DEPARTMENT OF HEALTH AND HUMAN SERVICES
NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS,
SUBCOMMITTEE ON STANDARDS

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Regarding: **Testimony addressing ICD-10 Implementation Beyond Covered Entities**

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Members of the Subcommittee, my name is Robert Holden, speaking on behalf of the American Association of Payers Administrators and Networks (AAPAN). We would like to thank you for the opportunity to present testimony today on behalf of AAPAN concerning the matter of ICD-10 Implementations Beyond Covered Entities.

AAPAN is composed of two organizations whose members provide services to non-covered entities: the Association of Preferred Provider Organizations (AAPPO) and the Third Party Administrators Association of America (TPAAA). AAPPO is the leading national association of Preferred Provider Networks (PPNs) and affiliate organizations. Its 995 members include both PPNs and payers who offer PPO networks and PPO benefits, including workers' compensation provider networks, specialty provider networks, pharmacy benefit managers, payers and other organizations involved in the delivery of medical treatment to injured workers. PPNs are today's most popular healthcare choice for 193 million consumers, which constitute 69 percent of all Americans with healthcare coverage, and their use by employers to provide workers' compensation service lowers costs while preserving quality of care. TPAAA advocates on behalf of Third Party Administrators (TPAs) to foster choice, innovation, and quality affordable healthcare delivery options for self-funded employers, Taft-Hartley and municipal health benefit plans nationwide. TPAAA members also provide services to employers providing workers' compensation services.

AAPAN is pleased to provide testimony to the Subcommittee because our members provide services to covered and non-covered entities alike. This gives us perspective on ICD-10 implementation issues as they are applied across states and within states across varying regulatory programs. Accordingly, we hope that the Subcommittee will consider the following recommendations for the Secretary:

1) That states should be encouraged to assess the impact of ICD-10 implementation on non-covered entities during planning and incorporate guidelines for compliance

2) That state regulatory implementation should be as transparent as possible and incorporate stakeholders from non-covered entities as broadly as possible

3) That HHS should provide guidance to the states for planning and for outreach so that implementation can proceed efficiently

AAPAN has been actively advocating for its members on a number of issues that we believe inform the concerns addressed in these Subcommittee hearings. TPAs assisting self-insured employers have faced a rapidly changing market reality. Workers' Compensation networks and administrators are adapting to new regulatory models and greater incorporation of group health regulatory elements in state workers' compensations systems. These realities highlight why comprehensive planning, transparency and outreach are crucial to avoid unintended consequences and mitigate increased costs when implementing new standards like ICD-10.

State and Federal Reform Efforts Place New Requirements on TPAs

Increasingly throughout the past 3 years, AAPAN has advocated on behalf of TPAs addressing market uncertainty created by new state and federal regulatory activity. Health Care reform implementation at both the state and federal level has presented TPAs with new challenges and opportunities, but frequently a lack of transparency in the goals of policy changes and communication of guidance for compliance has made it difficult for TPAs to continue to present solutions to self-insured employers. This, in tandem with new responsibilities for TPAs in group health and workers' compensation, has made it a challenge to fully assess costs and efficiencies.

Adverse Selection in State Healthcare Benefit Exchanges

Since 2012, AAPAN has addressed national groups such as the National Association of Insurance Commissioners (NAIC) and numerous states individually concerning adverse selection issues related to the development of State-Based Health Benefits Exchanges pursuant to the Affordable Care Act (ACA). Adverse selection and its impact on the health benefit exchanges was a key concern of states as they expended their resources in creating the new marketplaces. The perceived danger was that large numbers of employers with relatively healthy employee pools would opt out of the exchanges by self-insuring, and that the consumers remaining in the exchanges would be a sicker population, raising premiums and the level of risk inside the exchange. [1] One way to address this issue was to make self-insurance less attractive to employers by increasing the point at which Stop-Loss insurance could cover claims.

[1] Jost and Hall, *Self Insurance for Small Employers Under the Affordable Care Act: Federal and State Regulatory Options*, 9.

AAPAN successfully engaged at the national level in 2012 and with several states in 2013 to address these concerns. After the NAIC decided not to recommend an increase in Stop-Loss attachment, our organization engaged in several states to show the impact on small businesses and to demonstrate the value of self-insured plans to the employees who receive their benefits.[2] Our key concern during this period was the view taken by some policymakers that an increase in stop-loss attachment points was simply an administrative fix that would have no impact on small, self-insured employer plans. We believe that an early, transparent discussion of the goals of this policy could have identified alternative policy options more efficiently without policy makers being surprised by the serious impact on employee coverage.

Implementation of TPA Administered Contraceptive Coverage

At the federal level, policies addressing the provision of contraceptive coverage to religiously affiliated employers have placed entirely new responsibilities on TPAs. TPAs are not risk-bearing entities that pooled the costs of health care for their enrollees. As such, they differ considerably from health insurance carriers, typically receiving a fee to provide an employer's self-funded plan with administrative services, such as network contracting, managed care services, and claims processing. Under the final rules, for plan years beginning August 1, 2013, TPAs will now provide access to contraceptive benefits to the employees of religiously affiliated employers, without payments or fees from the employer. In order for this to work, the rules provide for health benefit exchange tax and fee offsets to be marketed to qualified health plans and their affiliates. While this could represent a business opportunity for TPAs, the development of a market to trade these offsets has not fully materialized. Furthermore, litigation has called into question whether these markets will exist in the long-term.

As with the state policy implementation efforts above, the implementation of a new market promises specific outlays by TPAs in terms of compliance costs, but no clear guidance or outreach concerning how the off-set market will emerge. As with the examples above, we believe that a more transparent planning process with subsequent outreach to stakeholders would aid implementation.

State Implementation of ICD-10 Standards

AAPAN members have been working towards implementation readiness, but even as they are planning, inconsistent implementation across states or the inability of their partners to become compliant will be a concern.

[2] Six states introduced legislation to increase stop-loss attachment point in 2013. Minnesota opted not to increase their stop-loss attachment points. California was the only state to increase attachment point above recommended NAIC levels ($35,00). Colorado, North Carolina, Rhode Island and Utah opted for individual attachment points of $20,000 (current NAIC recommendations) or lower.

ICD-10 Dual Reporting for Workers' Compensation Administrators and Provider Costs

As with the issues above, AAPAN members are concerned that uneven implementation of ICD-10 standards without a formal plan, input from, or outreach to non-covered entities will result in increased costs, not only to TPAs, but employers, networks and providers alike. AAPAN members include Networks and TPAs who provide health services for workers' compensation plans and health plans alike, frequently from the same set of providers. Accordingly, they are very concerned about the costs that will be required to administer two data sets in some jurisdictions. Providers, who form the basis of any network, are clearly concerned, as referenced in the recent statements by the American Medical Association.[3] AAPAN has worked with states as they increasingly integrate new concepts into their workers' compensation programs, working to secure legislation last year to allow for the integration of specialty networks into the Texas Workers Compensation, and engaging with California regulators implementing their workers' compensation reform bill. Based on our experiences there, encouragement from HHS to states to plan for communication with non-covered entity stakeholders is essential.

Member Surveys Assessing ICD-10 Readiness

In a recently completed survey of members providing Administrative or Networks services in the group health and workers' compensation markets, half (50%) of responding members identified themselves as providing regional coverage, while just over 40% provided National coverage. Accordingly, aside from a small minority, AAPAN members were able to compare readiness across a number of states.

In the survey, all respondents were either very familiar (71.4%) or somewhat familiar (28.6%) with ICD-10 requirements, and 50% had already completed their own planning process. Unfortunately, of this group 35.7% were uncertain of their states' positions on ICD-10 implementation, and 28% were concerned that their vendors and trade partners would not be ready.

Conclusions

In the time remaining before implementation is completed, it is vital that HHS take action to assure that ICD-10 standards are adopted after taking into consideration their effects on non-covered entities. This requires information gathering and guidance to individual states, as well as across health care markets within each state to avoid access problems and other unintended issues. While AAPAN has advocated on behalf of its members to resolve these kinds of issues at the state and federal level after new policies have been implemented, identifying these issues beforehand is far more efficient.

[3] AMA February 12, 2014 letter to Secretary Sebelius http://www.ama-assn.org/resources/doc/washington/icd-10-letter-to-cms-12feb2014.pdf

Currently, AAPAN members are concerned that they are not certain of their states' plans, including timelines, to extend ICD-10 standards to non-covered entities. This uncertainty is particularly concerning when our members cannot be certain of their fellow stakeholders' readiness. This is why AAPAN urges the Subcommittee to issue recommendations to the Secretary to encourage states to assess the impact of ICD-10 implementation on non-covered entities during planning, incorporating guidelines for compliance based on outreach and the participation of non-covered entity stakeholders. The Secretary should use this opportunity to provide guidance to the states for planning and for outreach so that implementation can proceed efficiently across all markets.

Thank you very much for the opportunity to testify on this important matter. We welcome any opportunity for our organization or our members to assist in your efforts to implement the ICD-10 standards.