

# HIPAA Administrative Simplification

## Transaction Compliance Date Extension & Privacy Standards NPRM

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PRICEWATERHOUSECOOPERS 

# HIPAA – AS Final Rules

- Transactions Final Rule - 8/17/00
  - Set Compliance Date for most at 10/16/02.
  - Significant number of complaints about time.
  - ASCA 12/27/01 offers conditional extension.
  - Modifications NPRMs expected soon.
- Privacy Final Rule - 12/28/00
  - Set Compliance Date at 4/14/03.
  - Privacy Guidance issued 7/6/01.
  - Modifications NPRM 3/27/02.
  - Comments due 4/26/02.



# ASCA Overview

## **Administrative Simplification Compliance Act (ASCA)**

- Signed December 27, 2001 (P.L. 107-105)

## **Mechanism for covered entities to apply for an extension of compliance date**

- to October 16, 2003
- only for the Transaction and Code Sets rule.

**No paper Medicare claims will be paid after October 2003.**

# Why the Compliance Act Passed

**Healthcare industry would not be ready to meet the October 16, 2002 compliance date.**

- Consideration for complexities and time commitment for EDI testing requirements.

**Sets definitive timelines for compliance.**

- Raises awareness to corporate officers.

**Provides substantial additional penalties for non-compliance.**

**Provides additional funding to HHS to ensure timely implementation.**

## Not a 'Delay'

**Compliance Act is not a “one-year delay.”**

**Provides only a six-month safety valve to allow institutions extra time to comply.**

**All covered entities must plan to begin testing**

- by April 2003

**No extension of the requirement to be compliant with the Privacy rule**

- by April 14, 2003.

## Extension - Conditions

### **Automatic extension if covered entity meets certain conditions:**

- Covered entity must submit a compliance plan by October 2002.
- May use model form from HHS.

**No federal penalties for non-compliance during the 6-month testing period**

# Expected Transactions NPRMs

## **NPRM to adopt X12 addenda to IGs.**

- Addenda available at [www.wpc-edi.com](http://www.wpc-edi.com).
- Simple 'adoption' without comment is expected.

## **NPRM fixing errors in transaction rule.**

- Recind NDC code adoption.
- Adopt X12N instead of NCPDP standard for remittance advice transaction for retail pharmacy.
- Adopt NCPDP instead of X12N standard for referral authorization transaction for retail pharmacy.

# Requirements for Privacy

## **HIPAA requires:**

- “Standards with respect to the privacy of individually identifiable health information ...”
- Final Rule published 12/28/2000
- Guidance issued 7/6/01.
- Compliance required 4/14/2003.
  
- Continuing controversy over consent, minimum necessary, marketing, and others ...
- Modifications proposed in NPRM 3/27/2002.
  - Attempts to reduce burden without reducing privacy.
- Comments due by 4/26/2002



# Consent to Use PHI

**Written consent required before direct treatment provider may use PHI for TPO.**

- May be revoked in writing at any time.

## **Exceptions:**

- emergency treatment situation,
- substantial communication barriers,
- when required by law to treat.

## **Not required for:**

- Indirect Treatment Providers,
- Health Plans,
- Health Care Clearinghouses.

# Minimum Necessary

**Covered entities must make **reasonable** efforts to limit the use or disclosure of PHI to minimum amount necessary to accomplish their purpose.**

## **Exceptions:**

- Disclosure to or request by provider for treatment.
- Disclosure to individual.
- Under authorization (unless requested by CE).
- Required for HIPAA standard transaction.
- Required for enforcement.
- Required by law.

# Marketing

**A communication about a product or service a purpose of which is to encourage recipients of the communication to purchase or use the product or service.**

**Does not include communications that**

- are made orally, or are in writing and the covered entity does not receive direct or indirect remuneration for making the communication;
- AND are for specific purposes relating to the furthering or managing of an individual's treatment.

**Complex exceptions to rule that all marketing requires authorization.**



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