

**HIPAA Implementation Working Group
c/o Hogan & Hartson L.L.P.
555 13th St. NW
Washington, D.C. 20004**

Leslie Norwalk
Administrator
Centers for Medicare and Medicaid Services
The U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

January 25, 2007

Dear Administrator Norwalk:

The HIPAA Implementation Working Group is writing to request that the Department of Health and Human Services (“HHS”) permit the use of contingency plans to assure a successful implementation of the national provider identifier (“NPI”). In addition, we urge the Centers for Medicare and Medicaid Services (“CMS”) to extend the transition period to NPI by a minimum of twelve (12) months to assure that NPI implementation does not cause unnecessary disruption to Medicare payments or services.

The HIPAA Implementation Working Group (the “Working Group”) is a group of healthcare providers and vendors that came together to increase provider and vendor involvement in the standard setting process and to promote a rational transition plan for the adoption of the Health Insurance Portability and Accountability Act (“HIPAA”) Administrative Simplification requirements. The coalition includes the American Hospital Association (“AHA”), Laboratory Corporation of America Holdings (“LabCorp”), and Emdeon Business Services (“EBS”) and collectively represents thousands of the nation’s hospitals as well as clinical laboratories, and clearinghouses. We are writing to support the emerging consensus in the industry, advanced by the Workgroup on Electronic Data Interchange (“WEDI”) and the American Clinical Laboratory Association (“ACLA”) among others, that HHS should allow a contingency period for NPI implementation and to recommend a framework for contingency planning that we believe advances the goal of NPI adoption.

Full adoption of the NPI will require a three-phase transition. First, providers must obtain their NPIs (“Enumeration Phase”). Second, NPIs must be communicated to all of the trading partners that identify providers in electronic healthcare transactions (“Dissemination Phase”). Finally, the trading partners must use the NPI in their electronic healthcare transactions (“Implementation Phase”).

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The industry has made significant progress on the Enumeration Phase of NPI adoption. We commend CMS for its efforts to assure that providers understand their obligation to obtain NPIs. The agency's collaboration with the Workgroup on Electronic Data Interchange ("WEDI") has produced a number of education and outreach programs, and the approximately 1.3 million individual providers who have obtained NPIs to date are a testament to the success of these efforts. Although confusion about subpart enumeration has delayed the enumeration efforts of organizational providers, in recent months these providers have also begun to enumerate in earnest. We encourage CMS to continue its outreach efforts to achieve wide-spread enumeration.

The Dissemination Phase of the NPI adoption process is proving to be a greater challenge. Many in the healthcare industry intended to use the National Plan and Provider Enumeration System ("NPPEs") as their primary source of NPI information during the transition to the NPI. The lack of access to the NPPEs data has severely slowed industry efforts at NPI communication. Some in the industry have diverted their limited resources for NPI adoption from NPI implementation to sharing NPI information with their trading partners. Others continue to wait on the NPPEs data to facilitate their NPI transition processes. We urge CMS to release the NPI Data Dissemination Notice as soon as possible and to assure timely, robust, and continual access to NPPEs data by the provider and vendor communities.

The Implementation Phase of NPI adoption will have far-reaching effects on the healthcare industry. Industry experience with the Transactions and Code Sets Rule ("TCS Rule") of HIPAA presents a useful framework for pursuing the Implementation Phase of NPI adoption. The TCS Rule dramatically altered the manner in which healthcare providers and plans communicate billing and other information to one another. This massive industry transformation to standard transactions was to be completed in October, 2003; however, the complexity and cost of implementing the TCS Rule far exceeded the projections of OMB, HHS, and the healthcare industry. Few trading partners were prepared to exchange HIPAA standard transactions on October 16, 2003.

Recognizing the good-faith efforts of multiple stakeholders, HHS has permitted the use of "contingency plans" during this transition phase as health plans, clearinghouses and providers continue to work out the thousands of details upon which successful transactions depend. CMS has adopted a contingency plan for Medicare to ensure the continuation of healthcare payments while the transition effort is underway. This contingency plan included the continued processing of healthcare claims submitted in the old "legacy" format while providers and plans

resolved problems experienced exchanging transactions in the new HIPAA format. Healthcare providers and Medicare carriers and fiscal intermediaries effectively used the contingency plan period to progressively migrate claim transactions to HIPAA standard format with limited disruption in healthcare payments or service. At the appropriate time, after substantial migration to the HIPAA standard claim format was achieved, CMS terminated its contingency plan for claim transactions. As we continue to work through HIPAA implementation, we believe lessons learned from the adoption of the TCS Rule can help promote a rational transition to the adoption of the NPI.

NPI adoption will require a significant transformation in healthcare communications. The NPI will require the convergence of hundreds of methods for identifying providers to a single enumeration scheme. These efforts are still being developed. WEDI NPI industry readiness surveys have shown that few providers are currently transmitting the NPI in their transactions. Indeed, many providers are still identifying the system changes needed to enable the transmission of NPIs in standard transactions. Once system upgrades have been implemented and direct testing is possible, trading partners will need time to assure the NPIs work as intended in EDI transactions and to validate that each trading partner's use of an NPI correlates to the same provider and has no unintended effects on transaction processing. It appears that many in the industry are not prepared for full NPI implementation by May 23, 2007. We urge HHS to permit the use of "NPI contingency plans" during the Implementation Phase of NPI adoption.

As with the TCS Rule contingency period, NPI contingency plans that permit the continued processing of healthcare transactions using legacy identifiers would allow the industry a transition period to resolve problems experienced exchanging transactions using the NPI. As trading partners identify and resolve the challenges posed by the NPI, providers would progressively migrate from legacy identifiers to the sole use of the NPI without risk of abrupt changes in healthcare payments or service. Consistent with the dictate that providers control their NPI enumeration schemes, within a reasonable time frame, providers should decide when transactions shift from legacy identifiers to the NPI, as well as the duration of any "dual use" period involving the transmission of both identifiers. We agree with other industry estimates that the Implementation Phase of NPI adoption will require a minimum of twelve (12) months. We encourage CMS to apply the same monitoring and milestone based decision-making to its NPI contingency plan that it has applied to the Medicare TCS contingency plan.

We believe that this three-step strategy, including the use of NPI contingency plans, will achieve timely NPI adoption with limited disruption to healthcare payments

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and services. If you have any questions or would like further information, please contact Marcy Wilder at the law firm of Hogan & Hartson L.L.P. (202/637-5729). Thank you in advance for your attention to this important matter.

Sincerely,

American Hospital Association
Emdeon Business Services
Laboratory Corporation of America Holdings

cc: National Committee on Vital and Health Statistics