



**American Hospital
Association**

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September 1, 2011

Donald M. Berwick, M.D., M.P.P.
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-0032-IFC
P.O. Box 8013
Baltimore, MD 21244-8013

Re: *CMS Administrative Simplification: Adoption of Operating Rules for Eligibility for a Health Plan and Health Care Claim Status Transactions; File Code CMS-0032-IFC*

Dear Dr. Berwick:

The American Hospital Association (AHA) on behalf of our more than 5,000 member hospitals, health systems and other health care organizations, and our 42,000 individual members, is pleased to comment on the interim final rule (IFR) concerning federal *adoption of operating rules for eligibility for a health plan and health care claim status transactions* as published in the July 8, 2011, Federal Register.

First and foremost, the AHA enthusiastically supports the Department of Health and Human Services' (HHS) recognition of the valuable role that operating rules play in achieving administrative simplification and, ultimately, administrative cost reductions. AHA strongly supported the development of operating rules in the administrative simplification section of the *Patient Protection and Affordable Care Act (ACA)*. Operating rules are needed to provide greater uniformity and standardization in how each of the *Health Insurance Portability and Accountability Act (HIPAA)* transaction standards is implemented by health plans.

We support the adoption of the Council for Affordable Quality Healthcare's Committee on Operating Rules for Information Exchange (CAQH CORE) Phase I and Phase II Operating Rules related to eligibility and claim status transactions. While AHA wholeheartedly endorses this landmark step by HHS, we are disappointed that the "Acknowledgements" rule was not included as an Operating Rule, and we urge several revisions to the IFR.



1. Adopt CAQH CORE Phase I and II Operating Rules for Acknowledgements¹

(Reference IFR Section II.D.a)

AHA urges that the final rule keep intact the full set of CAQH CORE Phase I and II Operating Rules by including the acknowledgements rule. The operating rule for acknowledgements is essential to maximizing the benefits associated with the use of the other operating rules and is the only portion of the Phase I and II operating rules package that was not adopted. The acknowledgements rule maximizes the reduction in administrative costs and routines. Both providers and health plans view acknowledgements as essential to improving the end-to-end processing of transactions because they let both parties know that electronic transactions from the other have been received and accepted, thereby avoiding the electronic “black hole” into which transactions can fall. Delaying inclusion of the acknowledgement rule leaves ambiguity in the data exchange process and severely undermines adoption of the operating rules.

Delaying adoption of the mandatory use of acknowledgements until acknowledgements are adopted by HHS as a HIPAA standard, as suggested in Section II.D.a. of the IFR, will have a negative effect on the goals of administrative simplification for the first several years of implementation. Congress did not limit the scope of operating rules under Section 1104 of the ACA to address only HIPAA-mandated standards. Rather, Section 1104 of the ACA amends HIPAA to permit the development of operating rules that meet common business needs for functions that HIPAA does not address — including those that “provide for timely acknowledgement...”

Developing such operating rules, including those for acknowledgements, is important to support the 10 transactions required under HIPAA. As outlined in Table 2 of the IFR, an operating rule must support – and not conflict with – an existing HIPAA standard. There is no conflict between the CAQH CORE Operating Rules related to acknowledgements and an existing HIPAA standard. Furthermore, operating rules for acknowledgements fit squarely within the statutory definition of operating rules because they support and fill gaps to the existing 270/271 eligibility standard and the 276/277 claim status standard. Operating rules for acknowledgements enable greater effectiveness and more rapid adoption of HIPAA transactions.

Since 2005, voluntary CORE participants have used acknowledgements, which are a critical part of the CAQH CORE operating rules. Users of the acknowledgements rule know with certainty whether a transaction is accepted or not.

¹ CAQH CORE Phase I 150: Eligibility and Benefit Batch Acknowledgement Rule version 1.1.0; CAQH CORE Phase I 151: Eligibility and Benefit Real Time Acknowledgement Rule version 1.1.0; and the real-time and batch Acknowledgements requirements contained in the CAQH CORE Phase II 250: Claim Status Rule, version 2.1.0.)

Finally, the fact that HHS intends to formally adopt a HIPAA transaction standard for acknowledgements in the future does not prohibit the agency from mandating acknowledgements now as an operating rule. From a legal perspective, the Secretary has full authority to proceed this way given that such operating rules are needed now to realize the full benefit of administrative simplification. This is because, fundamentally, the CAQH CORE Operating Rules do not repeat or conflict with what is in the standard.

2. **Formally name CAQH CORE as an operating rule authoring entity** (Reference IFR Section II.C)

CMS should use the IFR to formally name CAQH CORE as the operating rule authoring entity for eligibility and claim status. Additionally the *AHA strongly recommends that CMS name CAQH CORE as the single operating rule authoring entity for all medical transactions*. This will help prevent market confusion; eliminate the burden to providers, health plans and other stakeholders in negotiating among multiple entities and their unique processes; and prevent duplication of effort and associated costs.

Operating rules that build upon each other offer the greatest value. Designating a single operating rule authoring entity enables a phased, consensus-based approach to rule development that consistently focuses and builds on existing operating rules, ensures achievement of efficient data exchanges, promotes a cohesive set of national operating rules and facilitates sharing of best practices while lowering costs to the entire health system.

In addition, *we believe that HHS should urge states to participate in the rule authoring processes led by CAQH CORE in order to have their input considered at the earliest opportunity*.

3. **Issue the final rule promptly** (Reference IFR Section III)

Currently, CMS plans to finalize the rule by January 1, 2012, based on the ACA compliance date of January 1, 2013. *We urge CMS to finalize the regulations prior to January 1, 2012, if at all possible*. This will provide health plans, vendors/clearinghouses and providers with much-needed time to coordinate implementation of the rule's provisions with implementation of HIPAA v5010 standards updates, which will help reduce costs and facilitate sharing of best practices.

As indicated above, it is most important that CMS adopt, without exception, all of the CAQH CORE Phase I and II Operating Rules as a complete set. The complete set of Operating Rules is interdependent and must be used as a collective package in order to achieve the maximum benefit and provide the greatest reduction in administrative costs for all transactions.

Dr. Donald M. Berwick
September 1, 2011
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If you have any questions about our comments, please contact me or George Arges, senior AHA director, at (312) 422-3398 or garges@aha.org.

Sincerely,

/s/

Rick Pollack
Executive Vice President