



The Centers for Medicare & Medicaid Services

Post October 16, 2003

CMS' Office of HIPAA Standards

WHERE WE ARE NOW, WHERE WE ARE GOING

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Two Deadlines Passed, Two to Go

- ◆ Privacy deadline was April 14, 2003
- ◆ Transactions and Code Sets (TCS) deadline was October 16, 2003
- ◆ National Employer Identifier deadline is July 30, 2004
- ◆ Security deadline is April 20, 2005



Transactions Implementation, Where We Should Be

- ◆ **Vendors / Clearinghouses**
 - Should be operating HIPAA compliant solutions

- ◆ **Providers**
 - Should have all software upgrades
 - Completed testing with health plans and all trading partners
 - Able to send and receive HIPAA-compliant transactions

- ◆ **Health Plans**
 - Should have completed testing with trading partners
 - Should be able to send and receive HIPAA compliant transactions



The Reality of Where We Are

- ◆ A significant number of covered entities are still not ready
- ◆ As of February 27, 2004, about 69% of electronic claims received by Medicare contractors are in the HIPAA format
- ◆ Most states are processing both HIPAA compliant and non-compliant formats. Ten states are accepting only HIPAA compliant transactions



Underlying Causes

- ◆ Concentration has been on privacy provisions
- ◆ Technical adjustments not made in time
- ◆ Ran out of time to test sufficiently
- ◆ Denial and/or belief there will be an extension



CMS' Response to Lack of Readiness

◆ Dual Goals

- Move all covered entities toward compliance
- Avoid disruption of cash flow

◆ OHS' philosophy

- Obtain voluntary compliance through a complaint-driven process
- Understand HIPAA compliance is an evolving process rather than a one time event



Medicare Implementation Status

- ◆ 69% of electronic claims received by Medicare in HIPAA
- ◆ 27% submitters/receivers in production for remittance advice (835)
- ◆ 7% submitters/receivers in production for coordination of benefits (COB)



Medicare Implementation Issues

- ◆ Implementation issues persist with Coordination of Benefits (COB) and eligibility inquiry and response transactions (270/271)
- ◆ COB:
 - Instructions issued for system changes in July should resolve majority of problems
 - CMS encouraging trading partners to test and not wait for national COB contractor
- ◆ 270/271:
 - Issues primarily due to difficulties trying to implement real-time transaction in Medicare's batch environment
 - CMS evaluating short-term and long-term options



Medicare Contingency Plan

- ◆ CMS continues to monitor testing and production statistics, and is evaluating options for ending the contingency plan
- ◆ Sufficient notice will be provided prior to ending the contingency plan
- ◆ On Feb 27, CMS modified it's contingency plan
 - Continue to allow submission of non-HIPAA electronic claims
 - Payment of such claims will take an additional 13 days, same as paper
 - To be implemented July 1, 2004



Medicaid Implementation Status

- ◆ 10 states have moved into fully compliant status
- ◆ Most states are still operating under contingency plans and are processing both HIPAA compliant and non-compliant formats



Enforcement Regulations

- ◆ Procedural rule published April 17, 2003
- ◆ HHS actively working on substantive notice of proposed rulemaking
- ◆ Complete enforcement rule will contain both procedural & substantive requirements



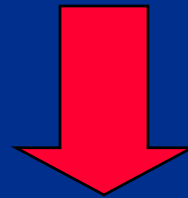
Enforcement Challenge

- ◆ CMS/OHS Firewall
 - Medicare is a covered entity
 - OHS must maintain impartiality

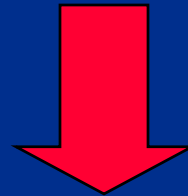
- ◆ Enforcement Integrity
 - No use of Medicare resources for technical interpretation of complaints
 - Limited collaboration on operational issues

Complaint-driven Approach

Move entities towards compliance



Use corrective action plans (CAPs) as necessary



Impose monetary penalties (CMPs) as last resort



Current Enforcement Strategies

The Administrative Simplification Enforcement Tool (ASET)

- ◆ ASET went live October 16, 2003
 - Online TCS complaint system
 - Link to the ASET system is:
<https://htct.hhs.gov/>
- ◆ Paper complaints will continue to be accepted

Criteria

- ◆ If non-compliant, what was the cause for noncompliance?
 - Is it reasonable?
 - Or is it willful neglect?

- ◆ When does the covered entity expect to be fully compliant?



Trading Partner Disputes

- ◆ While all covered entities should be working with trading partners towards HIPAA compliance, transactions disputes will occur
- ◆ Filing a complaint with OHS should be the last resort effort to resolve disputes
- ◆ Encourage covered entities to resolve issues



Transaction Dispute Resolution

- ◆ OHS will use a systematic complaint resolution process
- ◆ Complaints will be classified by severity and handled on a case by case basis



Lessons Learned

- ◆ HIPAA is not going away - It is the law
- ◆ Start now and plan for implementation of other HIPAA provisions, such as Security
- ◆ Collaborative efforts are some of the most effective



Collaborative Lessons

- ◆ Share success stories and implementation strategies
- ◆ Leverage resources
 - Local, Regional & National involvement
- ◆ Lead the industry to compliance by example
- ◆ Apply lessons learned from transactions & privacy implementations to future HIPAA provisions



Future HIPAA Regulations

◆ **Published Regulations**

- National Employer Identifier Rule
 - July 30, 2004 compliance date
- Security Rule
 - April 21, 2005 compliance date
- National Provider Identifier Rule
 - May 23, 2007 compliance date

◆ **Expected to be Published Later This Year**

- National Plan Identifier Proposed Rule
- Claims attachment Standard Proposed Rule
- Modifications to Standards Proposed Rule



Discussion

Comments?

Questions?