

March 31, 2016

Walter G. Suarez, MD, MPH  
Chair, National Committee on Vital and Health Statistics  
Executive Director, Health IT Strategy & Policy, Kaiser Permanente  
2221 Broadbirch Drive  
Silver Spring, MD 20904-1984

Dear Dr. Suarez:

As the HHS-designated operating rules authoring entity and per the Affordable Care Act (ACA) mandate, CAQH CORE has submitted to NCVHS the Phase IV Operating Rules for the claims, prior authorization, enrollment/disenrollment, and premium payment transactions. The multi-stakeholder industry, which CAQH CORE represents, spent over two and a half years using transparent, collaborative, criteria-driven and established steps to determine the focus, and then the detail, of the Phase IV Operating Rules. In doing this, the industry came to agreement on the first set of operating rules for these four standards so that the vision of electronic, cost-effective data exchange can be achieved.

At all stages of the Phase IV process, required quorums and approval rates were greatly exceeded. Every entity in Appendix I had an opportunity to vote. The CAQH CORE Participating Entities that approve the operating rules in the final step of the multi-layered voting – ***those participants who must implement – overwhelmingly supported the Phase IV Operating Rules with 90% participation in the vote and 88% voting in favor. Please see Appendix I for a list of the CAQH CORE Participants. These entities are driving market change. As noted in the Appendix, they represent a very significant sector of the marketplace, including over 70% of the commercially insured.*** The Phase IV Operating Rules were also unanimously approved by the executive-level CAQH CORE Board, which includes representation from payer and provider organizations. Throughout the process, the industry placed significant value on ensuring that the Phase IV infrastructure was consistent with previous phases of mandated operating rules, and building up capability to improve security. As it is now six months from the date that the Phase IV Operating Rules were approved, the industry is already starting to implement Phase IV, including volunteers that will be beta testing the Phase IV Voluntary CORE Certification test site.

**CAQH CORE, on behalf of its Board, participants and many others who contributed to Phase IV, urges NCVHS to recommend to the Secretary of HHS adoption of the Phase IV Operating Rules. Time is of the essence if the nation is to bring all of the HIPAA transactions into alignment and continue the drive toward low cost, high quality and efficient data exchange.**

CAQH CORE heard the concerns raised by those invited to the NCVHS Hearing on February 16, 2016, many of whom are not implementers themselves. We would ask NCVHS to consider not only the above industry process and support, but also note:

- ***Achievable and a Foundational Start.*** As communicated at the hearing, the Board, the CAQH CORE Participants and the industry at large view the Phase IV Operating Rules as a critical initial step, but far from the last step, for the transactions. Viewing Phase IV as the initial step is especially important for prior authorization; the layered complexity of this transaction in both its content and exchange calls for an iterative process by which successive milestones are achieved. The Phase IV Operating Rules lay this essential foundation by setting basic data exchange expectations that currently do not exist. Without basics like response times and time stamping, more advanced goals will be twice as hard to define and implement, and cost savings will elude the industry. Therefore, while trading partners implement this first step in the journey,

CAQH CORE, as committed by its Board, can simultaneously collaborate on agreeing to further improvements. This ongoing journey to evolve was what the ACA envisioned, and the strong support for Phase IV ensures a solid step in initiating the path forward to transparent and low cost data exchange.

- **Compatible Safe Harbor.** The concerns expressed regarding the Connectivity Rule Safe Harbor, many of which were focused on cost or flexibility, demonstrated that there are some with a significant misunderstanding concerning the meaning of Safe Harbor in the CAQH CORE Operating Rules. Safe Harbor is explicitly defined in the Phase IV Operating Rules on page 48 (and copied in Appendix II to this letter). The same concept is included in the previously mandated Phases I – III Operating Rules, and has proven valuable to those exchanging transactions due to its flexibility. As applied in Phase IV, while the X.509 digital certificate must be *offered* and used if requested by a trading partner, the Operating Rules clearly state there is no requirement to use a CAQH CORE-compliant method if trading partners agree to use different security requirements, such as a virtual private network (VPN) or secure file transfer protocol (SFTP).
- **Flexible by Being Payload Agnostic.** Low adoption of the prior authorization, enrollment/disenrollment, and premium payment transactions was cited by some at the hearing as a reason for not adopting Phase IV at this time – with a myriad of reasons, all pointing to waiting; waiting for more data content, new versions of the ASC X12 standards, mandates on attachment standards or other reasons. At the same time, the arguments for waiting did not address the fact that the Phase IV Rules can be applied to any standard or version (i.e., Phase IV is payload agnostic). As stated by one member of NCVHS at the meeting of the Full Committee, “mandating the operating rules would start the process, where if they were not mandated, there may never be a start.” As a country, we need to establish basic infrastructure expectations.
- **Best Practice.** While there is virtually full agreement by those in the data exchange arena, including previous calls to action by NCVHS, that Acknowledgements are needed, some testimony again included a recommendation to wait. Some suggested waiting for Federal regulatory action adopting an Acknowledgements standard prior to the adoption of Acknowledgements in the operating rules. However, delaying adoption for this reason continues to do harm to the industry. Acknowledgements are not conducted independently, but are used only with a transaction. Therefore, they are a key part of infrastructure operating rules. CAQH CORE previously supplied a legal opinion that Acknowledgements can legally be mandated by HHS through operating rules, and would urge that NCVHS explicitly call out support for this in its recommendation to the Secretary of HHS. Every entity that is voluntarily CORE-certified on existing CAQH CORE Operating Rules must use Acknowledgements as every phase of CAQH CORE Operating Rules requires Acknowledgements. This inclusion is driving value to providers and health plans, and, thus, overall transaction adoption.
- **Enforcement.** NCVHS asked if Phase IV can be enforced, and CAQH CORE was clear that it can. CAQH CORE continues to evolve its proactive, non-profit, interactive Certification Testing Program given our commitment to driving and tracking adoption by both HIPAA and non-HIPAA covered entities. To this end, Voluntary CORE Certification for Phase IV will be available to the industry starting this summer. Enforcement activities focused on adoption of operating rules and their underlying standards is an essential component of data exchange. Without enforcement, adoption rates and compliance will continue to be challenges for the industry. CAQH CORE urges NCVHS to request that HHS recognize and act upon the critical role of enforcement for all entities.

CAQH CORE remains committed to supporting education and technical assistance for implementation of its operating rules and to their continued maintenance. Please contact Gwendolyn Lohse, who testified to NCVHS on behalf of CAQH CORE, at [glohse@caqh.org](mailto:glohse@caqh.org) if we can be of any further assistance.

As the Federal Advisory Committee to HHS on HIPAA, we urge you to encourage industry progress.

Sincerely,



George S. Conklin, CIO and SVP for Information Management  
CHRISTUS Health  
Chair, CAQH CORE Board



Lou Ursini, Head IT Program Delivery & Testing  
Aetna  
Vice Chair, CAQH CORE Board



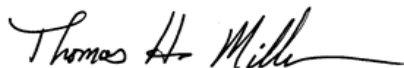
Susan L. Turney, MD, MS, FACP, FACPME, CEO  
Marshfield Clinic Health System



Joel Perlman, Executive Vice President  
Montefiore



Barbara L. McAneny, MD, CEO  
New Mexico Cancer Center  
Immediate Past Chair, American Medical Association Board of Trustees




Tom Miller, SVP/CIO  
Anthem



Raza Fayyaz, Director of Information Systems  
AultCare



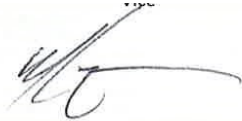
John Fong, MD, MBA, Executive Medical Director  
Blue Cross Blue Shield North Carolina



Tim Kaja, SVP, Optum Cloud/Link  
United Health Group



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Matthew Levesque, Vice President, Product Management  
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Robin Thomashauer, CAQH Executive Director

Gwendolyn Lohse, CAQH CORE Managing Director, CAQH Deputy Director

Shana Olshan, Director, National Standards Group, Office of Enterprise Information, CMS

Dave Nelson, Director and CMS Chief Information Officer, Office of Enterprise Information, CMS

Members, National Committee on Vital and Health Statistics

## Appendix I: CAQH Committee on Operating Rules for Information Exchange (CORE) Participants

*In August 2015, 90% of CAQH CORE Participating Entities that can implement operating rules participated in the Final CAQH CORE Vote on the Phase IV Operating Rules; 88% voted to approve the complete Phase IV CAQH CORE Operating Rule Set, including health plans representing almost 75% of commercially insured lives, plus Medicare and Medicaid beneficiaries. Non-implementers do not vote at the Final CAQH CORE Vote, however, they voiced support in earlier stages of voting along with the implementers, thus allowing the rules to move forward to the final vote.*

### **Government (Includes health plan and provider implementers)**

Arizona Health Care Cost Containment System  
 California Department of Health Care Services  
 Federal Reserve Bank of Atlanta  
 Florida Agency for Healthcare Administration  
 Kansas Department of Health & Environment  
 Louisiana Medicaid – Unisys  
 Michigan Department of Community Health  
 Michigan Public Health Institute  
 Minnesota Department of Health  
 Minnesota Department of Human Services  
 Missouri HealthNet Division  
 National Medicaid EDI Healthcare Work Group (NMEH)  
 North Dakota Medicaid  
 Oklahoma Employees Group Insurance Division  
 Oregon Department of Human Services  
 Pennsylvania Department of Public Welfare  
 TRICARE  
 US Centers for Medicare and Medicaid Services (CMS)  
 US Department of Treasury Financial Management Services  
 US Department of Veterans Affairs  
 Washington State Office of the Insurance Commissioner

### **Health Plans**

Aetna Inc.  
 Ameritas  
 Anthem, Inc.  
 AultCare  
 Blue Cross Blue Shield of Louisiana  
 Blue Cross Blue Shield of Michigan  
 Blue Cross and Blue Shield of North Carolina  
 BlueCross BlueShield of Tennessee  
 CareFirst BlueCross BlueShield  
 Cigna  
 Community Health Plan of Washington  
 Coventry Health Care  
 EmblemHealth  
 Excellus Blue Cross Blue Shield  
 GEHA  
 Group Health Cooperative  
 Harvard Pilgrim Health Care  
 Health Care Service Corporation  
 Health Net, Inc.  
 Highmark, Inc.  
 Horizon Blue Cross Blue Shield of New Jersey  
 Humana Inc.  
 Kaiser Permanente  
 Medical Mutual of Ohio  
 Palmetto GBA

Premiera Blue Cross  
 Providence Health Plan  
 Tufts Health Plan  
 UnitedHealth Group

### **Providers**

Adventist HealthCare, Inc.  
 Adventist Health System  
 American Academy of Family Physicians (AAFP)  
 American Hospital Association  
 American Medical Association (AMA)  
 Cedars-Sinai Health System  
 CHRISTUS Health  
 Community Health Systems  
 Confluence Health  
 Emory Healthcare  
 Greater New York Hospital Association (GNYHA)  
 Healthcare Partners Medical Group  
 Lab Corporation of America  
 Mayo Clinic  
 Medical Group Management Association (MGMA)  
 Mobility Medical, Inc.  
 Montefiore Medical Center of New York  
 NYU Langone Medical Center  
 Ortho NorthEast (ONE)  
 Sound Family Medicine  
 Tampa General Hospital  
 University of Maryland Faculty Physicians, Inc.  
 UNMC Physicians  
 Virginia Mason Medical Center

### **Vendors / Clearinghouses**

Allscripts  
 athenahealth, Inc.  
 Automated HealthCare Solutions  
 Availity LLC  
 Cerner  
 ClaimRemedi  
 Computer Sciences Corporation  
 DST Health Solutions  
 Edifecs  
 Change Healthcare  
 EMS Management & Consultants  
 Epic  
 Fifth Third Bank  
 GE Healthcare  
 HEALTHeNET  
 HMS  
 HP Enterprise Services, LLC  
 inMediata  
 InstaMed  
 Medical Electronic Attachment

MedTranDirect, Inc.  
 NaviNet  
 NextGen Healthcare Information Systems, Inc.  
 OptumInsight  
 Passport Health Communications  
 PaySpan, Inc.  
 PNC Bank  
 Post-N-Track  
 RealMed, an Availity Company  
 Recondo Technology, Inc.  
 RelayHealth  
 The Clearing House  
 The SSI Group, Inc.  
 TriZetto Corporation, a Cognizant Company  
 TriZetto Provider Solutions  
 Ventanex  
 VISA, Inc.  
 Wipro Infocrossing  
 Xerox  
 ZirMed, Inc.

### **Other**

Accenture  
 Cognizant  
 Cognosante  
 CSG Government Solutions  
 MEDIX Consulting LLC  
 NASW Risk Retention Group  
 OptumHealth Financial Services  
 TIBCO Software, Inc.

### **Associations / Regional / Standard Setting Organizations**

America's Health Insurance Plans (AHIP)  
 ASC X12  
 Blue Cross and Blue Shield Association  
 Delta Dental Plans Association  
 Health Level 7 (HL7)  
 Healthcare Billing and Management Association  
 Healthcare Financial Management Association  
 NACHA – The Electronic Payments Association  
 National Committee for Quality Assurance  
 National Council for Prescription Drug Programs  
 NJ Shore (WEDI/SNIP NY Affiliate)  
 OneHealthPort  
 Private Sector Technology Group  
 Utah Health Information Network  
 Utilization Review Accreditation Commission  
 Work Group for Electronic Data Interchange (WEDI)

## Appendix II: CAQH CORE Safe Harbor

### 5 CAQH CORE SAFE HARBOR

This rule specifies a “Safe Harbor” that any stakeholder can be assured will be supported by any HIPAA-covered entity or its agent. This rule further specifies the connectivity method that all HIPAA-covered entities or their agents and all voluntarily CORE-certified organizations must implement and with which conformance must be demonstrated.

As such, this rule:

- DOES NOT require trading partners (e.g., a provider or a health plan) to discontinue using existing connections that do not match the rule.
- DOES NOT require trading partners to use a CAQH CORE-compliant method for all new connections.
- DOES NOT require all trading partners to use only one method for any connections.
- DOES NOT require any entity to do business with any trading partner or other entity.

CAQH CORE expects that in some circumstances, trading partners may agree to use different communication method(s) and/or security requirements than those described in this rule to achieve the technical goals of the specific connection. Examples of potential different communication methods that could be implemented under this CAQH CORE Safe Harbor provision include a VPN (virtual private network) or SFTP (secure file transfer protocol.) Such connectivity gateways are not considered compliant with this Phase IV CAQH CORE 470 Connectivity Rule v4.0.0. When a HIPAA-covered entity or its agent implement a different communication method(s) as permitted by this CAQH CORE Safe Harbor all payload processing modes specified for the transactions addressed by this rule must be supported in each connectivity gateway implemented which does not comply with this Phase IV CAQH CORE 470 Connectivity Rule v4.0.0 requirements. (See §4.4.3.1)

This Phase IV CAQH CORE 470 Connectivity Rule v4.0.0 is the CAQH CORE Safe Harbor connectivity method that a HIPAA-covered entity or its agent MUST use if requested by a trading partner. If the HIPAA-covered entity or its agent do not believe that this CAQH CORE Safe Harbor is the best connectivity method for that particular trading partner, it may work with its trading partner to implement a different, mutually agreeable connectivity method. However, if the trading partner insists on using this CAQH CORE Safe Harbor, the HIPAA-covered entity or its agent must accommodate that request. This clarification is not intended in any way to modify entities’ obligations to exchange electronic transactions as specified by HIPAA or other federal and state regulations.