theft Resolution agent who will walk you through the process of fraud resolution from start to finish for seamless service. They will investigate each incident; help with contacting credit grantors to dispute charges and close accounts including credit, debit and medical insurance cards; assist with freezing credit files; contact government agencies.
  - It is recognized that identity theft can happen months and even years after a data breach. To offer added protection, you will receive ExtendCARE™, which provides you with the same high-level of Fraud Resolution support even after your ProtectMyID membership has expired.
- **\$1 Million Identity Theft Insurance\*:** Immediately covers certain costs including, lost wages, private investigator fees, and unauthorized electronic fund transfers.

Once your enrollment in ProtectMyID is complete, you should carefully review your credit report for inaccurate or suspicious items. If you have any questions about ProtectMyID, need help understanding something on your credit report or suspect that an item on your credit report may be fraudulent, please contact Experian's customer care team at 865-252-8836.

Even if you choose not to enroll in this program, we recommend that you remain vigilant to the possibility of fraud and identity theft by reviewing your credit card, bank, and other financial statements for any unauthorized activity. You may also obtain a copy of your credit report, free of charge, directly from each of the three nationwide credit reporting agencies. To order your credit report, free of charge once every 12 months, please visit [www.annualcreditreport.com](http://www.annualcreditreport.com) or call toll free at 1-877-322-8228. Contact information for the three nationwide credit reporting agencies is as follows:

Equifax  
PO Box 740256  
Atlanta, GA 30374  
[www.equifax.com](http://www.equifax.com)  
1-800-525-6285

Experian  
PO Box 9554  
Allen, TX 75013  
[www.experian.com](http://www.experian.com)  
1-888-397-3742

TransUnion  
PO Box 6790  
Fullerton, CA 92834  
[www.transunion.com](http://www.transunion.com)  
1-800-680-7289

If you believe you are the victim of identity theft or have reason to believe your personal information has been misused, you should immediately contact the Federal Trade Commission and/or the attorney general's office in your home state. Contact information for the Federal Trade Commission is as follows:

Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
[www.ftc.gov](http://www.ftc.gov)  
1-877-438-4338

You can obtain information from these sources about steps an individual can take to avoid identity theft as well as information about fraud alerts and security freezes. You should also contact your local law enforcement authorities and file a police report. Obtain a copy of the police report in case you are asked to provide copies to creditors to correct your records.

\* Identity theft insurance is underwritten by insurance company subsidiaries or affiliates of AIG. The description herein is a summary and intended for informational purposes only and does not include all terms, conditions and exclusions of the policies described. Please refer to the actual policies for terms, conditions, and exclusions of coverage. Coverage may not be available in all jurisdictions.



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PO Box 6336  
Portland, OR 97228-6336

<<Mail ID>>

<<Name>>

<<Street Address>>

<<City>>, <<State>> <<Zip>>

<<Date>>

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If you have any questions or need further assistance, please call our incident response line at 866-940-3613 from 7 A.M. to 7 P.M. (Mountain Time). Or you may visit [www.dphhs.mt.gov](http://www.dphhs.mt.gov) for more information.

Again, we sincerely apologize for this incident. Please be assured that protecting your information is a priority for us. In addition to all we have already done to date, we are taking additional steps to strengthen and enhance the security of information on our servers.

Sincerely,

Handwritten signature of Richard H. Opper in black ink.

Richard H. Opper  
Director  
Montana Department of  
Public Health and Human Services

Handwritten signature of Ron Baldwin in black ink.

Ron Baldwin  
State Chief Information Officer  
Department of Administration  
State of Montana

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  - It is recognized that identity theft can happen months and even years after a data breach. To offer added protection, you will receive ExtendCARE™, which provides you with the same high-level of Fraud Resolution support even after your ProtectMyID membership has expired.
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1-800-525-6285

Experian  
PO Box 9554  
Allen, TX 75013  
[www.experian.com](http://www.experian.com)  
1-888-397-3742

TransUnion  
PO Box 6790  
Fullerton, CA 92834  
[www.transunion.com](http://www.transunion.com)  
1-800-680-7289

If you believe you are the victim of identity theft or have reason to believe your personal information has been misused, you should immediately contact the Federal Trade Commission and/or the North Carolina Attorney General's office. Contact information for the Federal Trade Commission and North Carolina Attorney General's office are as follows:

Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
[www.ftc.gov](http://www.ftc.gov)  
1-877-438-4338

You can obtain information from these sources about steps an individual can take to avoid identity theft as well as information about fraud alerts and security freezes. You should also contact your local law enforcement authorities and file a police report. Obtain a copy of the police report in case you are asked to provide copies to creditors to correct your records.

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PO Box 6336  
Portland, OR 97228-6336

<<Mail ID>>

<<Name>>

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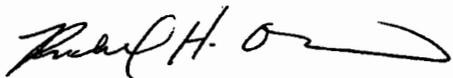
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Again, we sincerely apologize for this incident. Please be assured that protecting your information is a priority for us. In addition to all we have already done to date, we are taking additional steps to strengthen and enhance the security of information on our servers.

Sincerely,



Richard H. Opper  
Director  
Montana Department of  
Public Health and Human Services



Ron Baldwin  
State Chief Information Officer  
Department of Administration  
State of Montana

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Even if you choose not to enroll in this program, we recommend that you remain vigilant to the possibility of fraud and identity theft by reviewing your credit card, bank, and other financial statements for any unauthorized activity. You may also obtain a copy of your credit report, free of charge, directly from each of the three nationwide credit reporting agencies. To order your credit report, free of charge once every 12 months, please visit [www.annualcreditreport.com](http://www.annualcreditreport.com) or call toll free at 1-877-322-8228. Contact information for the three nationwide credit reporting agencies is as follows:

Equifax  
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Allen, TX 75013  
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1-888-397-3742

TransUnion  
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Fullerton, CA 92834  
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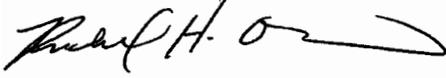
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Equifax  
PO Box 740256  
Atlanta, GA 30374  
[www.equifax.com](http://www.equifax.com)  
1-800-525-6285

Experian  
PO Box 9554  
Allen, TX 75013  
[www.experian.com](http://www.experian.com)  
1-888-397-3742

TransUnion  
PO Box 6790  
Fullerton, CA 92834  
[www.transunion.com](http://www.transunion.com)  
1-800-680-7289

If you believe you are the victim of identity theft or have reason to believe your personal information has been misused, you should immediately contact the Federal Trade Commission and/or the attorney general's office in your home state. Contact information for the Federal Trade Commission is as follows:

Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
[www.ftc.gov](http://www.ftc.gov)  
1-877-438-4338

You can obtain information from these sources about steps an individual can take to avoid identity theft as well as information about fraud alerts and security freezes. You should also contact your local law enforcement authorities and file a police report. Obtain a copy of the police report in case you are asked to provide copies to creditors to correct your records.

\* Identity theft insurance is underwritten by insurance company subsidiaries or affiliates of AIG. The description herein is a summary and intended for informational purposes only and does not include all terms, conditions and exclusions of the policies described. Please refer to the actual policies for terms, conditions, and exclusions of coverage. Coverage may not be available in all jurisdictions.



Return Mail Processing Center  
PO Box 6336  
Portland, OR 97228-6336

<<Mail ID>>

<<Name>>

<<Street Address>>

<<City>>,<<State>><<Zip>>

<<Date>>

Dear <<Insert Name>>:

As you may be aware, the Montana Department of Public Health and Human Services (DPHHS) recently announced that hackers gained entry to an agency computer server. We want to reassure you that at this time, we have no knowledge that any information on the server was used inappropriately, or was even accessed. We apologize for this incident and want to provide you with information on what happened and the steps we are taking to protect you.

#### What happened?

On May 22, 2014, an independent forensics investigation determined that an agency computer had been hacked. The forensic investigation was ordered on May 15, 2014 when suspicious activity was first detected by DPHHS officials. As soon as the suspicious activity was discovered, agency officials immediately shut down the server and contacted law enforcement.

The information on the server may have included your name, address, date of birth, Social Security number, and bank account number. None of your information was lost as we have a complete back-up of the information.

#### What is DPHHS doing to protect your information?

We have no reason to believe that any information contained on the server has been used improperly or even accessed. However, we want to let you know that this happened and assure you that we are diligently investigating the incident. Out of an abundance of caution, we are offering a one-year membership to a product that will help detect possible misuse of your personal information and provides you with identity theft protection support focused on immediate identification and resolution of identity theft. The product is Experian's® ProtectMyID® Alert. We will cover the cost of your membership to ProtectMyID Alert, and enrolling in this program will not hurt your credit score. Unfortunately, due to privacy laws, we are not able to enroll you directly. For more information on ProtectMyID Alert and instructions on how to activate your complimentary one-year membership, please see the instructions included in this letter.

If you have any questions or need further assistance, please call our incident response line at 866-940-3613 from 7 A.M. to 7 P.M. (Mountain Time). Or you may visit [www.dphhs.mt.gov](http://www.dphhs.mt.gov) for more information.

Again, we sincerely apologize for this incident. Please be assured that protecting your information is a priority for us. In addition to all we have already done to date, we are taking additional steps to strengthen and enhance the security of information on our servers.

Sincerely,

Handwritten signature of Richard H. Opper in black ink.

Richard H. Opper  
Director  
Montana Department of  
Public Health and Human Services

Handwritten signature of Ron Baldwin in black ink.

Ron Baldwin  
State Chief Information Officer  
Department of Administration  
State of Montana

### Activate ProtectMyID Now in Three Easy Steps

1. **ENSURE That You Enroll By: October 7, 2014** (Your code will not work after this date.)
2. **VISIT the ProtectMyID Web Site to enroll: [www.protectmyid.com/redeem](http://www.protectmyid.com/redeem)**
3. **PROVIDE Your Activation Code: [code]**

If you have questions or need an alternative to enrolling online, please call 866-252-8836 and provide Engagement #:

#### **ADDITIONAL DETAILS REGARDING YOUR 12-MONTH PROTECTMYID MEMBERSHIP:**

A credit card is not required for enrollment.

Once your ProtectMyID membership is activated, you will receive the following features:

- **Free copy of your Experian credit report**
- **Surveillance Alerts for:**
  - **Daily Bureau Credit Monitoring:** Alerts of key changes & suspicious activity found on your Experian, Equifax® and TransUnion® credit reports.
- **Identity Theft Resolution & ProtectMyID ExtendCARE:** Toll-free access to US-based customer care and a dedicated Identify Theft Resolution agent who will walk you through the process of fraud resolution from start to finish for seamless service. They will investigate each incident; help with contacting credit grantors to dispute charges and close accounts including credit, debit and medical insurance cards; assist with freezing credit files; contact government agencies.
  - It is recognized that identity theft can happen months and even years after a data breach. To offer added protection, you will receive ExtendCARE™, which provides you with the same high-level of Fraud Resolution support even after your ProtectMyID membership has expired.
- **\$1 Million Identity Theft Insurance\*:** Immediately covers certain costs including, lost wages, private investigator fees, and unauthorized electronic fund transfers.

Once your enrollment in ProtectMyID is complete, you should carefully review your credit report for inaccurate or suspicious items. If you have any questions about ProtectMyID, need help understanding something on your credit report or suspect that an item on your credit report may be fraudulent, please contact Experian's customer care team at 866-252-8836.

Even if you choose not to enroll in this program, we recommend that you remain vigilant to the possibility of fraud and identity theft by reviewing your credit card, bank, and other financial statements for any unauthorized activity. You may also obtain a copy of your credit report, free of charge, directly from each of the three nationwide credit reporting agencies. To order your credit report, free of charge once every 12 months, please visit [www.annualcreditreport.com](http://www.annualcreditreport.com) or call toll free at 1-877-322-8228. Contact information for the three nationwide credit reporting agencies is as follows:

Equifax  
PO Box 740256  
Atlanta, GA 30374  
[www.equifax.com](http://www.equifax.com)  
1-800-525-6285

Experian  
PO Box 9554  
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State Chief Information Officer  
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