Codify BY AAPC

Health Information Compliance Alert

HIPAA Transactions: HIPAA-COMPLIANT CLAIMS NOT SO CLEAN

Health care providers who thought electronic claims processing was supposed to be quick and cheap fear they may be sorely disappointed, and one group is refusing to take the matter lying down.

The **American Hospital Association** is asking the federal government to link the Health Insurance Portability and Accountability Act to prompt-pay requirements, arguing in essence that HIPAA compliant claims should be considered "clean" claims. Experts doubt the effort will succeed, but the request shows that federal transactions regs and state prompt-pay laws are not aligned.

An AHA letter asks **Department of Health and Human Services** Secretary **Tommy Thompson** to use the agency's authority under HIPAA "to facilitate the prompt and accurate payment of claims."

Rick Pollack, AHA executive vice president, asks that Thompson modify the HIPAA transactions regulation to say that a HIPAA-compliant claim is a "clean claim" for state prompt- pay law purposes. "Although Medicare regulations and many state laws have been implemented to try to ensure the prompt payment of claims, these prompt-pay rules are often violated or otherwise ignored, particularly by private payers," he complains in the letter.

In fact, in Pennsylvania the Superior Court recently ruled that health care providers can't sue health plans when the plans fail to follow the state's prompt-pay law. In Solomon v. United States Healthcare Systems of Pennsylvania Inc., the state appellate court found that Pennsylvania's prompt-pay law gives no private cause of action. Unless a higher court rules differently or the state legislature remedies the problem, Pennsylvania providers are stuck with that interpretation.

But HIPAA shouldn't be the vehicle to help providers, say federal transactions experts. "It would be too stringent for plans" if HHS supports the AHA request as written, **Chris Stahlecker**, co-chair of the **Workgroup for Electronic Data Interchange's** Strategic National Implementation Process group, tells **Eli**.

In the HIPAA implementation guide, some data fields are required for all claims, but other data are regarded as optional, or situational. Any particular combination of situational data content on a claim may not be sufficient for a first-pass claims adjudication which would disqualify it from being a "clean claim" from the payor's perspective, explains Stahlecker. That is, medical claims, even under HIPAA, contain too many variables and therefore can't be streamlined.

The unique provider number field is a good illustration of the discrepancy between a HIPAA-compliant claim and a clean claim for state law purposes, says a HIPAA expert at a large national payor. "We would love to be able to use the situational field for the rendering of provider identification," the IT expert tells **Eli**. The payor asks its providers to include their internal provider number in that field, but it can't be sure they will, since only **Blue Cross** plans and Medicare have their numbers included as a matter of course on the claims forms.

Because most providers don't need to include their number there, payers can't require it on an electronic claim, explains the IT expert, but they can ask for it. The AHA doesn't appreciate payors' insistence that their numbers be included and sees their requests for clarification as arbitrary. HIPAA is ambiguous on the point, says the AHA, "because it does not require health plans to inform providers which of the optional situational elements will be necessary for a clean, standard transaction."

The AHA request was unexpected, says Stahlecker. The comment periods for the HIPAA transactions reg are long over. The **Centers for Medicare & Medicaid Services** probably will say that HIPAA-compliant claims do not constitute clean claims because every payor's adjudication process is different, predicts Stahlecker. "Content is one thing," she says. "What the payor does with it to determine payment is something else."

CPT® 2023 American Medical Association. All rights reserved.

CPT® 2023 American Medical Association. All rights reserved.