

ACTION REQUESTED: Submission of Comments to CMS on Interim Final Rule (IFR) Adopting CAQH CORE Phase I and II Operating Rules for Eligibility and Claim Status. *Comments are due to CMS by 5 pm on September 6, 2011.*

August 22, 2011

Dear CORE Participant:

As noted in our August 1st letter, CAQH CORE is pleased that the federal government has issued an interim final rule that adopts the use of all CAQH CORE Phase I and Phase II Operating Rules related to Eligibility and Claim Status transactions, with the exception of those pertaining to Acknowledgements and Certification.

Your voice is CRITICAL regarding the content of the final rule that will follow. CAQH CORE supports the IFR, and thanks you and all of the CORE participants for your hard work in developing and voluntarily implementing the Operating Rules and for providing us with preliminary comments on the IFR's scope and contents. CORE Participants have identified some significant gaps that need to be addressed through the public comment process. *This is where your assistance is essential – especially statements of support for adoption of CAQH CORE Phase I and Phase II.* There are two items attached:

- Attachment 1: An outline of the several ways to submit your comments to CMS and an overview of instructions for each method.
- Attachment 2: A model comment letter with language that might be useful as your organization develops its comments for direct submission to CMS. The model letter is based on the draft set of comments sent to you in our August 1st letter and your responses on that draft.
 - The feedback overwhelmingly supported the CAQH CORE draft comments. Some comments received were not related to the IFR (e.g., ideas for new operating rules or an expanded CAQH CORE certification process) and thus are not included in the model letter. However, these ideas have been added to the CAQH CORE rule writing option list.
 - A few technical suggestions were received, but none were consistent among commenters. Any comments suggesting modifications to the CAQH CORE Phase I and II Operating Rules themselves were also not included in the model letter since any modifications to the Operating Rules made by CAQH CORE must be made through the rule writing process.

If your organization submits comments directly to CMS, we would appreciate it if you would email us a copy (CORE@CAQH.org). CAQH CORE will be submitting its own comment letter, which will be posted on our Website.

We sincerely appreciate the efforts of the CORE Participants in making administrative simplification a priority as well as a unified industry effort.

Sincerely,

Gwendolyn Lohse
Deputy Director, CAQH and Managing Director, CORE

Attachments

ATTACHMENT 1: Instructions for submitting comments on CMS-0032-IFC: CMS Administrative Simplification: Adoption of Operating Rules for Eligibility for a Health Plan and Health Care Claim Status Transactions

(CMS-0032-IFC is available in text or pdf at:

<http://www.gpo.gov/fdsys/search/pagedetails.action?granuleId=2011-16834&packageId=FR-2011-07-08&acCode=FR>)

Comment Date: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on September 6, 2011.

Addresses: In commenting, please refer to file code CMS-0032-IFC.

You may submit comments in one of four ways (please choose only one of the ways listed). CMS will not accept Faxes.

1. Electronically. You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the "Submit a comment" instructions.

2. By regular mail. You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-0032-IFC, P.O. Box 8013, Baltimore, MD 21244-8013. Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. By express or overnight mail. You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-0032-IFC, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

4. By hand or courier. If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC--Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. (Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD--Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244-1850. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-1066 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For further information, contact the following CMS Staff: Matthew Albright (410) 786-2546 or Denise Buening (410) 786-6711.

ATTACHMENT 2: MODEL COMMENT LETTER

(Add organization LOGO)

(Date)

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*

(Name of organization) is pleased to offer comments on the above-referenced interim final rule (IFR) concerning federal *adoption of operating rules for eligibility for a health plan and health care claim status transactions*. First and foremost, we enthusiastically support the Department of Health and Human Services' (HHS) recognition of the valuable role of operating rules in achieving administrative simplification and its adoption of the CAQH CORE Phase I and Phase II Operating Rules related to eligibility and claim status transactions.

While *(organization)* wholeheartedly endorses this landmark step by HHS, we urge two important revisions to the IFR and consideration of several other changes and clarifications.

1. Adopt CAQH CORE Phase I and II Operating Rules for Acknowledgements.¹ (Reference IFR Section II.D.a).

The omission of operating rules for Acknowledgements, contrary to the National Committee on Vital and Health Statistics' recommendation in September 2010 to adopt all of the CAQH CORE Phase I and II Rules, is significant as the ROI for the use of operating rules drops considerably unless Acknowledgements are integrated into daily administrative data exchange. Both providers and health plans view Acknowledgements as essential to improve the end-to-end processing of transactions and to avoid the electronic "black hole" that can arise in their absence. Treating Acknowledgements as a separate transaction and delaying its inclusion in operating rules leaves ambiguity in the exchange process and severely undermines the value of the operating rules while diminishing the ROI for all stakeholders.

The goals of administrative simplification will be negatively and greatly impacted if the mandatory use of Acknowledgements is delayed until Acknowledgements are adopted by HHS as a HIPAA standard, as suggested in Section II.D.a. of the IFR. Congress did not limit the scope of operating rules under Section 1104 of the Patient Protection and Affordable Care Act (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

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.)

needs for functions that HIPAA does not address—including those that “provide for timely acknowledgement...”

Development of such operating rules, including those for Acknowledgements, is important because the industry relies on many more standards to meet everyday transactional needs to support the 10 transactions required under HIPAA. As outlined in Table 2 of the IFR, the critical criterion for an operating rule is that it support - and not conflict with - an existing standard mandated under HIPAA. There is no conflict between the CAQH CORE Operating Rules related to Acknowledgments with 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 even greater and more rapid adoption of HIPAA transactions.

Since 2005 the CORE Participants included Acknowledgements as a critical part of the CAQH CORE Rules in response to the industry reliance on this information. Acknowledgements address a vital business need - knowing with certainty whether a transaction is accepted or not. The CAQH CORE Phase I and II Operating Rules for Acknowledgements do just that and are consistent with the statutory definition and scope of operating rules under ACA Section 1104, as well as the business intent and goal for ROI.

Finally, the fact that HHS intends to formally adopt a HIPAA transaction for Acknowledgements in the future does not prohibit the agency from mandating Acknowledgements now as operating rules. From a legal perspective, the Secretary has full authority to proceed this way given such operating rules are needed now to promote administrative simplification. This is because fundamentally, the CAQH CORE Operating Rules do not repeat or conflict with what is in the standard. If and when a HIPAA transaction is mandated, the operating rules can be revised to ensure the ACA definition of operating rules is maintained.

We urge that the final rule keep intact the full set of CAQH CORE Phase I and II Operating Rules.

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

The IFR should be amended to formally name CAQH CORE as the operating rule authoring entity for Eligibility and Claim Status. But, in addition to that, we strongly recommend that CMS name CAQH CORE as the *single operating rule authoring entity for medical transactions* to prevent market confusion; eliminate burden to providers, health plans and other stakeholders in negotiating among multiple entities and their unique processes; and prevent duplication of efforts and associated costs.

Operating rules offer the greatest value when they build upon each other. 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 ROI, promotes national operating rules and facilitates sharing of best practices.

In addition, we believe that HHS also 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. **We support the government’s position on maintaining voluntary certification for health plans, vendors/clearinghouses and large providers, as exemplified by the CAQH CORE integrated model** (Reference IFR Section II.D.b).

Based on the ACA requirements and industry needs, we urge HHS to issue regulatory guidance on this topic, and leverage the CAQH CORE experience, when appropriate. CAQH CORE Certification for Phase I and II has demonstrated proven benefits for a wide variety of stakeholders. Monitoring of CAQH CORE Certification processes has confirmed that the maximum ROI is achieved when all entities in the chain of data exchange follow the rules and have online, easily assessable testing through authorized testing entities, independent from certification.

4. **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 extra 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.

Finally, we restate that we recommend that CMS adopt, without exception, the CAQH CORE Phase I and II Operating Rules as a complete set as developed by industry stakeholders. The Operating Rules, as designed by multi-stakeholders, are interdependent and must be used together in order to achieve the maximum ROI for all transactions.

Thank you for considering our comments. Please let me know if I can provide further clarification.

Sincerely,

Name
Title