# HIPAA
# For Provider Contracting Networks

## HIPAA Summit VIII

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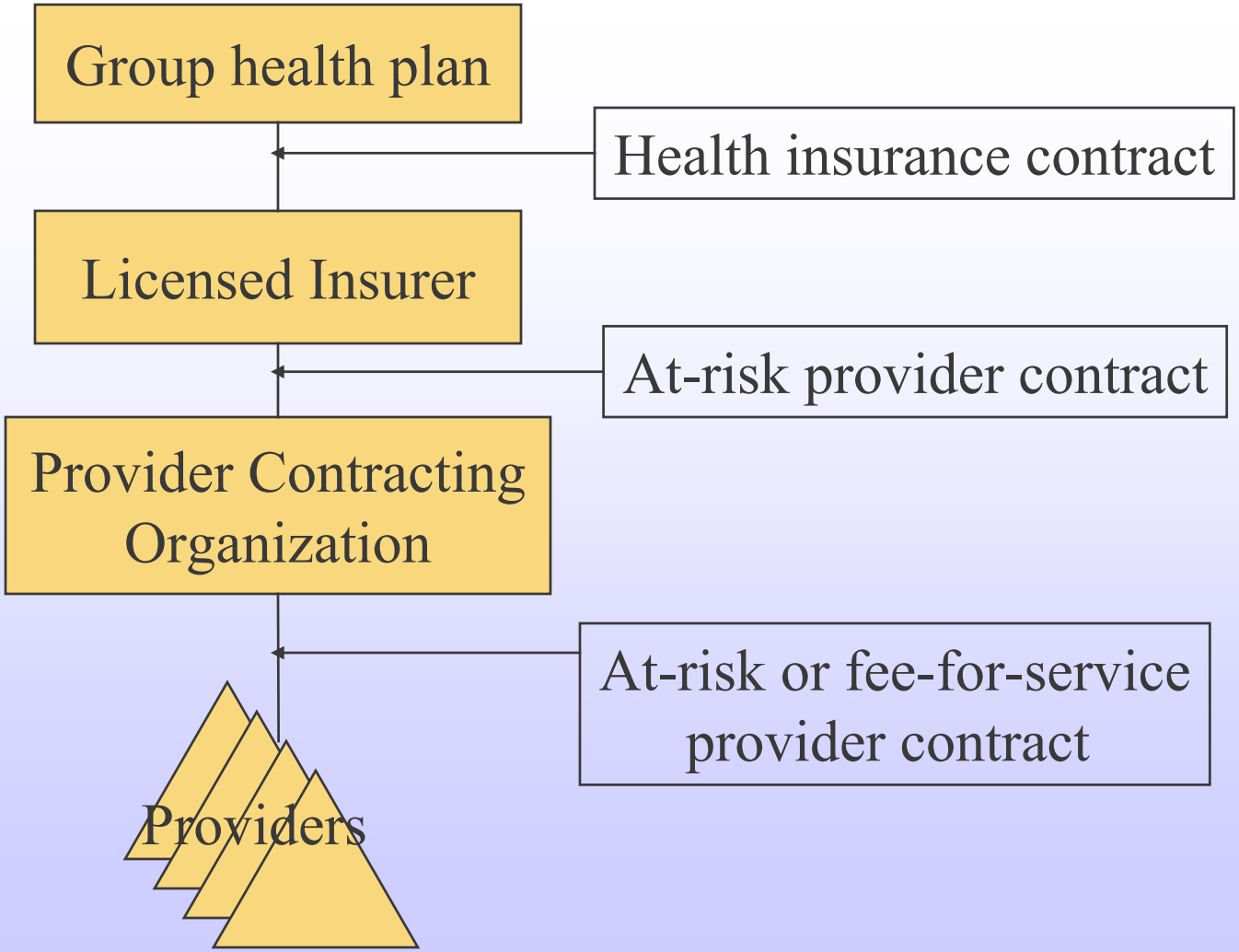
# Covered Entities

- Health plans
- Providers who transmit data electronically in connection with a standard transaction
- Health care clearinghouses

# Provider Contracting Network



# Core Network Functions

- Financial risk sharing
- Claims processing
- Utilization review
- Credentialing
- Quality assurance

# Additional Network Functions

- "Messenger-model" fee-for-service contracting
- Fee-for-service billing
- Practice management services

# Key Questions

- Privacy/security:  Is the network organization a covered entity?
- Transaction standards:  Where is the standard transaction?
- What are the operational implications of the answers to these questions?

# Provider Network as OHCA

- Organized Health Care Arrangement:
  - A health care system that holds itself out as a system and has shared UR, QA or payment arrangements
  - An independent practice association of physicians is a common example of this form of OHCA
    - Preamble to final Privacy Regulations – Fed. Reg. Vol. 65, No. 250, 12/28/2000, p. 82494

# Organized Health Care Arrangement

- Covered entities participating in an OHCA--
  - May share health information for purposes of the OHCA
  - Are not one another's business associates
  - May use a joint notice of privacy practices for the OHCA
- But what is the status of the network entity?

# Health Care Provider?

- A provider of medical or health services
- Any other person or organization who furnishes, bills or is paid for health care in the normal course of business.

Is a treatment relationship required?

# Health Plan?

- 16 specific kinds (not including provider contracting networks), plus
- "Any other individual or group plan . . . That provides or pays for the cost of medical care."

# What is a "Plan"?

- A health plan —
  - Offers a plan of benefits to employers and individuals
  - Has an insurance function, including underwriting
  - Has enrollees
- A provider contracting network—
  - Contracts with licensed plans
  - Shares financial risk among providers, without underwriting
  - Does not have enrollees (the health plan assigns its enrollees to the network)

# What is a "Plan"?

Most states do not regulate "downstream" provider contracting networks as health plans, unless they—

- Offer a plan of benefits directly to employers or individuals, or
- Take substantial risk for services their members do not provide

# Is it a Health Care Clearinghouse?

- We'll get to that . . .

# Business Associates

- CEs must have contracts with business associates
  - BA is any contractor that has access to PHI to assist the CE
  - But a contract not required for disclosures to providers for treatment
- The contract must require the BA to:
  - Safeguard the confidentiality and security of the PHI
  - Restrict uses and disclosures to those permitted to the CE
  - Return or destroy PHI on termination, if feasible

# Network as Business Associate

- Risk contracts
  - BA of health plans
  - Not BA of contracting physicians
  - Contracting physicians are not BAs under the plan-provider exception (and if they were no contract is required for disclosure to a provider for treatment)
- Fee-for-service contracts
  - BA of contracting physicians if it receives PHI

# Network as Business Associate

- Consequences
  - Obligations established by contract, not HIPAA
  - Whose PHI is it?
  - What are the permissible uses?
    - Internal network operations
    - Research
  - What happens on termination?

# Transactions
# Standard Transactions

- Claims or encounter information
- Health plan eligibility
- Referral certification and authorization
- Health care claim status
- Enrollment and disenrollment
- Payment and remittance advice
- Premium payments
- Coordination of benefits

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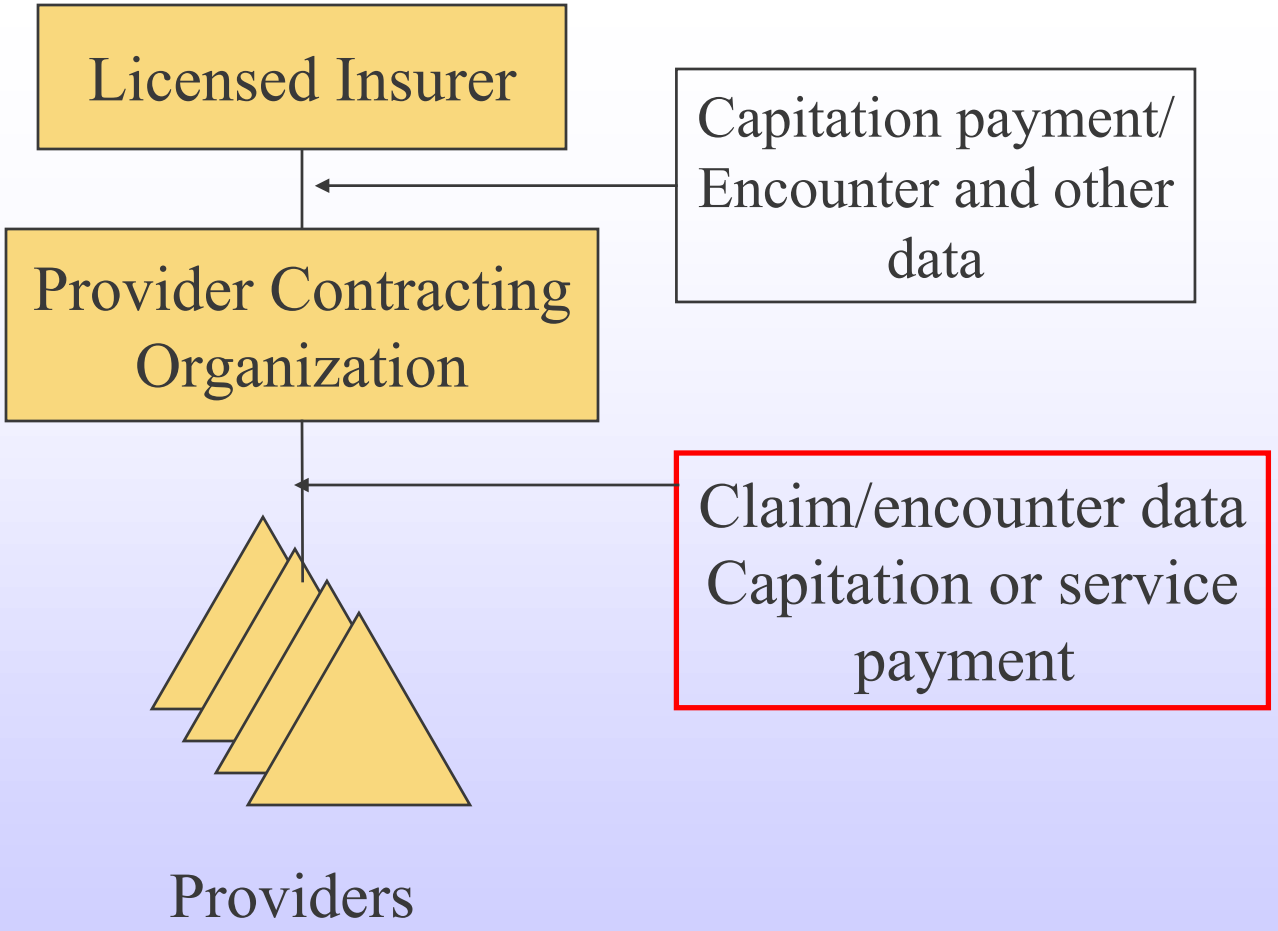
Deferred:

- First report of injury
- Claims attachment

# Transactions
## Requirements for Covered Entities

- Providers don't have to conduct electronic transactions, but they must use the standards if they do
- Health plans must--
  - use the standards for electronic transactions
  - accept standard transactions from providers, and process them promptly
- Providers and plans may use clearinghouses to comply
- CEs are not permitted to vary the standards

# Where's the Standard Transaction?



# Is the Network a Clearinghouse?

A clearinghouse . . .

- Processes health information received from another entity in a non-standard format . . . into standard data elements, or vice versa
- What if the network
  - Processes standard electronic claims from providers into non-standard reports for a plan?
  - Processes non-standard paper claims from providers into standard electronic encounter reports?