

**ACTION REQUESTED:** Submission of Comments to CMS on IFC Administrative Simplification: Adoption of Operating Rules for Electronic Funds Transfers (EFTs) and Electronic Remittance Advice (ERA) Transactions. *Comments are due to CMS by 5 pm on Tuesday, October 9, 2012.*

September 27, 2012

Dear CORE Participant:

Attached is the final CAQH CORE model comment letter for the above noted interim final rule with comment (IFC). We hope this is useful and that you use all or part of this letter as you deem appropriate. A key point to bear in mind is that the adoption of these operating rules was a *two-step* process:

- In the first step, **STANDARDS** for the Health Care EFT and Remittance Advice were adopted. These were published in the Federal Register on January 10, 2012, announced as final on July 11, 2012 and under the ACA compliance will be required by January 1, 2014. The regulation can be found at: [Adoption of Standards for the Health Care EFT and Remittance Advice](#).
- In the second step, **OPERATING RULES** that support the standards are adopted. These operating rules to which this comment letter applies were published on August 10, 2012 in the Federal Register with compliance required by January 1, 2014. The proposed regulation can be found at: [Adoption of Operating Rules for Health Care Electronic Funds Transfer \(EFT\) and Remittance Advice Transactions](#). Additionally, the [HHS issued press release](#), which also links to a [CMS fact sheet](#), describes the importance of these operating rules to providing best business practices on how the electronic transactions standards are used.

CAQH CORE appreciates the comments received on the draft model letter. All were supportive of the need for EFT & ERA operating rules overall. A few entities shared their comments on CARCs and RARCs, including some providing suggestions on the importance of the rule requirement to keeping the codes up-to-date with industry needs; only one asked for removal of CARCs and RARCs. Many respondents also addressed the need for acknowledgements to be mandated, and the importance of education and guidance.

Your input to CMS is very important. We urge you to send comments on the IFC. The following are enclosed to assist you:

- [Attachment 1](#): Instructions for submitting your comments to CMS via several methods.
- [Attachment 2](#): The final CAQH CORE model comment letter is provided as a Word document so you can use all or part as your organization finalizes its comments for direct submission to CMS. As noted above, the model letter is based on feedback from your comments.

If your organization submits comments directly to CMS, we would appreciate it if you would email us a copy of your letter ([CORE@CAQH.org](mailto:CORE@CAQH.org)). Beyond the IFC, CAQH CORE is continuing to ensure coordination between the financial services and health care industries on EFT in relation to:

- The NACHA adjustments to the *NACHA Operating Rules* for financial services
- Education/outreach on EFT and ERA
- Testing needs for EFT and ERA
- Tracking return on investment

Thank you again for the immense contributions that all of you are making to administrative simplification. Should you have any questions, please contact me at [glohse@caqh.org](mailto:glohse@caqh.org).

Sincerely,  
Gwendolyn Lohse  
Deputy Director, CAQH and Managing Director, CORE

**Instructions for Submitting Comments on CMS-0028-IFC:** *Administrative Simplification: Adoption of Standards for Health Care Electronic Funds Transfers (EFTs) and Remittance Advice*

**Comment Date:** To be assured consideration, comments must be received at one of the addresses provided below, no later than **5 p.m. on Tuesday October 9, 2012.**

**Addresses:** In commenting, please refer to file code CMS-0028-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-0024-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-0028-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 the 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 Buenning (410) 786-6711.

## ATTACHMENT 2: MODEL COMMENT LETTER

<Add organization LOGO in Header>

<Date>

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-0028-IFC  
P.O. Box 8013  
Baltimore, MD 21244-8013

Re: CMS-0028-IFC: *Administrative Simplification: Adoption of Operating Rules for Health Care Electronic Funds Transfers (EFTs) and Remittance Advice Transactions*

Dear Acting Administrator Tavenner:

<Name of Organization> is pleased to offer comments on the above-referenced interim final rule with comment (IFC) concerning federal adoption of *Adoption of Operating Rules for Health Care Electronic Funds Transfers (EFTs) and Remittance Advice Transactions*.

**We support the *Adoption of Operating Rules for Health Care Electronic Funds Transfers (EFTs) and Remittance Advice Transactions*, hereinafter referred to as “EFT & ERA Operating Rule Set,” as an important means to promote further improvement in administrative simplification.** As a strong supporter of the previously adopted CAQH CORE Operating Rules for Eligibility and Claim Status under Section 1104 of the ACA, we appreciate that HHS has accepted the recommendations of the National Committee on Vital and Health Statistics (NCVHS), made on December 7, 2011, to adopt the Electronic Funds Transfer (EFT) & Electronic Remittance Advice (ERA) Operating Rule Set from CAQH CORE, which were developed in collaboration with NACHA – The Electronic Payments Association.

*While <Name of Organization> endorses the adoption of the EFT & ERA Operating Rule Set, we make the following comments and recommendations to aid in clarification or support further administrative simplification. You will note that the first comment does not include recommendations, as it recognizes the value of the IFC content and commends CMS for its thoughtful approach.*

### **1. Importance of keeping the five areas in the EFT & ERA Operating Rule Set intact.**

As a set of operating rules, the five rules addressed in the IFC are interdependent with each other and must be adopted together in order to achieve optimum efficiency. In developing the EFT & ERA Operating Rule Set, industry stakeholders recognized that removing or delaying implementation of any one rule reduces the likelihood that the industry will move to EFT or take full advantage of the ERA. As noted in the IFC, EFT and ERA suffer from a very low adoption rate among providers because of issues throughout the entire workflow of managing remittance processes, from cumbersome enrollment in EFT and ERA, to variability in information supplied explaining claim adjustment reasons, and inability to reassociate payments to remittance advice. The full set of operating rules is essential to realize the economies called for in the ACA Administrative Simplification provisions.

The key features of the five rules within the CAQH CORE-authored EFT & ERA Operating Rule Set that provide synergy among all parts of a provider’s revenue cycle operations include:

EFT Enrollment Data Rule and ERA Enrollment Data Rule. A maximum set of enrollment data and standardized enrollment terms, definitions, and processes is consistent with section 1104(b)(2) of the ACA which states that “in adopting standards and operating rules for the transactions \* \* \*, the Secretary shall seek to reduce the number and complexity of forms (including paper and electronic forms) and data entry required by patients and providers.” With the interdependencies in the EFT & ERA Operating Rule Set in mind, these rules drive the efficiencies and economies of scale called for in the ACA and contribute directly to the data elements required in the Reassociation Rule.

Reassociation Rule. As observed in Section II. Background of the IFC for the EFT & ERA Operating Rule Set, reassociation of payments from banks with remittance advice data from health plans is a slow and burdensome task, especially when the two cannot be reassociated by matching identical data elements.

This part of the EFT & ERA Operating Rule Set supports realization of time-savings and cost-benefits by enabling end-to-end automation of the matching process on **five** required data elements which have not always matched in the past. It should be understood that the IFC issued in January 2012 on the EFT and Remittance Advice **standards** addressed two of the needed data elements, while also specifying that the remaining needed data elements associated with Payment Related Information (TRN Reassociation Trace Number Segment) be adopted under **operating rules**. As such, the IFC issued in August 2012 on the EFT & ERA Operating Rule Set specified that the Payment Related Information included three required data elements and one situational data element. The following hierarchy illustrates the coordination of the two regulations and the requirements for full compliance with the standards and operating rules for EFT and ERA:

- Effective Entry Date
- Amount
- Payment Related Information (TRN Reassociation Trace Number Segment)
  - TRN01 Trace Type Code - Required
  - TRN02 Reference Identification (EFT Trace Number) – Required
  - TRN03 Originating Company Identifier (Payer Identifier) – Required
  - TRN04 Reference Identification (Originating Company Supplemental Code) – Situational

CAQH CORE, NACHA, and others conducting educational programs should ensure that there is clarity surrounding this structure of required data elements, as they are the keys to reassociating payment to remittance advice. It is expected that CMS will also be a key educator on this topic.

CARCs and RARCs Rule and Code Combination Rule. Operating rules for consistent definitions of these codes, elimination of proprietary codes, and how codes may be used together specifically address section 1104(b)(2) of the ACA which requires standards and operating rules to “describe all data elements (including reason and remark codes) in unambiguous terms, require that such data elements be required or conditioned upon set values in other fields, and prohibit additional conditions ...” Lack of consistency in definitions and approach has plagued the industry for years. The rule recognizes the importance of analysis and ongoing maintenance and alignment with the various code committees that author the codes. As noted in the rule, CAQH CORE is committed as the author to revising the rule no less frequently than three times a year and stakeholders are permitted under the rule to use all new codes as they are added by the code authors. Without these definitions and maintenance approach for the business scenarios the entire reassociation process will continue to be a significant administrative burden.

Timeline for Rule Adoption. Continuing the expedited IFC process and maintaining the ACA’s timeline are applauded. The deadline for compliance with the Standards for Health Care EFTs and Remittance Advice has already been established as January 1, 2014. It is also noted that the ACA called for even further acceleration of EFT and ERA adoption by requiring that by January 1, 2014 no payment may be made to a provider under Medicare Part A or Part B unless such payment is made by EFT or ERA. Adoption of the full set of components in the EFT & ERA Operating Rule Set will make adoption of the standards easier, and allow benefits to be realized sooner rather than later.

## 2. Correct the name of the CCD+.

The IFC (II.A.6.) contains the initial reference to “Corporate Credit or *Deposit* Entry (CCD)” as adopted for the Health Care EFT Standards. The correct name is “Corporate Credit or *Debit* Entry (CCD).”

Recommendation: Correctly reference the name of the CCD+ in errata to the IFC and in other guidance that may be issued from HHS.

### 3. Address the need to adopt a standard and operating rules for electronic acknowledgements.

Since 2005, the CAQH CORE operating rules have always included the use of acknowledgements, and as a result there is a reasonably strong base of implementation. In fact, both government and private sector entities have adopted the CAQH CORE operating rules on acknowledgements as part of their voluntary CORE certification.

The IFC (III. C.) includes extensive discussion of the importance of acknowledgements, recognition of the NCVHS recommendations (most recently made on September 22, 2011) to adopt a standard for acknowledgements, and the observation that section 1104(b)(2) of the ACA provides that standards and associated operating rules shall “provide for timely *acknowledgement*, response, and status reporting that supports a transparent claims and denial management process (including adjudication and appeals).” The comments are also made in the IFC for the EFT & ERA Operating Rule Set that “we are ... strongly encouraging the industry to implement the acknowledgements requirements in the CAQH CORE rules ...”

Nothing in the ACA or elsewhere prohibits HHS from adopting operating rules for acknowledgements *prior* to the adoption of a standard for acknowledgements for the limited purpose of supporting specified HIPAA transactions. In addition, section 10109 of the ACA enables additional transaction standards and operating rules adoption through a new review process. *Yet no movement has been made to adopt acknowledgement standards.* Voluntary adoption through contractual obligation would follow Medicare’s lead, where Medicare’s Fee for Service (FFS) program utilizes the 999 Implementation Acknowledgement for Health Care Insurance (005010X231A1) and the 277CA Claim Acknowledgement (005010X214) per the Medicare Claims Processing Manual, Chapter 24, General EDI and EDI Support Requirements, Electronic Claims, and Mandatory Electronic Filing of Medicare Claims, Rev. 2346, 11-18-11.

**Recommendation:** Given the importance that HHS places on electronic acknowledgements and the health care industry’s history of not adopting electronic transaction standards voluntarily, we urge HHS to use the guidance the ACA supplies and the recommendations of the NCVHS to move rapidly to adopt a standard and/or operating rules for acknowledgements.

### 4. Address a means to update HHS-approved operating rules on a timely basis.

The IFC (IV.) notes that the CAQH CORE EFT & ERA Operating Rule Set includes a number of statements about how the operating rules will be reviewed and updated, including that “CAQH CORE will establish an open process for soliciting feedback and input from the industry on a periodic basis, no less than three times per year, on the CARC/RARC/CAGC and CARC/NCPDP Reject Codes/CAGC combinations ...” However, the IFC further states that “any modified versions of the EFT & ERA Operating Rule Set would be vetted through the rulemaking process before covered entities would be required to comply with them under HIPAA.” It is further observed that section 1104(b)(2)(C) of the ACA requires a review committee to biennially evaluate and review adopted standards and operating rules and to report recommendations for updates and improvements to the Secretary.

Updating operating rules is vital to their continued use and enhancement. The authors of the CARCs/RARCs/CAGCs update the codes several times a year. The CAQH CORE operating rules specify that code usage and associated Business Scenarios will be reviewed three times a year. These review and update processes work well together. The CAQH CORE operating rules also permit new codes to be used as soon as they are added to a code set by its authoring entity. However, in order for operating rules to be used most effectively and to avoid expansion of companion guides, the industry must be required to use the updated operating rules on a timely basis. Perpetuating the variability and proliferation of inconsistent approaches and the lack of uniformity – which was the reason why there is support for the health care operating rules in the first place - will continue if there is not a new, business-focused method and approach to address code usage. Because of this, the industry took the opportunity afforded by ACA to resolve the issue of inconsistent and proprietary code usage via CAQH CORE operating rules.

In other industries, such as financial services, the role of authoring entities for operating rules has evolved to now require responsibility for engaging all public and private sector stakeholders in updating operating rules on a frequent basis using a consensus-based process. The original rulemaking process for financial services established the expectation that updates would be implemented based on an understood process that is verified, and regulatory action would be taken as appropriate. This interactive process between authoring entities and regulators has enabled the exchange of financial data to be proactively maintained and be responsive to evolving market needs. Likewise within health care there is precedent

for regular maintenance of external code sets contained within the transactions. For example, CPT codes are updated annually without a rulemaking process after analysis, consensus and decisions are made. Ideally, then the stakeholders would uniformly implement the updates within a reasonable business cycle that takes factors such as annual budgeting reviews into account. With standards and operating rules working together, updates - and the resources needed to create and implement them - can be targeted towards strategic goals such as creating simplicity, providing robust responses, addressing new payment processes, and ensuring that data flows through the system securely and in a reasonable timeframe.

**Recommendation:** Recognize that the key to administrative simplification is the need for a coordinated process that appropriately defines the roles of regulation and authoring entity maintenance to support updated operating rules. At the next opportunity, clarify that operating rule authoring entities can and should update the operating rules through a stakeholder, consensus-driven, and verifiable process. These updates then go forward to the ACA-designated review committee for the purpose of ensuring that they do not alter the basic underlying structure or substantive rights of stakeholders, and therefore would not require Federal rulemaking while simultaneously ensuring that all regulated requirements are met, e.g., operating rules always support Federally adopted standards. As a result, delays could be avoided while addressing the changing needs of a very quickly evolving health care system, including updates to CARCs and RARCs. The intensive process of rulemaking is then conducted only for significant structural updates that affect stakeholder rights, while the non-substantive updates have formal reviews that occur via well defined and regulated processes such as those of authoring entities and the NCVHS. Such a public-private process would promote the expectation that all stakeholders conducting electronic transactions will need to make regular improvements and should expect to do so with some regularity for the purposes of workload and budget planning. In turn, stakeholder implementations of these updates could be verified, as contemplated in the ACA under its certification requirements. Over time, the health care industry will become less and less challenged in making the updates needed as the process will become more routine, and the magnitude of change will be less significant, except when structurally necessary.

**Recommendation:** The committee for review and amendment of standards and operating rules should be the NCVHS, a Federal Advisory Committee since 1949 that was restructured to meet the responsibilities of HIPAA. Designating NCVHS in this role will avoid fragmentation and delays that could result from layers of review committees, will promote strategic visioning with regard to administrative simplification, will ensure stakeholder involvement, and can assure a level of oversight that any updates are aligned and consistent with other current directives under HIPAA. Given the importance of evolving the review process to meet the goals outlined by the ACA, a deliberate process to gain stakeholder input on the review committee design should be utilized throughout the remainder of 2012, and then in 2013 and 2014.

**5. Provide guidance on cost/benefit analysis associated with provider and health plan implementation of the EFT & ERA Operating Rules.**

The IFC describes costs and savings for both providers and health plans. While we concur that there are no material direct costs to providers for adopting the EFT & ERA Operating Rule Set, it is recognized that “complete automation of reassociation rests with the provider and the capability of the provider’s practice management system.” Given this and that providers are not required to use the HIPAA transaction standards, practice management system vendors may not incorporate the necessary changes to their systems to accommodate the EFT & ERA Operating Rule Set, or may pass these costs on directly to providers instead of including them as federal regulatory requirements that are covered in some vendors’ maintenance fees. It should similarly be recognized that while the IFC Tables 11 and 12 use well-established accounting processes for estimating software development costs for health plans in implementing the reassociation rule and CARCs and RARCs rule respectively, there is no similar accounting for changes to health plan software with respect to the EFT and ERA enrollment rules adoption. It is suggested in the narrative of the IFC that a technical writer would be required to redesign forms, but fails to point out that changes to data element definitions and data element inclusions or exclusions will impact health plan information systems.

**Recommendation:** HHS should provide guidance on working with practice management system vendors to recognize that the Medicare Part A and B requirement for receiving EFT is a federal mandate under HIPAA that could also significantly impact uptake of ERA use. Increased uptake of ERA usage may also impact the contracts that providers hold with vendors, including those vendors, especially those that are not HIPAA covered entities. Further guidance for both providers and health plans on understanding the business case for adopting EFT and ERA should focus on recognizing that costs are associated primarily with start up activities and benefits are continual thereafter. HHS should also encourage other industry efforts to track the cost and impact of adopting EFT and ERA, such as studies conducted by the U.S. Health Care

Efficiency Index or those conducted by CAQH CORE as part of its integrated model in developing, implementing, monitoring, and educating the stakeholders on lessons learned from early adopters. Transparency and multi-stakeholder measurement and benchmarking are essential to driving the business case for administrative simplification and increasing the adoption of electronic transactions.

**6. Seek ways to encourage more providers to adopt the health care EFTs and remittance advice standards as well as other HIPAA transactions standards.**

Administrative simplification is best served when all parties use standard transactions. For a range of reasons, HIPAA does not require providers to conduct electronic transactions; it only requires providers to use the standard transactions when they choose to conduct electronic transactions. Under the Administrative Simplification Compliance Act (ASCA) of 2001, most providers are required to file electronic Medicare claims, and under ACA, Medicare Part A and Part B providers will be required to receive EFTs by January 1, 2014. Commercial health plans could also require, by contract, that providers use certain standards.

***Recommendation:*** HHS should continue to serve as a role model in contractually requiring or otherwise incentivizing providers to use electronic transactions. For example, having providers who accept patients served by “qualified health plans” offered through health insurance exchanges and other federal health programs such as the Federal Employees Health Benefits (FEHB) program and TRICARE use electronic transactions would significantly improve the rate of adoption and lead to the desired efficiencies of administrative simplification.

**7. Address the current exclusion of banks under HIPAA if alternative forms of transmission vehicles/standards – which are allowed by the Standard for Health Care EFTs and Remittance Advice Transactions – carry detailed remittance advice information which includes PHI.**

The IFC (II.A.6.) states that “no protected health information (PHI) is to be included in the health care EFT transaction” according to the standards adopted in the Health Care EFT Standards IFC. We appreciate that this statement is made in response to concerns expressed by stakeholders in response to the IFC adopting the Standard Health Care EFTs and Remittance Advice transactions. However, there remain concerns that the CTX, ATMs, and credit/debit cards (which are already being offered in the market for this purpose) could be adopted by willing trading partners without adequate HIPAA Privacy and Security protections.

***Recommendation:*** We urge HHS to address in subsequent rulemaking the relationship of financial institutions and the ACH clearinghouse to HIPAA with respect to sending alternative formats of the Standard Health Care EFTs and Remittance Advice transactions.

**8. Provide education and guidance on use of operating rules.**

As expanded use of electronic transactions is the goal of the Administrative Simplification provisions in ACA, it is very important to ensure that all covered entities and their vendors understand the importance of operating rules and embrace their contribution to cost savings, fraud control, and improved cash flow and cash forecasting. Health care stakeholders continue to have questions concerning how and when operating rules apply, when exemptions and exceptions apply, and what impact various definitions and other aspects of the rules will have on their business operations. CAQH CORE is committed to an integrated approach to operating rules development wherein they not only develop operating rules through a consensus-based process, but they provide education, technical assistance, and track progress on adoption and return on investment.

***Recommendation:*** HHS should make every effort to build universal awareness of operating rules, educate stakeholders through participation in industry events and frequently asked questions, and promote adoption by whatever means available.

We support adoption of the CAQH CORE EFT & ERA Operating Rule Set as an important way to advance administrative simplification. Thank you for considering our comments. Please let me know if we can provide further clarification.

Sincerely,

<Name of Sender>

<Title>