

Health Information Compliance Alert

Reader Questions: Submitting Electronic Claims? Use A BAA

Question: We are moving to electronic billing but currently submit paper claims. Do we need to establish a business associate agreement with our billing service? Does it matter if our billing service converts those paper claims to electronic ones?

-- New Mexico Subscriber

Answer: "If they use an entirely paper process, then they do not need a business associate agreement as of today," says **Gwen Hughes**, Director of e-HIM Consulting Services at Chicago's **Care Communications**.

However, "once you put your toe in the electronic stream, HIPAA applies," asserts **Clark Stanton**, an attorney in the San Francisco office of **Davis Wright Tremaine**. Remember: This conversion doesn't have to take place in your office.

In the **Centers for Medicare & Medicaid Services's**

FAQs, CMS states that a billing service that converts paper claims into electronic claims is, in fact, a clearinghouse. Because the billing service is "acting on behalf of a covered entity," it is a business associate, says CMS.

The Bottom Line: You need a business associate agreement (BAA) with a billing service if you are submitting any electronic claims, experts agree. However, you also need it if your billing service is doing the electronic work for you.

Tip: "If all you're doing is paper" at all levels, then you aren't a covered entity, explains **Jason Levine**, a consultant with **Murer Consultants** in Joliet, IL. However, "if you're doing any electronic claims, then you absolutely need a business associate agreement," he clarifies.