

## Health Information Compliance Alert

### Form 5010: Your 5010 Progress will Decide Your HIPAA Compliance

#### Deadline will depend on your testing status.

You should be already submitting 5010 claims if you fall into a certain group of providers, despite the feds' announcement of a delay on enforcement of the new claims format.

Then: In November, the Centers for Medicare & Medicaid Services announced a 90-day "discretionary enforcement period" ending March 31 for 5010 use. As long as providers showed they were making a good faith effort to become compliant with the new HIPAA standards, CMS wouldn't penalize them for not using the 5010, the agency said.

Now: CMS whistled a different tune in its December 5010 deadline announcement. For Part B and durable medical equipment claims, "In December 2011, submitters/receivers that have tested and been approved for 5010/D.0 will be notified that they have 30 days to cutover to the 5010/D.0 versions," CMS said in a Dec. 14 e-mail to providers. Part A will start the same deadline a month later, CMS explains.

The deadline is more lax for providers that haven't tested at all. They were notified in December (Part B/DME) or January (Part A) "that they must submit their transition plan and timeline to their MAC in 30 days," CMS said.

"Medicare FFS has experienced significant increases in 5010 production transactions during the last few months," CMS notes. But many submitters have tested but not moved into production for 5010, and many submitters haven't initiated testing at all.

Therefore CMS instituted the new deadlines "to ensure that progress continues to be made," it said.

Note: More information on 5010 is at <http://www.cms.gov/Versions5010andD0>.

#### MAC Resolves Home Health 5010 Billing Glitch

CMS wants home health agencies and hospices that have tested the new 5010 claim format to start submitting 5010 claims only by February, but CMS has been having problems with its own processing of the claim format.

Problems submitting 5010 claim formats have been reported since December. Now HHH MAC NHIC says it has successfully reprocessed 5010 claims with receipt dates through Dec. 14, and planned to have all such claims completed by Jan. 6.

"The files being resubmitted by NHIC, Corp. will retain their original submission dates and will not pend to the 14-day payment floor if the receipt date is more than 14 days ago," the MAC points out in its e-mail message to providers.

In case you got missed: "Any file originally submitted prior to 12/15/11 that has not received a 277CA report should be resubmitted by the original 5010 trading partner who submitted the file," NHIC instructs.

#### CMS Clarifies 5010 Advice

Although HIPAA enforcement of 5010 compliance was deferred until March 31, CMS is still expecting you to begin using the standard as soon as possible -- and to make that easier, the agency has clarified one formerly confusing issue.

Previously, CMS indicated that if you used a code that had "not otherwise classified" in a description, your claim would be rejected. However, a Jan. 13 revision fixes that error, and MLN Matters article SE1138 now notes that using "not otherwise classified" will not lead you to instant rejection.

Instead, the MLN Matters article notes, if you use a code described by "not otherwise classified" or "unlisted," you must list "a corresponding description of that procedure." If you don't, your claim will not be considered HIPAA-compliant.

For more on this issue, visit [www.cms.gov/MLNMattersArticles/Downloads/SE1138.pdf](http://www.cms.gov/MLNMattersArticles/Downloads/SE1138.pdf).

### **Don't Miss This Important 5010 Deadline**

The enforcement date isn't the only deadline you have to worry about. If you haven't tested the 5010 claim format yet, you'd better be getting your transition plan together to submit to your MAC.

"Submitters who have not tested ... will have until April 1, 2012 to complete their transition to the 5010 formats," CMS said in a question-and-answer elaborating on its new deadline requirements for the 5010 claim format.

The catch: But that's only if they submit a 5010 transition plan within 30 days of the Medicare Administrative Contractor's request, CMS notes in the Q&A. If not, "Medicare FFS may direct the MACs to reject 4010 claims," the agency warns.

That hasn't actually come to pass, however. "The MACs have not been directed to reject 4010 claims at this time," CMS admits.

What to expect: "It is unclear what will ultimately happen," NAHC tells its members. "Providers need to work with trading partners to determine what they want and are ready for. It is unlikely that payers will be required to accept both the 4010A and the 5010, although they might choose to," the trade group advises.

If a payer will accept only version 5010 but the provider can support only version 4010A, the claim would have to be converted by a clearinghouse, NAHC suggests.

Why: The CMS Office of E-Health Standards and Services (OESS), which is responsible for HIPAA code set compliance, made the change because "testing between some covered entities and their trading partners has not yet reached a threshold whereby a majority of covered entities would be able to be in compliance," CMS explains. "The number of submitters, the volume of transactions, and other testing data used as indicators of the industry's readiness to comply with the new standards have been low across some industry sectors. OESS has also received reports that many covered entities are still awaiting software upgrades."

Some MACs may make it easier for you. Although CMS says in the Q&A that it won't be furnishing a transition plan format, Home Health & Hospice MAC subcontractor National Government Services has posted an online six-question tool to help providers formulate a plan.

Home health agencies and hospices served by NGS must submit the online form by March 2 if they haven't tested 5010 by Feb. 1, the MAC directs in a recent message to providers. NGS's form is at [www.surveymonkey.com/s/LQ92QCD](http://www.surveymonkey.com/s/LQ92QCD).

CMS merely says that in the plan, "Submitters should outline the steps they have taken and the steps they still need to take to successfully achieve compliance with the updated version of the transactions," according to the Q&A at [www.cms.gov/Versions5010andD0/Downloads/QandA\\_for\\_90\\_day\\_announcement.pdf](http://www.cms.gov/Versions5010andD0/Downloads/QandA_for_90_day_announcement.pdf).

Even though you're getting a break on the 5010 deadline, you should still work to get into compliance as soon as possible, suggests **Matthew Hawkins, CEO** of software vendor Vitera Healthcare Solutions in Tampa, Fla. Taking the time now to upgrade to a 5010-compliant system reduces risk associated with scheduling system upgrades and provides time to certify that systems work appropriately, Hawkins says in a release. "It also puts responsibility on payers to facilitate the 5010 compliant transactions," he adds.

You should also consider becoming "ICD-10 enabled" at the same time that you install updates for 5010, Hawkins adds. "Why perform the 5010 upgrade now and then the ICD-10 upgrade in the future?" he asks.

Note: An audio file and transcript of CMS's Dec. 7 national call about 5010 developments will become available at [www.CMS.gov/Versions5010andD0](http://www.CMS.gov/Versions5010andD0) -- choose the "5010 National Calls" link in the left-hand column. And CMS's deadline

announcement is at [www.cms.gov/ICD10/Downloads/CMSStatement5010EnforcementDiscretion111711.pdf](http://www.cms.gov/ICD10/Downloads/CMSStatement5010EnforcementDiscretion111711.pdf).