

**Statement To
DEPARTMENT OF HEALTH AND HUMAN SERVICES NATIONAL
COMMITTEE ON VITAL AND HEALTH STATISTICS
SUBCOMMITTEE ON STANDARDS**

Panel 1 - Claims

February 16, 2016

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Members of the Subcommittee, I am Jean Narcisi, Chair of the Workgroup for Electronic Data Interchange (WEDI) Board of Directors and Director of Dental Informatics for the American Dental Association. I would like to thank you for the opportunity to present testimony today on behalf of WEDI concerning the proposed new rules from the Committee on Operating Rules for Information Exchange (CORE) and their impact on HIPAA transactions.

WEDI represents a broad industry perspective of providers, clearinghouses, health plans, vendors, and other organizations in the public and private sectors that partner together to collaborate on industry issues. WEDI is named as an advisor to the Secretary of Health and Human Services (HHS) under the Health Insurance Portability and Accountability Act (HIPAA) regulation and we take an objective approach to resolving issues.

BACKGROUND

There continues to be a need for greater adoption of the HIPAA transactions. WEDI feels that Operating Rules, as a supplement to the ASC X12N transactions, are an important tool that can help aid the industry in moving forward with health IT and we appreciate the effort that CAQH CORE has made in the development of these Operating Rules. WEDI has previously provided testimony on Operating Rules in 2010, 2011 and 2015.

Many of the Operating Rules implemented to date have provided benefit to industry stakeholders. Our testimony today will cover concerns with the current proposed Operating Rules for claims.

The ultimate goals of administrative simplification are to improve the accuracy, efficiency, and cost-savings of all transactions. The Phase IV Operating Rules are intended to clarify and enhance how transactions should be used in practice by defining connectivity, authentication, identification, standard acknowledgments, and system availability. However, WEDI continues to have concerns that the published Phase IV rules impose more restrictive connectivity requirements to an industry already burdened by competing health IT implementation timelines and priorities.

The Phase IV operating rules focus on infrastructure and connectivity, which does play a role in achieving these goals. WEDI has the following observations related to adoption of the Phase IV Operating Rules:

- 1. Connectivity Provisions - Inconsistency of requirements across Phases:** It is critical for infrastructure and connectivity provisions of Operating Rules to be consistently applied across all adopted transactions. When the different Phases have different requirements it limits the ability to gain efficiencies through the use of common connectivity and other associated service requirements. Under Phases I, II, and III, the healthcare industry has employed a variety of connectivity methods for electronic administrative transactions using different envelope, transport, security, and authentication standards. If requirements vary significantly by transaction, additional effort and cost will be expended to support these differences. WEDI acknowledges the need for unifying these approaches, but also recognizes the importance and value of allowing stakeholders some flexibility according to their needs and technical sophistication.
- 2. Variance in privacy and security:** Under Phase II Connectivity Rule 270, submitters were given the option of using either an X.509 Digital Certificate or Username and Password as authentication methods. Many stakeholders opted to implement the Username and Password approach as it was already supported on their systems and therefore did not require additional investments. The Phase IV Connectivity Rule 470 now requires HIPAA covered entities to support a single submitter method, which is the X.509 Digital Certificate, for claims, authorization, premium payment and enrollment transactions. This requirement would force these entities to support the X.509 Digital Certificate, even though their trading partners would not be required to use this authentication method due to the safe harbor provisions. There is concern that HIPAA covered entities would be required to incur the cost of having the X.509 Digital Certificate available and few or none of their trading partners would convert to use it.

This creates a disconnect between the authentication options across transactions and across CORE Phases. There is also concern that some HIPAA covered entities would force their trading partners into utilizing the X.509 Digital Certificate, regardless of whether or not they are in some cases a HIPAA covered entity (e.g. employers in the situations of the enrollment and premium payment). This might discourage some of the senders from utilizing electronic transactions due to the extra cost involved with purchasing certificates.

WEDI supports continuing to focus on privacy, security and confidentiality safeguards and sees the need to conduct further research on industry experience and cost-benefit analysis in order to ensure there is a balance in the adoption of new requirements.

Rather than imposing new requirements, WEDI suggests applying the Phase II Connectivity Rule 270 for the remaining four transactions, thereby maintaining consistency across all HIPAA transactions. Further security safeguards could be

accomplished by CORE providing requirements for enhancing the complexity of password security (e.g. using both alpha and numeric characters) without forcing stakeholders to adopt new technology, or HIPAA covered entities to incur additional cost with no benefit if none of their trading partners convert to the X.509 certificate. In a future version of operating rules, a movement to digital certificates could be proposed for all transactions and all stakeholders.

- 3. Overloading of industry resources:** WEDI is concerned that the industry will have difficulty absorbing more restrictive requirements at a time when it is already over-burdened by mandates. Given that not all stakeholders have implemented prior phases of Operating Rules, it is difficult to project the actual benefits that more restrictive rules would have. With the current number of compliance mandates such as Meaningful Use and new payment methodologies, it might be more beneficial to reinforce the value of implementing existing Operating Rule requirements across all parties than to introduce more restrictive requirements at this time.
- 4. Confusion around certification provisions:** As has been expressed in prior testimony, confusion could arise over the inclusion of wording related to CORE certification. Acquiring CORE certification is a private voluntary decision. It would be helpful if references to CORE certification were documented elsewhere and not included in the text of rules adopted under Federal regulation.

CONCLUSION

While WEDI understands the need and desire to move the industry forward with the adoption of operating rules for claims, we urge HHS to work with WEDI to monitor challenges and surveying industry readiness. It is recommended that a system be developed to capture testing and implementation issues in order to provide the industry with a common database of issues that can be consulted. For example, WEDI previously partnered with CMS and industry representatives to implement an ASC X12 5010 database and the ICD-10 CM database that was useful in collecting implementation challenges and triaging problems.

In addition, WEDI encourages HHS to work with WEDI to educate stakeholders and raise awareness on the appropriate use and application of different standards, transactions and code sets. WEDI and HHS have a long history of working together in offering joint educational programs to help educate stakeholders on regulatory changes. WEDI recommends that HHS work collaboratively with WEDI to develop educational briefings and webinars to help key stakeholders learn about the operating rules, transactions and standards.

Thank you for the opportunity to testify; WEDI offers our continuing support to the Secretary and the healthcare industry.