

**Statement To
DEPARTMENT OF HEALTH AND HUMAN SERVICES
NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS
SUBCOMMITTEE ON STANDARDS**

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WEDI Board of Directors
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Members of the Subcommittee, I am Laurie Darst, the Chair-elect of the Workgroup for Electronic Data Interchange (WEDI) Board of Directors and Revenue Cycle Regulatory Advisor at the Mayo Clinic. I would like to thank you for the opportunity to present testimony today on behalf of WEDI concerning the proposed new rules from the Committee on Operating Rules for Information Exchange (CORE) and their impact on HIPAA transactions.

WEDI represents a broad industry perspective of providers, clearinghouses, health plans, vendors, and other organizations in the public and private sectors that partner together to collaborate on industry issues. WEDI is named as an advisor to the Secretary of Health and Human Services (HHS) under the Health Insurance Portability and Accountability Act (HIPAA) regulation and we take an objective approach to resolving issues.

BACKGROUND

There continues to be a need for greater adoption of the HIPAA transactions. WEDI feels that Operating Rules, as a supplement to the ASC X12N transactions, are an important tool that can help aid the industry in moving forward with health IT. WEDI has previously provided testimony on Operating Rules in 2010 and 2011. Many of the Operating Rules implemented to date have provided benefit to industry stakeholders. Our testimony today will cover concerns with the current proposed Operating Rules for claims, authorizations, premium payment and enrollment, with the understanding that these rules are still under development and have not been finalized.

WHAT ARE THE BUSINESS NEEDS OF THE HEALTHCARE INDUSTRY THAT OPERATING RULES INTEND TO ADDRESS?

The Operating Rules discussed today are intended to clarify and enhance how transactions should be used in practice by defining connectivity, authentication, identification, standard acknowledgments, and system availability. However, WEDI is concerned that the current draft of Operating Rules imposes more restrictive

connectivity requirements to an industry already burdened by competing health IT implementation timelines and priorities.

WHAT IS THE POTENTIAL IMPACT OF THE OPERATING RULES TO HEALTHCARE ENTITIES ON THE DAILY WORKFLOW/TRANSACTION PROCESS, ADMINISTRATIVE COSTS, REQUIRED CAPABILITIES, AND AGILITY TO IMPLEMENT OPERATING RULE CHANGES?

The majority of requirements for the proposed Operating Rules of Phase IV are technical in nature. Ultimately, it is the transactions themselves that will be responsible for improving the accuracy, efficiency, and cost-savings for authorizations, claims processing, and payment. However, Operating Rules can assist in achieving these goals by providing a standard base level of service in regard to connectivity and timing. In order to accomplish this, we offer the following observations:

- 1. Consistent requirements:** It is critical for Operating Rules to be consistently applied across transactions and across each Phase such that efficiencies can be gained by using common connectivity and other associated service requirements. Under Phases I, II, and III, the healthcare industry has employed a variety of connectivity methods for electronic administrative transactions using different envelope, transport, security, and authentication standards. WEDI acknowledges the need for unifying these approaches, but also recognizes the importance and value of allowing stakeholders some flexibility according to their needs and technical sophistication. If requirements vary significantly by transaction, additional effort and cost will be expended to support these differences.
- 2. Industry overload:** WEDI is concerned that the industry will have difficulty absorbing more restrictive requirements at a time when it is already overburdened by mandates. Given that not all stakeholders have implemented prior phases of Operating Rules, it is difficult to project the actual benefits that more restrictive rules would have. With the current number of compliance mandates such as Meaningful Use and ICD-10, and new payment methodologies, it might be more beneficial to reinforce the value of implementing existing Operating Rule requirements across all parties than to introduce more restrictive requirements at this time.
- 3. Certification language:** As has been expressed in prior testimony, confusion could arise over the inclusion of wording related to CORE certification. Acquiring CORE certification is a private voluntary decision. It would be helpful if references to CORE certification were documented elsewhere and not included in the text of rules adopted under Federal regulation.

- 4. Batch versus real-time:** The proposed Phase IV CORE Rules contain verbiage around real-time and batch request and response processing modes. However, the currently mandated HIPAA v5010 transactions (i.e. claims, enrollment and premium payment) were not built to support real-time and will not support real-time in the transactions until a future version. The current verbiage implies that real-time processing is required instead of clearly identifying that it is not. WEDI suggests that the rule include a clear statement that while HIPAA covered health plans and agents must implement batch server requirements, the real-time requirements only apply if entities offer real-time capability for the transactions noted here.
- 5. Claim acknowledgements:** WEDI supports the voluntary adoption of acknowledgements between stakeholders. WEDI also strongly supports the adoption of claim acknowledgments (999 and 277CA) through the federal rulemaking process to facilitate information exchange between providers, intermediaries, and health plans.

WHAT IS THE IMPACT OF OPERATING RULES ON PRIVACY, SECURITY AND CONFIDENTIALITY?

WEDI supports continued focus on privacy, security and confidentiality safeguards and looks to balance the adoption of new requirements based on industry experience and cost-benefit analysis.

The proposed Phase IV CORE Connectivity Rule (Rule 470) would require the X.509 Digital Certificate to be supported by HIPAA covered entities. WEDI has concerns with this due to the following:

- 1. Variance in privacy and security:** Under Phase II Connectivity Rule 270, submitters were given the option of using either an X.509 Digital Certificate or Username and Password as authentication methods. Many stakeholders opted to implement Username and Password given that it was already supported on their systems and therefore did not require additional investments. However, the proposed Phase IV Connectivity Rule 470 now requires HIPAA covered entities to support X.509 Digital Certificate for claims, authorization, premium payment and enrollment transactions. This requirement would force these entities to support the X.509 Digital Certificate, even though not all their trading partners would be required to use this authentication method. There is concern that HIPAA covered entities would be required to incur the cost of having the X.509 Digital Certificate available and few or none of their trading partners would convert to use it. In addition, there would be a disconnect between the authentication options across transactions and across CORE Phases. There is also concern that some HIPAA covered entities would force their trading partners into utilizing the X.509 Digital Certificate, regardless of whether or not they are in some cases a HIPAA covered entity (e.g. employers in the situations of the enrollment

and premium payment). This might discourage some of the senders from utilizing electronic transactions due to the extra cost involved with purchasing certificates.

- 2. Alternative approach:** Rather than imposing new requirements, the Operating Rules could instead apply Phase II Connectivity Rule 270 for the current four transactions, thereby maintaining consistency across all HIPAA transactions. Further security safeguards could be accomplished by CORE providing requirements for enhancing the complexity of password security (e.g. using both alpha and numeric characters) without forcing stakeholders to adopt new technology, or HIPAA covered entities to incur additional cost with no benefit if none of their trading partners convert to the X.509 certificate. In a future version of operating rules, a movement to digital certificates could be proposed for all transactions and all stakeholders.

CONCLUSION

Although WEDI recognizes the value of common rules of the road and engagement for electronic transactions that CORE has been working on, we would urge the Subcommittee to strongly consider the items noted above. Thank you for the opportunity to testify; WEDI offers our continuing support to the Secretary and the healthcare industry.



NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

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SUBCOMMITTEE ON STANDARDS

Laurie Darst, Chair-Elect WEDI Board of Directors
Revenue Cycle Regulatory Advisor , Mayo Clinic

What is the Potential Impact of the Operating Rules to Healthcare Entities



Consistent requirements: It is critical for Operating Rules to be consistently applied across transactions and across each CORE Phase such that efficiencies can be gained by using common connectivity and other associated service requirements

Industry overload: Concern the industry will have difficulty absorbing more restrictive requirements at a time when it is already overburdened by mandates and new payment methodologies

Certification language: As has been expressed in prior testimony, confusion could arise over the inclusion of wording related to CORE certification

What is the Potential Impact of the Operating Rules to Healthcare Entities



Batch versus real-time: Inclusion of a clear statement that while HIPAA covered health plans and agents must implement batch server requirements, the real-time requirements only apply *if* entities offer real-time capability for the transactions

Acknowledgements:

- Support the voluntary adoption of acknowledgements between stakeholders
- Strongly support the adoption of claim acknowledgments (999 and 277CA) through the federal rulemaking process

What is the Impact of Operating Rules on Privacy, Security and Confidentiality?



Phase IV CORE Connectivity Rule (Rule 470) would require the X.509 Digital Certificate to be supported by HIPAA covered entities. WEDI has concerns with this due to the following:

Variance in privacy and security

- Phase II Connectivity Rule 270, allowed submitters an option of using either an X.509 Digital Certificate or Username and Password as authentication methods
- Proposed Phase IV Connectivity Rule 470 requires support of the X.509 Digital Certificate for the four current transactions
- Not all trading partners would be required to support this authentication method, potentially creating additional cost for some stakeholders with minimal usage
- Disconnect between the authentication options across transactions and across CORE Phases.

What is the Impact of Operating Rules on Privacy, Security and Confidentiality?



Alternative approach:

- Rather than imposing more restrictive requirements, apply Phase II Connectivity Rule 270 for the current four transactions, thereby maintaining consistency across all HIPAA transactions and CORE Phases
- Create further security safeguards by enhancing the complexity of password security