

HIPAA Compliance Deadlines Upcoming; Information Available on NACO Web Site

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An article appearing in the July 2002 **Countyline** provided an overview of the 1996 Health Insurance Portability and Accountability Act (HIPAA). That article and various other HIPAA-related resources can be found at NACO's Web site: www.nacone.org/hipaa.html.

Transactions and Code Sets Deadline

A fast-approaching deadline for HIPAA is associated with the requirement the Department of Health and Human Services establish national standards for electronic health care transactions and code sets by Oct. 16. This deadline applies to *covered entities*, which are defined as health care clearinghouses, health plans or health care providers to comply with the new national standards addressing security and privacy of health data issues. In December 2001, the Administrative Simplification Compliance Act (ASCA) extended the deadline for compliance with HIPAA Electronic Health Care Transactions and Code Sets standards (codified at 45 C.F.R. Parts 160,162) one year – to Oct. 16, 2003 – for all *covered entities* other than *small health plans* (whose compliance deadline was already Oct. 16, 2003).

To qualify for the Oct. 16 extension, *covered entities* must submit a compliance plan by **Oct. 15, 2002**, to the Centers for Medicare and Medicaid Services, either electronically or by mail.

General reasons for filing the extension include: need additional money or staff; buying more hardware; need more information about the standards; waiting for vendor(s) to provide software; need additional time to complete implementation; and/or need additional clarification on standards. It is recommended by some that if you are uncertain about whether or not you are a covered entity, you complete the form and submit it to provide you additional time to further evaluate the provisions of HIPAA. As stated in the form's instructions, the timely submission of a model compliance plan will satisfy the federal requirements and assist the Centers for Medicare and Medicaid Services in identifying and addressing impediments to a covered entities' timely and effective implementation of the HIPAA Electronic Health Care Transactions and Code Sets standards.

It is estimated the plan will take 15 to 20 minutes to complete. The 26-question form can be submitted electronically or printed off at the following Web site: <http://cms.hhs.gov/hipaa/hipaa2/ASCAForm.asp>.

Privacy Deadline

The second deadline quickly approaching is **April 13, 2003**. By this deadline, covered entities must adhere to the privacy regulations codified in sections 45 C.F.R. §§ 160 through 164. These regulations also apply to covered entities which are health plans, health care clearinghouses, and health care providers who transmit various types of health care information in electronic format.

Covered entities must have "Business Associate Contracts" with each of its business associates, which are businesses or entities that provide services on the entity's behalf. The purpose of these

agreements is to ensure that providers will adhere to the covered entity's security and privacy policies and procedures by making reasonable efforts to limit the use, disclosure or request or protected medical information. 45 C.F.R. §§ 164.504

The privacy rules also provide that the covered entity must provide notice of its privacy practices. The covered entity can use or disclose the protected information, with some exception, provided it obtains permission from the individual to use or disclose his or her protected health information (PHI). An individual can also access, copy and amend his or her medical record. 45 C.F.R. §§ 164.510, 164.508, 164.512, 164.520, 164.522, 164.524, 164.526

A covered entity may use or disclose protected health information without the written consent or authorization of the individual under certain circumstances, such as: (1) mandates by law; (2) permitted disclosures for public health activities (eg. communicable diseases); (3) standard disclosures for law enforcement purposes (eg. child abuse, neglect); (4) victims of a crime; (5) crime on premises; (6) reporting crime on premises; (7) research; and (8) reporting crime in emergencies. 45 C.F.R. § 512

A covered entity must designate a privacy official who is responsible for the development and implementation of the entity and a contact person who is responsible for receiving privacy practices, complaints and violations. 45 C.F.R. § 164.530

Each member of the covered entity's workforce must be trained no later than the compliance date of the privacy rule (**April 13, 2003**) about the security and privacy policies and procedures pertaining to the protected health information. 45 C.F.R. § 164.530

The impact of HIPAA is significant in a number of ways. The time lines are short and fast approaching. The impact is industry wide, affecting both the public and private sector. While at first blush it appears to affect just technology-related issues, upon further examination it is apparent that HIPAA impacts individuals throughout the organization. A covered entity must examine its policies and procedures internally, as well as externally, to address security and privacy measures pertaining to protected health information for each of its employees that handles such information.

Sources of Information on the Web

Centers for Medicare and Medicaid – HIPAA:
<http://cms.hhs.gov/hipaa>

U.S. Dept. of Health and Human Services - Office for Civil Rights:
<http://www.hhs.gov/ocr/hipaa/>

Administrative Simplification:
<http://aspe.os.dhhs.gov/admsimp/>