



American Association of
HEALTH PLANS

June 6, 2003

Thomas A. Scully
Administrator
Centers for Medicare and Medicaid Services
Hubert H. Humphrey Building, Room 314G
200 Independence Avenue, SW
Washington, DC 20201

Dear Tom:

On behalf of the American Association of Health Plans (AAHP), I am writing to express our support for the proposals made by the Work Group for Electronic Data Interchange (WEDI) in its letter to Secretary Thompson on April 15, 2003 regarding the implementation of the electronic transactions and code sets rule (TCS rule). Our member plans have been strong supporters of the principle of administrative simplification, and have expended considerable resources in a serious and sustained effort to implement the TCS rule. We do not support a delay in the October 16th compliance date. We do, however, share the concern expressed by WEDI that some segments of the health care community will not be fully prepared to implement the TCS rule on the October 16, 2003 compliance date.

In its letter, WEDI recommends that all partners be permitted to utilize HIPAA standard transactions that may not contain all required data content elements, if these transactions can otherwise be processed to completion by the receiving entity. WEDI also recommended that covered entities be allowed to continue utilizing their current electronic transactions for a brief transition period if such action was needed to avoid the unintended and disrupting consequences of reverting back to paper transactions. We believe that WEDI has outlined a process that gives transitional flexibility needed to achieve compliance with the TCS rule. We urge CMS to issue guidance as soon as possible to permit covered entities *that choose to do so* to use either (or both) of the options outlined in the WEDI letter. In addition, CMS should make clear that enforcement actions for violations of the TCS rule will not be instituted against covered entities that are acting in good faith to follow this guidance and to comply with the TCS rule.

There is a precedent for this enforcement strategy. CMS established a similar transition policy in 1996 under the Medicare risk program (Operational Policy Letter 96.045, December 3, 1996). That action was taken in recognition of the difficulty faced by some Medicare risk contractors and their network physicians in meeting the initial compliance deadline for the physician incentive plan regulations, despite ongoing good faith efforts to implement the requirements. Similarly, covered entities which are in compliance with the TCS rule on October 16, 2003 should not be considered non-compliant because of the inability of their trading partners to implement the HIPAA standards.

We would contrast the WEDI proposal with a suggestion recently made by the American Hospital Association (AHA) that HHS require health plans to make periodic payments to a health care provider if the plan's average daily claim processing or payment volume drops below a specified level after the effective date of the rule. Even assuming health plans and health care providers agree on the calculation of average claim volume or what triggers the periodic payments, it is not always reasonable to equate past claims history with future claims volume. In addition, the AHA proposal may not give health plans sufficient time to fully evaluate claims for purposes such as fraud investigations.

We believe CMS does not have the authority to impose such a payment requirement on health plans. The AHA is proposing government involvement in a private contractual relationship between providers and health plans. AAHP urges you to reject the course of action recommended by the American Hospital Association.

In conclusion, AAHP does not support a delay in the October 16, 2003 compliance date of the TCS rule. An implementation delay could penalize those covered entities that have invested the time, resources and commitment to implement the HIPAA standards. At the same time, we do believe that CMS should provide a smooth transition from the current electronic transaction standards used by health plans, health care providers, and health care clearinghouses to the standards that will be required when the TCS rule goes into effect. We urge CMS to adopt the WEDI recommendations to achieve this goal.

We appreciate your work to simplify administrative procedures and we are eager to work with you on this issue of great importance to our members.

Sincerely,

Karen Ignagni