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STATE INSURANCE COMMISSIONER

**STATE OF WASHINGTON**

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Re: Washington State Office of Insurance Commissioner comments to the Subcommittee on Standards, National Committee on Vital and Health Statistics regarding the processes used for developing Standards and Operating Rules

Dear Dr. Suarez and Dr. Warren:

I appreciate this opportunity to submit this written testimony regarding state participation in the processes used to develop HIPAA transaction standards and operating rules.

My office has been working with health insurers and providers on administrative simplification initiatives in Washington State for more than two years. Pursuant to 2009 state legislation, I designated two private-sector organizations to lead the work on four priority statewide administrative simplification initiatives:

- A uniform process for electronic provider credentialing;
- An enhanced eligibility transaction (270/271) with much greater benefits detail;
- Increased standardization of payer code edit policies; payer use of group codes, reason codes, and remark codes in electronic remittance transactions (835); processing of corrections to claims; and
- Increased standardization of pre-authorization policies and web-based processes.

This work has been carried out primarily through three stakeholder workgroups consisting of business process experts representing a range of health care payers and providers.

http://www.onehealthport.com/worksmart/sb5346.php
http://www.onehealthport.com/admin_simp/admin_simp_overview.php

My written testimony focuses on three main points:

- The U.S. Department of Health and Human Services (HHS) should be very clear that the new national Operating Rules establish a base, not a ceiling, for standardizing health care administrative transactions;
- There are significant benefits to be gained by continuing to allow – and take advantage of – state, regional, and private sector administrative simplification initiatives; and

- There is a need to remove several obstacles that currently discourage providers and state agencies from participating in the development of standards and operating rules.

In addition to raising these points, I also want to express my appreciation for the efforts made in the past year – most specifically by the NCVHS – to promote the development of the operating rules required by Section 1104 of the Patient Protection and Affordable Care Act (ACA).

Before offering suggestions regarding the processes used to develop HIPAA transaction standards and operating rules, I think it would be helpful to recall why we have mandatory standards and operating rules. The ultimate goal is to reduce the cost of providing high-quality health care services. More specifically, the goal is to reduce the time and money spent by health care providers, health plans, and ultimately consumers and taxpayers on unproductive administrative activities.

To achieve this goal, we need to significantly increase provider use of electronic transactions and, where appropriate, web-based services/functionality, in place of paper or phone transactions. This, in turn, will require making it easier for providers to use electronic transactions and web-based services, in part by promoting greater uniformity and ease in their use. It will also require making the transactions more valuable by expanding the information provided in them, such as in the HIPAA 271 eligibility/benefit response.

## Operating Rules Need To Be A "Base", Not A "Ceiling"

When HHS issues regulations establishing the new operating rules, it should be clear that the rules provide a "base" for administrative simplification, not a "ceiling" that precludes payers and providers from exploring additional opportunities. States – and private parties – should continue to be able to develop and adopt additional administrative simplification guidelines that build on, and are consistent with, HIPAA standards and operating rules. Experience has shown that state and private sector initiatives can help inform and stimulate faster evolution of standards and operating rules to meet new health industry needs. My letter of November 29, 2010 provided some specific examples of provisions in our state's Best Practice Recommendations that build upon the requirements of the CAQH CORE proposed operating rules for eligibility/benefits transactions.

## Advantages Of State, Regional, And Private Sector Initiatives

Our experience in Washington State has been that it is easier to obtain provider and public agency engagement in administrative simplification efforts at the state level than in national processes. The time commitment and expense of engagement is lower, and the value and relevance of locally-oriented discussions with important business partners is more evident.

This increased engagement can be helpful in identifying issues that might not receive attention in a national process. Small and medium-sized physician groups often have different business

processes and systems than the larger multi-specialty groups and hospital systems that would be the likely provider representatives in national processes. "Supplemental" requirements developed through industry collaboration at a state or regional level can add value and aid in the evolution of the national operating rules over time. Ideally, there will be a way for state and regional experiences to be shared routinely as part of the process for developing and updating national operating rules.

We believe state and regional health care administrative simplification efforts also provide two additional indirect benefits: by promoting collaborative review of administrative simplification issues, they support smoother implementation of changes to the national standards and operating rules, and they can also lay a foundation for additional collaborative efforts to address other common health care system challenges in a given state or region.

REMOVING OBSTACLES TO ENGAGEMENT – ESPECIALLY BY PROVIDERS AND STATE AGENCIES

The current processes used to develop national standards and operating rules pose several obstacles to organizations that have an interest in the standards and rules, and that would otherwise be willing to volunteer time to help with their development.

The costs to participate in the standards and operating rules development processes pose a significant financial barrier for many providers and state agencies. These costs can include:

- *The purchase price for standards documents and implementation guides.* This can be a substantial barrier for a small provider or state agency that may not need the documents except for its engagement in administrative simplification efforts.
- *Organization membership fees required for participation in the multiple organizations that are involved with the development of standards or operating rules.* Provider organizations and state agencies that may be willing to absorb the cost of many hours of staff time have a hard time understanding why they are also expected to pay for the opportunity to donate staff time for work that is intended to benefit the entire health care sector.
- *Conference fees and travel expenses for participation in work groups that use national in-person meetings.* The time required for travel can be a daunting burden in addition to the travel expenses. Due to current budget problems, some states prohibit all out-of-state travel by state employees.
- *The complexity of the current framework, the lack of clarity regarding roles and processes, and the lack of transparency.* These discourage smaller organizations from engaging with the processes for developing and modifying standards and operating rules. Larger organizations may be able to afford to pay staff to navigate the mazes; smaller organizations are less likely to be willing to incur that cost.

I urge the NCVHS to work with Standards Development Organizations and Operating Rules Organizations to support changes to reduce the obstacles listed above. The processes for developing standards and operating rules should be modified to reflect the new emphasis on mandatory operating rules and the other health care administrative simplification initiatives included in Sections 1104 and 10109 of the ACA.
The processes should be modified to be as efficient, transparent, and fair as possible:

- Having clear and well-synchronized steps and timelines for the processes of developing and updating standards and operating rules, with the flexibility to respond to the rapidly-evolving needs of the health care sector;
- Using technology to facilitate discussions and decision-making for the work done at the national level – conference calls, webcasts, web sites, etc.;
- Using full-time staff to support all of the steps of the development process - facilitating communication, and drafting summaries of discussions, issues, positions, options, etc.
- Proactively contacting participants – especially providers - to ensure that decisions reflect as full a cross-section of issues and interests as reasonably possible;
- Making available at no cost all information needed to effectively participate in the processes;
- Ensuring that staff support is always objective and balanced; and
- Having a governance structure in which an equal balance of health care payer and provider organizations provide leadership, with opportunities for significant participation by other key stakeholders.

In closing, I would like to express my appreciation to the Subcommittee and its staff for all that you have done in the past year to facilitate state-level engagement with the Operating Rules development effort.

In Washington State, several provider organizations and payers are now participating on the CAQH CORE work groups for EFT and ERA Operating Rules. The letter identifying CAQH CORE as the initial lead organization for preparing these operating rules eliminated one previous obstacle to their participation – the uncertainty regarding which organization would be leading the drafting of those two operating rules. It has also been helpful that the payers and providers are able to participate in the EFT and ERA workgroups in a way that minimizes costs and builds off their ongoing collaboration with other payers and providers in this state.

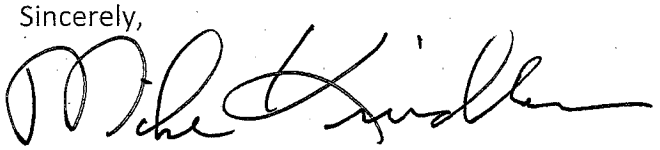
I also want to express my appreciation for the CAQH CORE Transition Committee effort discussed at the December 3rd NCVHS meeting and the April 27th Subcommittee meeting. We are in a new health care administrative environment - with mandatory national operating rules

and an increased sense of urgency regarding the need to reduce administrative costs and burdens. With these changes, there is a need to create a more efficient framework, and a more representative framework, for coordinating administrative simplification efforts. I look forward to seeing the recommendations of the Transition Committee, and the discussion that will certainly follow.

Thank you again for this opportunity to provide comments and for all that you have done in the past year to respond to the challenges and opportunities contained in Section 1104 of the ACA.

Please let me know if you have any questions or if there is anything my office can do to support your work in this area.

Sincerely,



Mike Kreidler
Insurance Commissioner

cc: Lorraine T. Doo, MSWA, MPH, Senior Advisor, Centers for Medicare & Medicaid Services, and Lead Staff, Subcommittee on Standards, National Committee on Vital and Health Statistics