

Editor's Note: This special bulletin from The Sullivan Group is being published prior to the Fall Quarterly Report in order to bring you time sensitive information.

EMTALA Update: Delay in Publication of New Regulations

As you know from the TSG Summer Quarterly Report, CMS has published proposed new EMTALA regulations. The new regulations contain several significant changes to EMTALA. For a review, take a look at the TSG Summer Quarterly Report, or download the newsletter from the TSG website.

We are currently awaiting the final regulations after public comment. The final regulations were supposed to be published on October 1, 2002. They were not published as scheduled.

TSG contacted CMS and asked about the time frame for publication.

We were told that CMS is hoping to publish by years end, 2002. Also, be aware that in general, regulations do not take effect until 60 days after publication. Therefore, the new regulations will not take effect until sometime in late February or March of 2003. We felt it was important to communicate these time frames to our readers. If there are further delays we will keep you up to date. ?

HIPAA Update: Should physicians file for an extension?

Pending HIPAA Transactions and Code Sets
Compliance Plan Deadline - October 15, 2002

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is expansive legislation that will have a significant impact on "covered entities". A "covered entity" under HIPAA is a health care provider, health plan, and health care clearinghouse which transmits health information in electronic form with one or more transactions which the Centers for Medicare & Medicaid Services (CMS) has adopted standards.

If you or your practice group submits claims electronically, you must be in compliance with the HIPAA Transactions and Code Sets by October 16, 2002, unless you file a compliance plan with CMS by

October 15, 2002. If you file a compliance plan with CMS by October 15, 2002, you will have another year to comply with the HIPAA Transactions and Code Sets. As of September 15, 2002, only 3% of all health care providers nationwide had filed for a compliance plan. It is imperative that you immediately assess whether you and your practice group will be in compliance with the HIPAA Transaction and Code Sets by October 16, 2002, or need an extension.

Every physician and practice group transmitting health information electronically should complete and submit a compliance plan on or before October 15, 2002, to ensure compliance with the HIPAA Transactions and Code Sets. If you use a billing

service company, do not presume that the company has filed a compliance plan on your behalf. As the covered entity, you are responsible for HIPAA compliance and making sure that a compliance plan has been filed on your behalf by the upcoming deadline.

In order to qualify for this one-year extension, you must submit a compliance plan by **October 15, 2002**. You can access the HIPAA compliance plan form at www.cms.hhs.gov. This website provides instructions for completing the compliance plan which contains twenty-six (26) questions. The compliance plan requires that you submit the following information:

- Name of the covered entity;
- Tax Identification Number;
- Medicare Identification Number(s);
- Reason for Filing Extension;
- Implementation Budget;
- Implementation Strategy Phase I - HIPAA Awareness;
- Implementation Strategy Phase II - Operational Assessment; and
- Implementation Strategy Phase III - Development and Testing.

You have the choice of mailing the compliance plan or submitting the plan electronically. You should submit the completed compliance plan form electronically because you will be provided with an instant confirmation number by CMS as proof of submission. After you have reviewed your responses, and before you submit the compliance plan electronically, you should print a copy of the form for your records. If you mail the completed form, CMS will not provide an acknowledgment of receipt of paper submission of the compliance plan, and the paper submission of the compliance plan must be postmarked no later than October 15, 2002.

The HIPAA Transaction Standards and Code Sets are national Electronic Data Interchange (EDI) standards for eight of the most common transactions within the health care industry. Examples of the eight transactions include: claims submission, eligibility verification, and referral certification. Code sets are any set of codes used to encode data elements such as medical concepts, medical diagnosis code, and procedural codes. Examples of code sets include ICD-9-CM, CPT 4, HCPCS, and NDC. Health care

providers that are or will be transacting the eight standard functions electronically must comply with HIPAA's Transaction Standards and Code Sets.

You should also keep in mind that the mandatory HIPAA privacy regulations compliance date for covered entities is April 14, 2003. On August 14, 2002, CMS published final modifications to the HIPAA privacy regulations. The HIPAA privacy regulations create national standards to protect individuals' personal health information and give patients increased access to their medical records. ?

Thanks to Ms. Jayme Matchinski for this HIPAA update. Ms. Matchinski is a health care attorney, and works with the law firm of Harris, Kessler and Goldstein, LLC, in Chicago, Illinois. For further inquiries, contact Ms. Matchinski at (312) 280-0111.

2002 ACEP Scientific Assembly

Thanks to all of you that stopped by to see us at the Scientific Assembly in Seattle. It was a great meeting. It is clear from the many comments we received that there is a groundswell of concern regarding medical malpractice insurance, patient safety and risk reduction in emergency medicine.

TSG has solutions to your malpractice and risk management needs. For more information contact Nora Sullivan at 866-MED-RISK or through the website at www.thesullivangroup.com.

TSG Special Bulletin

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