

Healthcare Law

Advisor

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Transactions and Code Sets Update

A. TRANSACTIONS AND CODE SETS RULE**2. Requirements of the Transactions and Code Sets Rule****1. Background of the Transactions and Code Sets Rule**

In August of 2000, the United States Department of Health and Human Services published the final regulations for transactions and code sets as established under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). These regulations are based on electronic data interchange (EDI) standards, which allow the electronic exchange of information from computer to computer without any human involvement. The transactions and code sets rule seeks to respond to the burdensome and inefficient manner in which many common functions in the healthcare industry utilizing data formats are carried out. For example, in the area of healthcare claims processing alone, over 400 different data formats have been utilized by healthcare entities. In the absence of a standardized format, software development that could increase efficiency and reduce the costs of healthcare have lagged. As a result, the current system necessitates that information submitted in these varying data formats be translated into the "language" that the receiving party uses, thus resulting in an inefficient, expensive and cumbersome process.

In an attempt to simplify and reduce transaction costs of current data processing functions, the transaction and code sets rule requires that covered entities use a single, standardized data format when carrying out most routine healthcare transactions. The rule will result in uniform electronic transactions, in that the electronic transactions will contain the same codes in the same format. Specifically, the transactions and code sets rule sets forth standards for eight different electronic functions and sets forth the specific clinical code sets entities must use when executing those transactions. The following is a list of the eight transactions for which the rule has designated data standards:

- Health plan premium payments;
- Referral authorization;
- Health claim status;
- Coordination of benefits;
- Eligibility for a health plan;
- Health claims payment and remittance advice;
- Health claims or equivalent encounter information (from providers to health plans); and
- Enrollment and disenrollment in a health plan.

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This periodic newsletter is written by the Healthcare Practice Group at Moses & Singer to help healthcare professionals navigate the rapidly changing law in the healthcare industry.

INTRODUCTION

President Bush signed the Administrative Simplification Compliance Act on December 27, 2001 (Public Law 107-105).

Among other things, the legislation allows covered entities¹ to apply for a one year extension of the date that they are required to comply with the transactions and code sets rule. The legislation mandates that compliance dates for the HIPAA privacy rule shall remain unchanged, and also requires Medicare providers to submit claims electronically to Medicare as of October 16, 2003.

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B. AMENDMENTS TO THE TRANSACTIONS AND CODE SETS RULE

1. Compliance

The original transactions and codes sets rule required that all covered entities be compliant by October 16, 2002 with an exception for small health plans,² whose compliance deadline is October 16, 2003. However, the Administrative Simplification Compliance Act (the "Act") allows covered entities to postpone compliance until October 16, 2003 if the entity submits a plan to the Secretary of the Department of Health and Human Services by October 15, 2002.³ This plan must contain the following information:

- an explanation of the reason why the covered entity is not in compliance with the rule and the extent to which the entity is not in compliance;

- a budget, schedule, workplan and implementation strategy for achieving compliance;

- whether the entity plans to use or may possibly use a contractor or other vendor to assist in achieving compliance; and

- a time frame for testing that commences on or prior to April 16, 2003.

The Act requires the Secretary of the Department of Health and Human Services to issue model forms to be used in submitting such plans by March 31, 2002.

If a covered entity or a contractor fails to timely submit a plan as the Act requires, and is not in compliance with the transactions and code sets regulations, the Act gives the Secretary of the Department of

Health and Human Services the discretion to exclude the individual or organization from participation in the Medicare and/or Medicare + Choice programs.

2. Compliance with the HIPAA Privacy Rule

The Act provides that during the interim period of April 14, 2003 through October 16, 2003, healthcare providers and healthcare clearinghouses⁴ that have obtained extensions for compliance and that transmit any health information electronically must comply with the HIPAA privacy rule, regardless of whether the electronic transaction meets the requirements of the transactions and code sets rule. The Act has no effect on the applicability or compliance deadlines⁵ of the HIPAA privacy rule.

3. Electronic Submission of Medicare Claims

The Act also added a requirement that all claims submitted to Medicare by healthcare providers be submitted electronically as of October 16, 2003. Exceptions to this requirement exist for covered entities that have no method available to submit such claims in an electronic format, for small providers of services or suppliers,⁶ and in unusual cases where the Secretary of the Department of Health and Human Services determines that a waiver is warranted.

Endnotes:

¹The term "covered entity" refers to healthcare providers that electronically transmit health information, health plans and healthcare clearinghouses.

²Small Health Plans are health plans with receipts of \$5,000,000 or less annually.

³The compliance deadline for small health plans is unaffected by the Congressional amendment.

⁴Healthcare clearinghouse means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and "value-added" networks and switches, that does either of the following functions:

[i] Processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or

[ii] Receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

⁵The compliance deadline for the HIPAA privacy rule for all covered entities except small health plans is April 14, 2003. Small health plans have until April 14, 2004 to comply.

⁶Small providers of services or suppliers refers to those providers of services with less than 25 full-time employees or a physician, facility, practitioner or supplier with less than 10 full-time employees.

This Bulletin is intended as a general comment on certain recent proposed developments in the law. It does not contain a complete legal analysis or constitute an opinion of Moses & Singer LLP or any member of the Firm on the legal issues herein described. It is recommended that readers not rely on this general guide in structuring or analyzing individual transactions but that professional advice be sought in connection with any such transaction.