

CAQH CORE Open Call

Initial Observations and Areas for Potential Comment on Proposed HHS Rule for Administrative Simplification: Certification of Compliance for Health Plans

January 22, 2014
2:00 – 3:00 PM Eastern Time

Agenda

- **Introduction**
 - Notice of Proposed Rulemaking (NPRM) on Administrative Simplification: Certification of Compliance for Health Plans
 - Call will be Relative to Scope of Proposed Rule
 - Focus of Call on Initial Topics for Observations and Areas in Need of Potential Clarification or Comment
- **Review and Collection of Observations**
 - Initial list of CAQH CORE observations and topics for potential clarification or comment (issued January 13, 2014)
 - Collection of additions to initial topics
- **Next Steps**

Introduction: NPRM

- Administrative Simplification: Certification of Compliance for Health Plans
 - Mandated under the Affordable Care Act, Section 1104
 - Required health plan certification of first two sets of standards and operating rules (by December 2013)
- Notice of Proposed Rule Making (NPRM) published in [Federal Register](#), January 2, 2014
 - HHS accepting comments through March 3, 2014
 - Proposed certification for first two sets of standards and operating rules would be required by December 31, 2015, at the earliest
 - Proposes certification requires submission of:
 - Number of covered lives
 - Documentation that demonstrates health plan has obtained a:
 - CAQH CORE Certification Seal for Phase III (includes Seals for Phase I and II); or
 - HIPAA Credential

Reminders: NPRM Context

NPRM builds upon ***other regulations already adopted***. Comments on these other regulations or legislation should be noted as such.

- **Health Plan Identifier (HPID) Final Rule** (adopted Sept. 5, 2012) requires all controlling health plans (CHPs) except small plans to secure an HPID by Nov. 5, 2014. Small plans have until Nov. 5, 2015. NPRM proposes health plans that obtain:
 - Obtain an HPID before Jan. 1, 2015 must certify compliance between Jan. 1, 2015 and Dec. 31, 2015.
 - Obtain an HPID between Jan. 1, 2015 and Dec. 31, 2016 must certify compliance within 365 calendar days of obtaining an HPID.
- **Definitions**
 - **Covered entities** included in initial HIPAA regulation (45 CFR 160.103)
 - Health plans (*NPRM scope is focused on certification of health plans*)
 - Healthcare clearinghouses
 - Providers who transmit any health information in electronic form in connection with a HIPAA transaction
 - **Controlling health plan** (from HPID regulation 45 CFR 162.103) – a health plan that controls its own business activities, or is controlled by an entity that is not a health plan; and if it has subhealth plans (SHPs) exercises sufficient control over the SHP to direct their business activities.
- Elements within NPRM specified in the **ACA legislation** cannot be changed by HHS, e.g., HHS cannot require certification by providers via the health plan certification regulation, HHS can not change HIPAA definition of health plan
 - Where appropriate, consider methods for HHS to best operationalize such areas given the ACA specified scope of this NPRM

Initially Observations and Topics for Clarification or Comment

- **Scope** of proposed regulation on Standards and Operating Rules for:
 - Eligibility
 - Claim status
 - Electronic funds transfer (EFT)
 - Electronic remittance advice (ERA)
- **Timing** related to compliance deadlines
- **Terminology** needing clarification
- **Two Options** for submission of documentation to HHS
- **Operational Processes**
- **Auditing and Penalties**
- **Other**

Focus of Call on Collecting Areas in Need of Potential Clarification/Other Input

Discussion follows *Solicitation of Initial Observations and Questions on NPRM* distributed by CAQH CORE on Jan. 13, 2014

- Approximately 7 minutes per general area, e.g. scope, with time allocation based on comments received to date; will call time when appropriate to move to next topic
- Those raising topics out of scope of NPRM will be asked to use CAQH CORE website to research or submit general questions
 - http://caqh.org/CORE_faq.php
 - General CAQH CORE inquires CORE@caqh.org

Key:

Questions in pink = Commenters on Initial List agreed clarification needed (comment were due on Jan 21, 2014)

Questions in yellow = Commenters offered new or varying opinions

Scope

- A. NPRM references CORE-required Code Combinations, Version 3.0.0, June 2012, but Final Rule adopted tri-annual maintenance. **Should HHS reference “current version” at time of health plan documentation submission?**
- B. NPRM refers to “three transactions:” (1) Eligibility, (2) Claim Status, and (3) EFT and Remittance Advice. **Should HHS reference EFT and ERA as separate transactions?**
- C. NPRM does not permit exemptions; CORE voluntary certification permits temporary/limited exemptions for IT system migration and newly acquired entities. **Should HHS allow for migration exemptions?**
- D. **Should scope of certification include practice management systems vendors and clearinghouses (as does voluntary CORE certification) in order to achieve full end-to-end administrative simplification?**
- E. **It is appropriate that HIPAA Privacy and Security be part of attestation for the HIPAA Credential?**

Note: Types of health plans covered in NPRM scope, and scope/processes related to HPID addressed in Terminology, Operational Processes and Auditing

Timing

- F.** NPRM discusses dates when CHPs can begin submitting documentation which depends on when a CHP obtains an HPID. **Would it be useful for HHS to supply example timelines in Final Rule or CMS website to describe when CHPs which obtain HPID after Nov. 5, 2015 must submit documentation?**
- G.** **Should time for submission of documentation for new CHPs that form after Nov. 5, 2015, be specified in Final Rule?**
- H.** **Should Final Rule specify when CORE would be required to start receiving HIPAA Credential applications so all stakeholders have sufficient time to submit documentation; and if so – should the start date be with respect to date Final Rule is issued and thus compliance required?**
- I.** **Should Final Rule specify timing for administrative processing even if submission is automated? Should there be provision for CHP to correct missing documentation/ obvious errors; and if so, within what timeframe?**

Terminology

- J.** Would term “HIPAA Transaction Credential” (instead of “HIPAA Credential”) better focus on transaction standards and operating rules?
- K.** Should clarification be sought on whether “major medical policy” includes vision, dental, long term care (LTC)? Capitated products? Does regulation apply to CHPs that do not conduct HIPAA transactions; e.g., FSA (flexible spending accounts), HRA (health reimbursement accounts), HSA (health savings accounts) or portions of health plans, e.g. LTC, that do not conduct the transactions?
- L.** Does the regulation apply to self-insured/ASO (administrative services only) health plans? If so, is there a way to operationalize this requirement so CHPs can have the TPA (Third Party Administrator) obtain certification on the CHP’s behalf or some other arrangement to minimize impact?
- M.** Should “successful testing” be defined (e.g., “a valid response should be required for each successful test”)? Does being in full production with a trading partner count as a successful test for each trading partner?
- N.** Should “transactions” be defined with respect to how it is used in denominator for total number of transactions to be conducted (of which 30% must be accounted for in trading partner testing)?
- O.** Should HHS reference HIPAA definition of “health plan” in final rule?

Two Options

- P.** Do you believe that having two options (HIPAA Credential with trading partner testing attestation and CORE Phase III Seal with independent testing) is a reasonable first step to evolve toward HHS goal of end-to-end testing?

Operational Processes

- Q.** Should clarification be sought to confirm that there are/are not situations where a CHP may satisfy certification by having a mix of SHPs that are CORE Phase III Certified or HIPAA Credentialed?
- R.** Should HHS address how a CHP with fewer than 3 trading partners can attest via the HIPAA Credential? Should HHS describe the role of “trading partner” in regard to health plan certification?
- S.** Should certification administrator or the Final Rule set the fees for the processing of the HIPAA Credential? Who should set the fees for the CORE certification that includes independent testing?

Auditing and Penalties

- T. CHPs, whether issuing major medical policies or not, must meet submission requirements; but only CHPs with major medical policies may be assessed penalty fees. **Should clarification be sought *that this is a requirement of ACA?***
- U. **Should there be a corrective action plan opportunity for errors and omissions identified during audit rather than move to full penalty or a method for both types of proposed certification documentation to recognized the that complex IT systems need some tolerance level, e.g. 99.5%?**

Other?

Next Steps for CAQH CORE

Deliverable	Date of Issue by CAQH CORE	Industry Response
List of Initial Observations on NPRM posted on public CAQH CORE website	January 13, 2014	Comments supplied via initial list available on website requested by January 21, 2014
Open CAQH CORE Call on Initial List of NPRM (Slides)	January 22, 2014 2:00 PM ET	Comments on Initial List and Open Call contribute to drafting model comment letter
Draft model comment letter (to be posted on public CAQH CORE website & sent via email)	January 29, 2014	Send comments on draft to CORE@caqh.org by Feb. 7, 2014 CORE participants only call week of Feb. 3, 2014
Final model comment letter (to be posted on public CAQH CORE website & sent via email)	February 14, 2014	Any entity can use all or parts of this model comment letter to submit its own comments to HHS by March 3, 2014