

**Statement of the National Uniform Claim Committee
to the
National Committee on Vital and Health Statistics'
Subcommittee on Standards
Regarding the Upcoming Regulations on Operating Rules
Presented by Nancy W. Spector
July 20, 2010**

I am Nancy Spector, Chair of the National Uniform Claim Committee (NUCC). I am also Director of Electronic Medical Systems at the American Medical Association. The NUCC thanks the National Committee on Vital and Health Statistics' (NCVHS) Subcommittee on Standards for inviting our input on the upcoming regulations on operating rules.

The NUCC is a national, multi-stakeholder committee. Its members represent providers, payers, designated standards maintenance organizations (DSMO), public health organizations, and vendors. The mission of the NUCC is to support and advocate for the development, maintenance, and adoption of uniform data content and standardized administrative transactions in the health care industry. It accomplishes its mission by:

- Maintaining the Health Insurance Claim Form, commonly known as the 1500 Claim Form, our related instruction manual, and the NUCC Data Set;
- Participating in the development and management of the national standards and data content for administrative transactions with the other DSMOs;
- Advising the Department of Health and Human Services (HHS) and the Centers for Medicare & Medicaid Services (CMS) on issues related to the 1500 Claim Form, uniformity of data content, and standardization of administrative transactions;
- Providing an open forum for members of the health care industry to participate in the development, maintenance, and adoption of the 1500 Claim Form;
- Identifying business needs of the health care industry related to the 1500 Claim Form, uniform data content, and standardized administrative transactions and communicating those needs to standards developers.

Through its work, the NUCC emphasizes the need for administrative simplification and uniformity and standardization of data content and reporting.

The NUCC was named in the Health Insurance Portability and Accountability Act (HIPAA) of 1996 as one of four organizations the Secretary is to consult prior to the adoption of standards. The NUCC was also named as one of six organizations that make up the DSMO, which maintains the standards adopted by the Secretary.

Overview

The NUCC has reviewed the language in Section 1104 of the Patient Protection and Affordable Care Act (PPACA) as it pertains to the development and implementation of operating rules. Because the NUCC maintains the NUCC Data Set for the professional claim, our comments will speak more directly to the professional claim data content, standard, and transaction implementation guide.

The purpose of the NUCC Data Set is to present a single data set intended for use by the professional health care community to transmit related claim and equivalent encounter information and coordination of benefits transactions to and from all third-party payers. The focus is on data content standardization. Three principles underlie the NUCC's goals and implementation approach:

- Standardization requires broad-based consensus among key parties;

- Data sets for institutional and professional claims/encounters must be coordinated. To foster that coordination, the NUCC works closely with the National Uniform Billing Committee (NUBC); and
- The professional uniform data set and associated attachments requirements should constitute the full extent of the data required by any public or private payer to process a claim or encounter.

The end product of the NUCC's efforts is one standard data set, with complete and unambiguous data definitions, for use in an electronic environment, but applicable to and consistent with evolving paper claim form standards. The NUCC Data Set serves as an accompanying document to the Accredited Standards Committee X12 (ASC X12) Health Care Claim: Professional (837) implementation guide. The NUCC is open to accepting change requests from the industry and works with ASC X12 on any new business needs or changes for the data content of the professional claim.

From our work as the maintainer of the NUCC Data Set, it is our opinion that the NUCC Data Set contains the data content of the professional claim standard. The data content includes the data and associated reporting and usage rules developed by a standards development organization (SDO) as published in the implementation guides.

Business needs related to the standards that are not data content would be addressed in operating rules. The NUCC sees great value in the development of operating rules to address variations in such business processes as response times to transactions and lack of uniformity in the communication of transactions. Operating rules have the potential to make these processes more efficient, decrease the complexity that exists today, and decrease costs for maintaining multiple interfaces.

Role of Operating Rules

For the role of operating rules, PPACA states that the adoption of standards and operating rules shall seek to reduce the number and complexity of forms and data entry required and the Secretary shall adopt a single set of operating rules for each standard transaction with the goal of creating as much uniformity in the implementation of the electronic standards as possible. The NUCC supports this intent, as it aligns with our efforts for administrative simplification and uniformity and standardization of data content and reporting.

The NUCC sees the intent of this language as addressing the current issue with hundreds of companion guides that provide further instructions on reporting data for the HIPAA standards. The added complexity brought on by companion guides hopefully can be decreased, if not eliminated, by the introduction of one set of operating rules per transaction and the implementation of the updated HIPAA standards. The NUCC is very supportive of any efforts to decrease the number and size of today's companion guides.

The introduction of operating rules for each standard will also add a layer of complexity. Today, organizations need to obtain the implementation guides for each standard they are implementing. Organizations will now need to obtain the necessary documents for the operating rules. There is no central repository or access point through which organizations can obtain the transactions and code sets necessary to comply with the HIPAA standards. The costs for each organization implementing and conducting the standards will increase as they will need to locate, purchase, and integrate into their processing logic the operating rules, in addition to the implementation guides. The added expense may deter adoption of electronic transactions. The NUCC asks NCVHS to recommend to the Secretary to develop a funding process so the SDOs and operating rules developers can provide their implementation guides and operating rules to the industry free of charge or at a nominal cost.

There will need to be close coordination and collaboration between the SDOs and the operating rules developers. The NUCC is aware of the DSMO proposal for a framework for coordination and collaboration and we support that process. We recommend that NCVHS establish a formal process for coordination between the SDOs and operating rules developers. Coordination of the work by the SDOs and operating rules developers will provide the opportunity for the organizations to resolve any conflicts

that may occur between standards and operating rules before each is finalized and they are presented to NCVHS for adoption.

Operating Rules Developer(s)

PPACA includes language about the operating rules developer(s). The NUCC is supportive of the criteria outlined in PPACA for the requirements of an operating rules developer. The NUCC would like the Subcommittee to consider a few additional criteria when evaluating candidates to be operating rules developers.

First, the entity or entities should be accredited by the American National Standards Institute (ANSI). The language in PPACA requires entities to demonstrate a multi-stakeholder and consensus-based process, have a public set of guiding principles, and allow for public review. Accreditation by ANSI would ensure the entity or entities meet these criteria of PPACA since ANSI accreditation establishes requirements for due process by the organization. Due process encompasses the practices of openness, lack of dominance, balance, coordination and harmonization, consideration of views and objections, notification of development work, consensus vote, appeals process, and written procedures. ANSI accreditation would enhance the credibility of the work done by the operating rules developers and could deflect later criticism of the operating rules development process and resulting work.

Consideration should also be taken of the costs associated with participating in the operating rules developers' work, such as dues and meeting costs. There needs to be balanced representation of the stakeholders, and so costs need to be minimized in order for the largest number of organizations to participate in the work. Costs and staff resources to participate in the work of operating rules developers are an added strain to the industry and have the potential to limit participation.

Finally, the NUCC does not believe there should be any mandatory certification requirements for operating rules separate from the new certification requirements for health plans. Once the operating rules are mandated, it should be assumed that all organizations using the associated standard are compliant. The current complaint/enforcement process would then be used to address any issues of noncompliance with the operating rules.

The NUCC recommends that the operating rules developer entities be required to notify the industry of their intent to develop operating rules a minimum of six months prior to the development work beginning. The notification will give the industry the opportunity to participate in the work. It will also alert the SDOs of the planned work and facilitate the needed close coordination between the standards and operating rules work.

Review and Recommendation of Operating Rules

The NUCC is very supportive of PPACA's naming of NCVHS as the entity to review and recommend operating rules to the Secretary. It is important that a single body review the standards and operating rules to ensure they are consistent with one another and do not conflict. NCVHS's current role reviewing regulations related to standards and other HIPAA requirements means that one entity will be able to identify the various regulatory initiatives, evaluate the significance of each, and determine the best timing for compliance based on the industry's needs and resources, for subsequent versions following the dates named in PPACA.

Timeframes for Adoption of Operating Rules

The NUCC supports the timeframes in PPACA for the adoption of the operating rules. We do recommend that NCVHS consider whether or not pilot testing is necessary for all or some of the operating rules. Conducting pilots, which are fully funded and include a wide range of stakeholders, as quickly as possible into the development process would provide a quantitative and qualitative evaluation of their functionality and value.

Expedited Rulemaking Process for Standards and Operating Rules

PPACA establishes an expedited rulemaking process that will use a review committee and interim final rules for the adoption of updated standards and operating rules beginning in 2014. The NUCC is supportive of this change as it recognizes the need to have a predictable cycle to the adoption of updated standards and operating rules. Today, the adoption process for updated versions of standards is too slow. Issues identified in the current version of a standard take years to correct through today's process.

The NUCC is aware that the adoption of the first set of operating rules will be done based on the dates identified in PPACA. For future versions of operating rules, the NUCC recommends that the standards and operating rules for the same transaction be brought forward for review and consideration at the same time. Coordinating the review of the standard and related set of operating rules will allow for a better evaluation of consistency and uniformity between them.

The NUCC is pleased that NCVHS will serve as the review committee for the purposes of recommending future updated and new versions of standards and operating rules to the Secretary. Although PPACA allows for the adoption of updated standards and operating rules every two years, the NUCC recommends that NCVHS review the update frequency for the most appropriate timing. The review committee will play a critical role in evaluating the industry's need and capacity to move to a newer version based on the value of the newer version and other competing priorities. Again, NCVHS has the ability to perform this evaluation of the impact, benefits, and risks and balance the need to move new versions forward with other priorities facing the industry at that time.

Conclusion

In summary, the NUCC is making the following recommendations related to the development and implementation of operating rules.

1. NCVHS recommend to the Secretary to develop a funding process so the SDOs and operating rules developers can provide their implementation guides and operating rules to the industry free of charge or at a nominal cost.
2. NCVHS establish a formal process for coordination between the SDOs and operating rules developers, such as the process proposed by the DSMO.
3. NCVHS consider the following three criteria when evaluating operating rules developer candidates:
 - a. ANSI accreditation,
 - b. Costs to participate in the work, and
 - c. No certification requirement.
4. Operating rules developer entities be required to notify the industry of their intent to develop operating rules a minimum of six months prior to the development work beginning, which will give the industry the opportunity to participate in the work.
5. NCVHS consider whether or not pilot testing is necessary for all or some of the operating rules.
6. Future versions of standards and operating rules for the same transaction be reviewed and considered for adoption at the same time.
7. NCVHS review the update frequency for new versions of standards and operating rules for the most appropriate timing for adoption.

Summary

The NUCC appreciates the opportunity to participate in these hearings and present our recommendations on operating rules. The introduction of this new concept of operating rules into the administrative requirements will be a significant change for the industry. We are pleased to see NCVHS playing a central role in the identification of operating rules developers and review of operating rules for adoption. We look forward to providing further input on this important work in the future.