

Health Information Compliance Alert

HIPAA Transactions: HHS RELENTS ON J CODES

The **Department of Health and Human Services'** latest proposal on HIPAA transactions should have brought some actual simplification to the so-called Administrative Simplification provisions of the Health Insurance Portability and Accountability Act.

HHS published notices of proposed rulemaking relating to pharmaceutical transactions and changes to the transactions and code set standards for electronic transactions in the May 31 Federal Register. "These are changes that the industry said they needed to make implementation easier," explains an HHS official, who also mentions the **Centers for Medicare & Medicaid Services'** compliance extension plan, which allows covered entities to request an implementation extension to October 2003.

"Taken together," the official tells **Eli**, "we are providing, one, easier standards to implement, and, two, more time in which to implement them." Covered entities must submit a compliance plan to CMS by Oct. 16 in order to qualify for the proposed transactions standard compliance extension.

In the NPRM regarding changes to the code set standards, HHS proposes to adopt 115 of the 231 change requests submitted by plans and providers to Designated Standards Maintenance Organizations. While HHS would normally provide a 60-day comment period in an NPRM, the department says a 30-day period is appropriate because the DSMO changes "already were subjected to the public DSMO process and were discussed and approved by the **National Committee on Vital and Health Statistics** in public sessions."

HHS says it wants to change from required to situational data elements like provider taxonomy codes and "date last seen by physician" thus making them optional. It also wants to remove data elements like referral dates and estimated dates of birth. HHS proposes to allow the reporting of some items via external code sets rather than as data elements in the transactions and to allow entities to cross-reference subscriber IDs and send a patient's primary care number, according to the NPRM.

None of the changes are surprising. "This is a process of consensus building in those organizations," affirms attorney **Mark Lutes** with **Epstein Becker & Green** in Washington. "There is a modest reduction of burdens, especially if something no longer needs to be collected."

In the pharmacy transactions NPRM, HHS proposes the adoption of various guides and standards for batch transactions, referral classification and authorization transactions, and health care payment and remittance advice transactions. As in the DSMO NPRM, HHS only gives interested parties until July 1 to comment because of the "overwhelming response from the affected industry."

The proposal would also repeal the National Drug Codes as the standard medical data code set for reporting drugs and biologics in all standard transactions, except for retail pharma transactions.

The repeal of the NDCs is a "very welcome change," says **Nancy Schwartz**, a HIPAA official with the **Fallon Community Health Plan** in Worcester, MA. Fallon, like many Medicare + Choice plans, only accepts codes in the Healthcare Common Procedure Coding System, commonly called "J codes" in claims from physicians. MCOs use the NDCs in their outpatient pharmaceutical claims, and that's not a problem, she explains.

But the NDCs were too long for the physicians' claim forms. As the NPRM points out, "The industry has reported that the costs of changing from using HCPCS to NDC for reporting drugs and biologics on institutional claims could exceed an institution's costs for adopting all other combined HIPAA standard transactions."

"This change in the NPRM solves a lot of problems for us," Schwartz says. "We don't have to restructure our system, and physicians don't have to change." And all indications are that the proposed rule will be adopted. "It could be onerous if it's not," Fallon says.

Editor's Note: Go to www.access.gpo.gov/su_docs/fedreg/a020531c.html to see the NPRMs.