NCVHS ASC X12 Testimony

Good morning. I am Margaret Weiker, Chair of the Accredited Standards Committee X12 (ASC X12) Insurance Subcommittee. I am also a Director of the Hewlett-Packard Business Exchange Services (BES) product.

ASC X12 develops electronic data interchange (EDI) standards and implementation guides for national and global markets, and includes among its membership standards development experts from health care, insurance, transportation, finance, government, supply chain, and other industries.

We are strong supporters of the reform efforts under the *Patient Protection and Affordable Care Act* (PPACA) to reduce complexity and costs in health care claims processing, provider collections and reimbursement through increased standardization of common health care transactions (i.e. claims, eligibility, etc.). Standardizing and simplifying these common payer-provider communications are cornerstones of reform efforts to reduce costs in the health care system. ASC X12 and its member organizations are committed to working collaboratively in public-private partnership with industry and government, to find workable solutions that achieve the ultimate goals of improving access, quality, and affordability of health care services for all Americans.

ASC X12 has reviewed the language in Section 1104 and 10109 of the PPACA and offer the following recommendations to the Subcommittee.

Operating Rules

With the passage of the PPACA, provisions that impact the administrative simplification requirements under the *Health Insurance Portability and Accountability Act* (HIPAA) were enacted. One of the provisions calls for the establishment of "operating rules" for all HIPAA transaction standards. Operating rules are defined in Section 1104 as "the necessary business rules and guidelines for the electronic exchange of information that are not defined by a standard or its implementation specifications as adopted for purposes of this part.''.

The goal of operating rules is defined as "creating as much uniformity in the implementation of the electronic standards as possible." ASC X12 supports the intent. The healthcare industry's previous methodology was that the implementation guides should not control the business processes of every health care entity, but should be flexible enough to allow healthcare entities to define their own business rules. The implementation guides currently mandated under HIPAA include a significant amount of flexibility, or variability, in the content of the electronic

transactions. As the industry experienced the difficulties of such flexibility in implementations, the requirements in the implementation guides mandated for adoption by 01/01/2012 were tightened up and contain significantly less variability. Moving forward, industry consensus decisions will be reached to ensure that implementation guides published by ASC X12 will include definitive requirements for each business function, eliminating variability completely or explicitly defining the variability so that every electronic transaction is implemented consistently across the healthcare industry.   Thus, ASC X12 will be meeting the stated goal for operating rules within their own development processes, without the need for separate and distinct operating rules.

If operating rules are to be developed separately, ASC X12 recommends the following:

1. The definition of operating rules should be further explained in the policy to clarify that Standards and Implementation Guides (IG) developed by the Standard Developing Organizations (SDOs) must control the data content of the transmissions and the business rules and reference documents required to support the data content which are developed and approved by the consensus body of the SDO. Operating rules may not violate the intellectual property rights and copyright protections of the published IGs.
2. Operating rules must not duplicate, contradict, clarify or further restrict the format, content or usage requirements of any electronic transaction defined by an SDO standard and associated implementation guide. Such operating rules shall not impose further restrictions on the electronic transactions as defined in the associated implementation guide published by an SDO.   Examples of operating rules are response times, system availability, communication protocols, hours of customer support centers, amount of claim history (36 months) available for inquiries and real-time adjustments, etc.
3. Effective dates for operating rules must coincide with the effective dates of HIPAA mandated adoptions.
4. Operating rules must follow the existing DSMO/NCVHS/HHS processes.

Review and Recommendation of Operating Rules
ASC X12 is supportive of naming NCVHS as the entity to review and recommend operating rules to the Secretary.

Adoption Requirements – Effective Dates

In regard to the effective date, January 1, 2013, for Eligibility for a Health Plan and Health Claim Status operating rules, ASC X12 believes this date will be disruptive to the industry.   The industry is actively involved in the analysis and development of the 2012 HIPAA regulations. Operating rules interjected during this time would force another development and testing cycle. Vendors would have to deliver software for HIPAA regulated transactions and then a year later, remediate the software to include operating rules. Providers and payers would have

to analyze, implement, and test one version and then immediately start another implementation cycle. The timing of these new Operating Rules could not be worse, as the industry will be fully engaged in development and implementation efforts for ICD-10. Requiring Operating Rules that have yet to be developed, and not even known to be needed, will introduce a significant distraction to the work being done in preparation for ICD-10.

In the future, effective dates for any named operating rule must be coordinated to coincide with the effective dates for new versions of the transactions.

Compliance and Certification

As policies are developed for the compliance and certification provisions, the policies must recognize that the developing SDO is responsible for determining what is or is not in compliance as it applies to the data content and structure of each transaction defined. ASC X12 will expand the criteria that defines what being "in compliance" with our standards and implementation guides mean to assist in such compliance determinations.

Expedited and Interim Final Rulemaking

ASC X12 is supportive of the expedited and interim final rulemaking provisions as this will allow us to bring forward new versions that support industry requirements on a more frequent and predictable basis. All three named SDOs, ASC X12, NCPDP, and HL7, have presented to this committee the need for a "streamlined", timely, and predictable process for several years; which we believe this provision addresses.

I would like to thank the Subcommittee for the opportunity to testify today and welcome any questions you may have.