Countdown to Compliance
For HIPAA

Results of the Winter 2004 Industry HIPAA Survey conducted by HIMSS and Phoenix Health Systems

Tom Grove, Vice President
17th Healthcare Industry Quarterly HIPAA Survey

- Conducted in collaboration by Phoenix Health Systems and HIMSS
- Participants completed online survey during early January 2004, at website HIPAAAdvisory.com
- Expanded coverage of transactions readiness
Who Participated?

• 631 industry representatives across the nation responded
• Providers - 70% of total respondents:
  – Hospitals represented 51% of the total
  – Remainder were physician practices and other providers
• 30% of respondents were payers and vendors, and a few clearinghouses
Who Participated?

- Almost 90% of respondents have an official role in HIPAA at the organization
  - 52% CIOs or senior department managers
  - 28% specific role in compliance or security
Transactions and Code Sets: Key findings

• Less than one-half of respondents are ready to conduct all HIPAA standard transactions
  – Only 50% have completed external testing
• Eighty-five percent of Payers continued to accept non-compliant transactions into January
  – 34% will stay on this course for at least three more months
  – 34% until the Centers for Medicare and Medicaid Services (CMS) ends its Contingency Plan
Ready for All Transactions

<table>
<thead>
<tr>
<th></th>
<th>Ready Now</th>
<th>Within 3 Months</th>
<th>Do Not Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Providers</td>
<td>45%</td>
<td>18%</td>
<td>21%</td>
</tr>
<tr>
<td></td>
<td>(up from 18%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payers</td>
<td>56%</td>
<td>17%</td>
<td>10%</td>
</tr>
<tr>
<td></td>
<td>(up from 53%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vendors</td>
<td>40%</td>
<td>16%</td>
<td>12%</td>
</tr>
<tr>
<td></td>
<td>(down from 47%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clearinghouses</td>
<td>50%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>(4 responses)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Focused Efforts

<table>
<thead>
<tr>
<th>Transaction</th>
<th>Provider</th>
<th>Payer</th>
</tr>
</thead>
<tbody>
<tr>
<td>837</td>
<td>78%</td>
<td>85%</td>
</tr>
<tr>
<td>835</td>
<td>68%</td>
<td>82%</td>
</tr>
<tr>
<td>276/277</td>
<td>41%</td>
<td>72%</td>
</tr>
<tr>
<td>270/271</td>
<td>41%</td>
<td>63%</td>
</tr>
<tr>
<td>834</td>
<td>19%</td>
<td>55%</td>
</tr>
<tr>
<td>820</td>
<td>8%</td>
<td>38%</td>
</tr>
<tr>
<td>None</td>
<td>2%</td>
<td>0%</td>
</tr>
</tbody>
</table>
Obstacles:

We have met the enemy, and the enemy is us

Providers
1. Payers are not ready to accept standard Transactions
2. Payers are not ready for testing
3. Cannot get needed information from Vendors, Payers, Clearinghouses

Payers
1. Providers are not ready for testing
2. Providers have not captured the data required for standard Transactions
3. Cannot get needed information from Vendors, Providers, Clearinghouses
Obstacles:
We have met the enemy, and the enemy is us

Clearinghouses
1. Payers are not ready for testing
2. Payers are not ready to accept/transmit standard Transactions
3. Providers have not captured the data required for the standard Transactions

Vendors
1. Ambiguities exist in Implementation Guide specifications
2. Payers are not ready to accept/transmit standard Transactions
3. Providers have not captured the data required for the standard Transactions
Contingency Plans

- Over half of Providers and one-third of Payers felt that CMS should maintain its Contingency Plan for up to 90 days
- 32% of Providers and 50% of Payers want it extended up to six months or longer
Contingency Plans
What’s Plan C?

**Providers**
1. Direct Data Entry and/or Paper
2. Clearinghouse

**Payers**
1. Accept paper processing
2. Continue to accept non-compliant transactions

**Vendors**
1. Advise Providers to use a compliant Clearinghouse
2. Continue to accept non-compliant transactions

**Clearinghouses**
1. Use compliant clearinghouse
Interesting Comments

• Provider: “Clearinghouses and Payers were not ready – and some still are not.”
• Provider: “Various of our Payers tell us that they are ready, however they provided the wrong PIN, lost our Trading Partner Agreements, fail to return phone calls, lost our test files….”
• Payer: “We are currently capable of accepting and sending compliant transactions. We are awaiting our Provider/Clearinghouses to be ready.”
• Payer: “…We are only able to accept the 837 transaction from our largest Providers. The smaller ones … are too small for the Clearinghouse to have reached them on their testing schedule.”
Interesting Comments

• Clearinghouse: “Our challenges lie in our trading partners’ misinterpretation of the Implementation Guides, reduced or non-existent claim-level acknowledgement responses, and their general issues associated with implementing a new X12 system.”

• Clearinghouse: “Inconsistent interpretation of the implementation guides by the Payers, [is] causing more Payer-specific customization in all translator programs than anticipated.”
Privacy Progress

Industry Privacy Compliance Comparison:
Spring, Summer and Fall 2003 with Winter 2004

- Providers
- Payers
- Clearinghouses
- Vendors
Privacy: Key findings

- Twenty percent of Providers and 14% of Payers reported that they remain non-compliant with the Privacy Rule, nine months after its effective date.
- Even among “compliant” organizations, compliance gaps remain in such areas as establishing Business Associate Agreements and monitoring internal Privacy compliance.
- An average of 56% of Provider and Payer respondents reported that their organizations had experienced one or more privacy breaches since April 2003.
## Privacy “Spot-Check”

### Detailed Spot Check of “Privacy-Compliant” Organizations

<table>
<thead>
<tr>
<th>Areas of Privacy Compliance</th>
<th>Providers</th>
<th>Payers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obtain Patient Authorizations for use and disclosure of PHI</td>
<td>99%</td>
<td>97%</td>
</tr>
<tr>
<td>Enable mandated patients’ rights (review, amend, restrict records)</td>
<td>99%</td>
<td>99%</td>
</tr>
<tr>
<td>Post and distribute Notice of Privacy Practices</td>
<td>98%</td>
<td>93%</td>
</tr>
<tr>
<td>Obtain acknowledgement of receipt of Notice of Privacy Practices</td>
<td>98%</td>
<td>N/A</td>
</tr>
<tr>
<td>Provide ongoing Privacy training</td>
<td>95%</td>
<td>100%</td>
</tr>
<tr>
<td>Use “Minimum Necessary” Restrictions</td>
<td>94%</td>
<td>N/A</td>
</tr>
<tr>
<td>Document Privacy policies and practices</td>
<td>93%</td>
<td>99%</td>
</tr>
<tr>
<td>Maintain Accounting of Disclosures</td>
<td>93%</td>
<td>96%</td>
</tr>
<tr>
<td>Implement security protections as required under the Privacy Rule</td>
<td>89%</td>
<td>95%</td>
</tr>
<tr>
<td>Provide overall workforce Privacy training updates</td>
<td>85%</td>
<td>96%</td>
</tr>
<tr>
<td>Monitor organizational compliance with Privacy regulations</td>
<td>76%</td>
<td>87%</td>
</tr>
<tr>
<td>Have obtained all required Business Associate Agreements</td>
<td>73%</td>
<td>93%</td>
</tr>
</tbody>
</table>
Privacy Breaches are Happening

Compliant Providers/Payers/Clearinghouses
Patient Privacy Breaches
April to December 2003

- Hospitals (<100 beds)
- Hospitals (100 - 400 beds)
- Hospitals (400+ beds)
- Medium Physician
- Small Physician
- Payers
- Clearinghouses

Breaches categories:
- 1 to 5 Breaches
- 6 to 10 Breaches
- 11+ Breaches
- No Breaches
- Don't Know
Formal Complaints (HIPAA and Civil action)

Non-compliant Organizations
Formal Privacy Complaints
April to December 2003

Hospitals (<100 beds)
Hospitals (100 - 400 beds)
Hospitals (400+ beds)
Medium Physician
Small Physician
Payers
Security: Key Findings

• Initiatives for Security Rule compliance are moving slowly – over half of Providers and Payers reported they will not be fully compliant until 2005.

• An average of 24% of Providers, Payers and Clearinghouses reported that their organizations had experienced one or more data security breaches from October to December 2003.
Security Progress

Security Remediation
Completion and Expected Completion Percentages

Done Now 1-3 Months 4-6 Months 7-9 Months 10-12 Months 13-16 Months (Deadline) Do Not Know

Providers
Payers
Clearinghouses
Vendors
Data Security Breaches

- 24% of respondents reported that their organizations had experienced one or more data security breaches from October to December 2003
- The vast majority reported experiencing no breaches at all
- Possible biases: Desire not to report, breeches unknown to the reporter, or breeches unknown to the organization
Consultant Support

• 49% of participants reported using outside consultants:
  – Payers and large hospitals are most likely to engage outside assistance
  – Most contracted for HIPAA Assessment and Implementation Planning and/or Implementation Support
  – Security Risk Analysis also popular
HIPAA Budget Highlights

• Across the industry, HIPAA budgets for 2004 are lower than for 2003
  – Payers showed the most dramatic drop as they wind up transactions spending
  – Payers and Clearinghouses should need to spend comparatively less on security compliance
Summary

• The main focus is on Transactions compliance, with Security compliance a secondary priority
• Privacy compliance is better, but still not complete
  – A significant number of those reporting complete still have issues
  – Complaints are a real force
• All parts of the industry have transactions barriers, and each believes the other parts are major barriers
• Security compliance is a year off for many
• Spending on HIPAA is dropping
Complete Survey Results

- Survey information is be published at [www.HIPAAAdvisory.com](http://www.HIPAAAdvisory.com), -- compare results with previous surveys!
Questions About Survey

• For further information about the Quarterly Industry HIPAA Surveys, contact:

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