



**BlueCross BlueShield
Association**

An Association of Independent
Blue Cross and Blue Shield Plans

1310 G Street, N.W.
Washington, D.C. 20005
202.626.4780
Fax 202.626.4833

TESTIMONY

Before the

NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

SUBCOMMITTEE ON STANDARDS

On

OPERATING RULES

July 20, 2010

The following testimony on operating rules, as specified in the Patient Protection and Affordable Care Act (PPACA), is being provided to the NCVHS Subcommittee on Standards on behalf of the Blue Cross and Blue Shield Association (BCBSA). BCBSA is made up of 39 independent, community-based, and locally operated Blue Cross and Blue Shield companies that collectively provide healthcare coverage for nearly 100 million – one-in-three – Americans.

Section 1104 of PPACA directs the Secretary of Health and Human Services (HHS) to adopt a single set of operating rules for each administrative simplification transaction. Operating rules are “the necessary business rules and guidelines for the electronic exchange of information that are not defined by a standard or its implementation specification.” Further, sec. 1104 directs HHS to consider recommendations for operating rules developed by a qualified nonprofit entity that meets specific requirements.

Our testimony focuses on two issues arising from Sec. 1104: (1) how should operating rules be developed; and (2) who should develop them?

- BCBSA believes that to meet the objective of “creating as much uniformity in the implementation of the electronic standards as possible,” it is imperative that HHS and NCVHS delineate the roles and functions of accredited standards and of operating rules, and that the developers of operating rules work hand-in-glove with the developers of standards and implementation specifications.

- Second, BCBSA believes that CAQH/CORE is well-positioned to meet PPACA's requirements for the nonprofit entity that develops operating rules. Our support is conditioned on (1) CAQH adopting the changes needed to fully meet the PPACA requirements; and (2) HHS and NCVHS delineating the roles and functions as noted above.

DEVELOPING OPERATING RULES: HOW

As we believe was intended by the initial HIPAA legislation, the use of accredited standards should establish the framework and boundaries for the exchange and use of administrative transactions in health care. The first and most important step in enabling uniform implementations is the required exchange and use of compliant transactions. Accordingly, operating rules should be viewed as helping to support, maintain, and implement standards. Operating rules should supplement what is already defined by the standards organizations, and should neither replace their front matter nor conflict with general usage information contained in the implementation guides.

Indeed, it will be important to avoid using operating rules to resolve problems created by use of non-compliant transactions. Such problems need to be resolved through education, the enforcement process, or both. While we recognize and promote the value of standards, we also recognize the need for the industry to develop a timelier and more predictable maintenance cycle. Future predictable cycles would also facilitate the coordination and communication that will be essential to keep standards and operating rules consistent with one another as we move forward.

Delineating Standards and Operating Rules

To ensure effective coordination between standards and operating rules – and avoid redundancy, wasted efforts due to authority disputes, and contradictions that may impede certification – it is essential that HHS and NCVHS provide clear delineations between accredited standards and operating rules.

The line between standards/implementation specifications and operating rules is not necessarily clear cut. First, standards themselves may contain data elements that could be construed as “business rules or guidelines.” For example, CAQH/CORE initially created operating rules to address gaps in the 4010 version of the standards. Adoption and use of operating rules for the eligibility and claims status transactions enabled trading partners to exchange more specific and predictable information, resulting in greater use of the transactions and greater efficiencies of trading partner operations. However, when the 5010 version of the transactions are implemented, many of the gaps will have been closed. This will create some redundancy between the standards and the rules. While this may not pose a problem to the industry, HHS should ensure that what is a redundancy with the 5010 versions of the transactions does not become a conflict with the 6020 versions.

Second, implementation specifications provide specific configuration instructions and constraints for implementing a particular standard or set of standards. In past testimony to NCVHS, X12 itself described the implementation specifications for at least one of the 5010 transactions (835 – Claims Payment/Remittance) as incorporating “tighter business rules to eliminate options and code values [to improve] standardization and clarity with the guide, making for more consistent implementations and interpretations of these transactions.”

Because of the importance of delineating the role of standards and the role of operating rules, we urge NCVHS to hold additional hearings on this topic. We would also encourage all industry stakeholders to participate in discussions to help establish clear definitions of roles and

responsibilities for all entities involved in the processes of standards and operating rules development and maintenance.

DEVELOPING OPERATING RULES: WHO

BCBSA believes that CAQH/CORE is well-positioned to become the developer of operating rules. Our view takes into account CAQH'S experience and success with operating rules to date, and also the relatively limited timeframe to implement the first set of operating rules. However, our support for CAQH/CORE is subject to CAQH making certain changes:

- First, CAQH will need to modify its governance and development processes to meet the PPACA requirements.
- Second, CAQH must assure that operating rules are consistent with the compliant version of transactions.
- Third, CAQH should establish clear and routine communication links with the SDOs.

These changes by CAQH, coupled with NCVHS and HHS establishing clear delineations between accredited standards and operating rules, should give HHS the operating rules it needs to advance uniformity in administrative transactions.

However, because boundaries may change over time, necessitating revisions to roles and responsibilities, we recommend that sometime prior to commencement of rule development for the final set of rules (July 2013 to July 2014) that NCVHS conduct hearings to get industry input on the effectiveness of the process being used to develop and maintain operating rules. The hearing would help NCVHS determine whether to recommend changes to the process for developing operating rules.

In conclusion, BCBSA thanks NCVHS for the opportunity to present these views on operating rules. We look forward to working with NCVHS, HHS, and other industry stakeholders to develop standards and operating rules that improve the efficiency and effectiveness of the implementation of electronic standards.