

NCVHS Full Committee

Discussion of Standards
subcommittee letter on authoring
entities for Operating rules

March 18, 2011

NCVHS Sub-Committee on Standards Summary of 2011 Agenda

- ▶ Letters on EFT/ERA
 - Recommendation on ORs Authoring Entity March 2011
 - Recommendations on Operating Rules Sept 2011
- ▶ Hearing on Acknowledgments, ORs Process April, 2011
- ▶ DSMO Report to NCVHS June 2011
- ▶ Hearing on Status of 5010/ICD-10 June, 2011
- ▶ HIPAA Report to Congress Sept 2011
- ▶ Hearing on Section 10109 (provider enrollment form, worker's comp etc) & Claim Attachments Q4, 2011

Today's Call – Purpose and Goals

▶ Purpose:

- Discuss evaluation of candidates for the operating rule entity for EFT and ERA, timeline for completion of operating rules and options for recommendations to HHS

▶ Goals:

- Approval of approach and recommendations
 - Recommendation on candidate for authoring ORs on EFT/ERA
 - Establish deadline for submission of ORs to NCVHS

Background on EFT/ERA ORs Process (1)

▶ Under the Affordable Care Act:

- Operating Rules for EFT/ERA must be adopted by July 1, 2012 with an effective/compliance date of January 1, 2014
- NCVHS must:
 - Advise the secretary as to whether a nonprofit entity meets the requirements (as defined in the Act)
 - Review the operating rules developed and recommended by the nonprofit entity
 - Determine whether such operating rules represent a consensus view of the health care stakeholders and are consistent with and do not conflict with other existing standards
 - Evaluate whether such operating rules are consistent with electronic standards adopted for health information technology; and
 - Submit to the Secretary a recommendation as to whether the Secretary should adopt such operating rules

Background on EFT/ERA ORs Process (2)

- ▶ Timeline of Rulemaking Process:
 - Industry vetted operating rules must be received by NCVHS no later than August 1, 2011
 - NCVHS evaluates and makes recommendations to HHS no later than September 30, 2011
 - CMS will begin the clearance process for that regulation in December 2011
 - Rules (Interim Final Rule form) are published by July 1, 2012

Background on EFT/ERA ORs Process (3)

- ▶ December, 2010 – NCVHS held hearings with regard to 1) Selecting and recommending a standard for EFT; and 2) Discussing status of Operating Rules for both EFT and ERA
 - At the time no operating rules for either of the two transactions were presented to the Committee.
 - As a result of that meeting, the NCVHS requested applications from candidate authoring entities for operating rules for the EFT and ERA transactions
- ▶ January, 2011 – NCVHS received three applications from candidate authoring entities (using standard template with Affordable Care Act-defined evaluation criteria)
 - None of the three authoring entities had final operating rules ready to be considered by the NCVHS.

Candidate Applications

- ▶ Three candidates applied to be authoring entities for EFT and ERA operating rules
 - X12 – Applying to write ERA Operating Rule for Medical Tx
 - NCPDP – Applying to write ERA Operating Rule for Pharmacy Tx
 - CAQH CORE in partnership with NACHA – Applying to write ERA and EFT Operating Rules for Medical and Pharmacy Tx
- ▶ No candidate submitted rules for review because it was premature.
 - All stated that they are currently working on development of rules, and committed to completing them, with industry consensus, within the time frame requested by HHS or NCVHS to meet statutory deadlines for publication of Interim Final Rules

Summary of Applications (1)

- ▶ CMS and Co-Chairs of Sub-Committee on Standards completed review of applications; prepared draft report with detailed evaluation and sent to Sub-Committee members 2/21.
- ▶ X12 and NCPDP applications lacked depth in their proposals for what operating rules would do, what they would contain, or who industry partners would be.
 - A few examples were provided, such as fixes to the Claims Adjustment and Reason Codes and their use, few other suggestions offered, and little evidence of robust industry discussion
 - X12 had convened an initial meeting of a working group to develop operating rules for 835 (ERA) at the trimester meeting in February, 2011 and made a broadcast announcement about the formation of the operating rules work group.
 - In mid February, both X12 and NCPDP notified CMS that draft rules would be available by the end of February. Industry comments would be solicited in March and/or April
 - Neither X12 nor NCPDP are working on operating rules for EFT. Both are only applying to do operating rules for ERA.

Summary of Applications (2)

- ▶ The CAQH CORE/NACHA application was very robust, with substantial research already completed and provided in the application. The team submitted many comprehensive and significant recommendations for what the operating rules should include, for both EFT and ERA. The team has reached out to the banking industry, and a wide cross section of industry.
- ▶ All three applicants acknowledge that more outreach is required to demonstrate adequate and appropriate input from affected stakeholders.

Options for Recommendations (1)

▶ Option A:

- Recommend a specific authoring entity, to develop operating rules for EFT and ERA
- Set a deadline (late summer) for chosen authoring entit(ies) to return with completed operating rules to be considered by NCVHS.
- Notes:
 - authoring entity would develop rules for medical and pharmacy transactions because the ERA standard is the same for both industries
 - Authoring entity is not formally recognized as the NCVHS recommended entity, per ACA, until their finished operating rules are reviewed and recommended by NCVHS

Options for Recommendations (2)

▶ Option B:

- Do NOT make a recommendation for a specific authoring entity or entities, but recommend that all candidates write operating rules and submit them by a defined deadline, before an authoring entity and corresponding operating rules are formally recommended by NCVHS
 - There might not be a need to draft a formal letter, under this option at this time.
 - Communicate with authoring entity applicants that all candidates write operating rules before an authoring entity is recommended by NCVHS.

▶ Option C (hybrid):

- Recommend an authoring entities for EFT operating rules only (CORE is the only applicant for EFT ORs).
- For ERA Operating rules (both Medical and Pharmacy TxS), set a deadline for all candidates to return with completed operating rules to be considered by NCVHS.

Recommendations: Pros/Cons

- ▶ The standards sub-committee recommends Option A
- ▶ The recommendation sends a clear message to all parties that one entity has been selected so resources need not be diverted for participation on the development of operating rules
- ▶ Organizations and individuals will not have to participate in multiple, disparate, competing groups on the same subject. This has been a common thread in industry discussions.
- ▶ It is an opportunity to better foster collaboration between the entities that are now seen to be at odd with each other, and even as competitors.
- ▶ Some work effort by X12 and NCPDP may be lost unless they decide to collaborate with CORE and share stakeholder suggestions.

Committee Discussion (1)

- ▶ NCVHS should send strong message about
 - the process for development of future operating rules, including higher expectation for collaboration across all stakeholders and expertise
 - Avoiding duplication and wasted efforts by multiple entities working on same ORs for same transaction
- ▶ Expectation of named OR Authoring Entity/Entities to engage, at high level, the other organizations (i.e., Board participation, creation of advisory panel to engage other key entities, etc)
- ▶ Need to increase participation across the board from providers, Medicaid, others

Additional Points for Committee Discussion (2)

- ▶ Need to define a framework for how operating rules will relate to standards in the future
 - Further clarification of scope, focus, limitation between the two
 - Opportunity for ORs to serve as intermediate, transitional step between versions of standards
 - Fill gaps or correct deficits in current version of standard while the next version is developed and then adopted
 - Once adopted, any ORs that become part of the standard would be “retired”
 - CMS will address this framework in first regulation
- ▶ Future discussion regarding NCVHS role as stewards of the operating rules and how they are developed, incorporated into new versions of standards, retired, developed etc.