

HIPAA PRIVACY BULLETIN

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INTRODUCTION

In addition to the privacy rules promulgated by the Department of Health and Human Services (HHS), HIPAA also required HHS to adopt standards for eight electronic transactions and for code sets to be used in these transactions. 45 C.F.R. Parts 160 and 162. The final rule on electronic transactions was published in the Federal Register on August 17, 2000. 65 Fed. Reg. 50312. The rule became effective October 16, 2000, and required health plans, health care clearinghouses and certain health care providers to comply with the standards by October 16, 2002. Members of the health care industry argued that the October 16 deadline was impossible to meet. Congress agreed, and, on December 12, 2001, finally passed the Administrative Simplification Compliance Act, H.R. 3323, which extends the compliance deadline to October 16, 2003, under certain conditions. President Bush signed it into law on December 27, 2001, as Public Law 107-105.

WHAT ARE THE STANDARDS FOR ELECTRONIC TRANSMISSION?

In addition to addressing privacy issues, HIPAA also addressed the need for standardization in health care transactions, to facilitate the electronic exchange of certain health information. The standards apply to all health plans, health care clearinghouses and health care providers who transmit any health information in electronic form. The rules adopt standard code sets (ICD-9-CM) for the classification of diseases and procedures, physician services (HCPCS and CPT-4) and medical equipment and supplies (HCPCS). The rule also adopts standards for: (i) health care claims or equivalent encounter information; (ii) eligibility verification; (iii) referral certification and authorization; (iv) claim status; (v) enrollment and disenrollment; (vi) payment and remittance advice; (vii) premium payments; and (viii) coordination of benefits.

Under H.R. 3323, covered entities will not be

WHAT IS THE NEW DEADLINE?

penalized if they are unable to meet the original October 16, 2002 deadline. The new deadline is October 16, 2003; provided the covered entity submits a plan for bringing itself into compliance. The plan must be submitted by the original compli-

plan must be submitted by the original compliance date of October 16, 2002.

WHAT MUST A PLAN CONTAIN?

The plan must contain a summary of the following elements:

- a) An analysis reflecting the extent to which, and the reasons why, the person is not in compliance.
- b) A budget, schedule, work plan and implementation strategy for achieving compliance.
- c) An indication as to whether the person plans to use or might use a contractor or other vendor to assist the person in achieving compliance.
- d) A time frame for testing that begins not later than April 16, 2003.

H.R. 3323 requires the Secretary of HHS to de-

HOW DO I SUBMIT MY PLAN?

velop a model form by March 31, 2002 that persons may use in drafting plans. Plans may be submitted electronically.

**WHAT HAPPENS IF I FAIL TO
SUBMIT A PLAN?**

Don't! Failure to submit a plan (or be in compliance) by October 16, 2002 may result in exclusion from participation in the Medicare program.

**IF I CAN MEET THE OCTOBER 16,
2002 DEADLINE, DO I STILL HAVE
TO SUBMIT A PLAN?**

No. Covered entities who meet the original October 16, 2002 deadline are not required to submit plans.

**HOW DOES H.R. 3323 AFFECT THE
COMPLIANCE DEADLINE FOR
HIPAA'S PRIVACY STANDARDS?**

It doesn't. The April 14, 2003 compliance deadline (2004 for small health plans) for privacy compliance remains in effect. Although it might have been desirable to implement both the privacy standards and code set standards on the same date, at least for now it appears this is not going to happen.

**WHAT IS THE EFFECT OF
CONDUCTING A NON-STANDARD
TRANSACTION AFTER THE
COMPLIANCE DEADLINE?**

The Rule requires a covered entity conducting an electronic transaction for which a standard has been adopted to conduct it as a standard transaction. HHS has indicated that if a health care provider electronically conducts a non-standard transaction with a health plan after the compliance date, both the provider and the health plan are out of compliance.

ATTENTION READERS, the editors of Thomson, Rhodes & Cowie, P.C. *HIPAA Privacy Bulletin* invite you to submit general questions you may have dealing with HIPAA issues. The editors will compile questions received and periodically provide answers to recurrent issues. Submission of a question is no guarantee that an answer will be provided, but we will make every effort to address issues of common interest.

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Prior issues are available on request. Please direct inquiries to L. Jane Charlton or William James Rogers, Thomson, Rhodes & Cowie, P.C., Tenth Floor, Two Chatham Center, Pittsburgh, Pennsylvania 15219, (412) 232-3400.