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March 7, 2012

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, SW
Washington, DC 20201

Re: Administrative Simplification: Adoption of Standards for Health Care Electronic Funds Transfers (EFTs) and Remittance Advice; CMS-0024-IFC; RIN 0938-AQ11

Dear Secretary Sebelius:

On behalf of the physician and medical student members of the American Medical Association (AMA), I am pleased to submit the following comments in response to the interim final rule with comments (IFC) on the adoption of standards for health care electronic funds transfers (EFTs) and Remittance Advice (RA). The AMA supports the provisions in the "Patient Protection and Affordable Care Act" (ACA), which are designed to standardize and improve electronic health care transactions, including uniform standards for EFT and RA. Standardizing the EFT and RA transactions from the health plan/payer to the practice and requiring all health plans to comply with these standards, is a critical administrative simplification step. While this IFC only addresses the transactions between the health plan to its financial intermediary, we believe the end-to-end standardization of EFTs would result in significant savings and benefits, and recommend the expansion of this rule to apply to the financial intermediaries as well. According to the U.S. Department of Health and Human Services (HHS), this industry-wide EFT standard could save as much as $4.5 billion in administrative costs over the next decade.

The AMA is very supportive of uniform standards for EFTs and RA, and pleased that the rule reflects the AMA's recommendations on an EFT standard. We recommend that HHS clarify several ambiguities in the final rule. We urge HHS to clarify that the rules mandated by the Health Insurance Portability and Accountability Act (HIPAA) Version 5010 of the Accredited Standards Committee (ASC) X12N health care standard transactions remain in place, and that it be made clear in the final rule to all stakeholders that the mandated EFT and RA standards are not intended to undercut the ASC X12N health care

standard transactions, which have been required since January 1, 2012. The ASC X12N 5010 835 electronic RA standard transaction already mandates the following:

- Requires the use of the CCD+ and CTX ACH formats.
- The Reassociation of Dollars and Data is required by virtue of the mandated use of the Reassociation Trace Number (TRN) segment in the CCD+ for reassociation purposes (5010 Note in the guide indicates that when the CCD+ format is being used "The addenda must contain a copy of the TRN segment").
- The date field remains required. Payers who are not populating the date field with the TRN segment are non-compliant with the HIPAA rule on transaction and code sets.

The HIPAA mandated electronic health care standard transactions require the health plan/payer to pass the necessary information to its financial intermediary that is then expected to pass the same information through to the physician's financial intermediary, and then be sent to the physician practice. We recommend that HHS formally recognize the selection of either the EFT CCD+ format or CTX format to be contingent on the request of the physician or other health care provider, unless the health plan is willing to assume any and all additional fees associated with the CTX format.

We are concerned that the IFC does not obligate health plans to comply with these standards on a health care provider's request. For example, some health plans have started using commercial credit cards with enormously high transaction costs (as much as five percent and some include a financial incentive back to the payer) as a way to pay physicians. We believe that this practice is administratively inefficient and creates significant financial burdens on physicians. If a physician wants to use a CCD+ format, then the health plan should be required to comply with the physician's request.

Covered entities are defined in the HIPAA rule as health plans, health care clearinghouses, and health care providers who electronically transmit any protected identifiable health information in connection with transactions for which HHS has adopted standards. Given that financial intermediaries are involved with the electronic transmission of identifiable health information, we recommend that HHS support including financial intermediaries in the HIPAA definition of a covered entity when they pass the electronic RA or any other transaction that includes protected health information through the CTX ACH File.

Current enforcement of HIPAA ASC X12N 835 standard transaction

HHS should ensure that this IFR is impactful. Payers that are ignoring the current requirements to use the CCD+ and send the TRN in the addenda record must now change their business practices and comply with these HIPAA standards. It is very difficult to verify compliance in the first leg of the EFT process. As discussed above, we strongly recommend end-to-end standardization of EFTs. To the extent that the IFC is not amended to add any requirements for the third leg (information flow between the practice's financial intermediary

and the practice itself) of the EFT process, additional education will be necessary to inform the physician or other health care provider that they need to contract and/or address the need to receive the TRN in their EFT notice with their financial institution, to ensure that the TRN is passed from the payer to the payer's financial intermediary and to the practice's financial intermediary and to the practice. While required by the ASC X12N 835 implementation guide, this is often times a critical missing piece of information that makes it impossible for the practice to reconcile the electronic RA and the EFT. It is imperative that the TRN segment be conveyed through the financial intermediaries in the addenda record (record 7) of the ACH CCD+ format.

We commend HHS' commitment to education and outreach specified in the IFC, which will help to increase awareness of the role of each entity (payer, payer's bank, physician practice's bank and physician practice) in the EFT transaction pathway. To ensure that the value of the EFT transaction is actually achieved, compliance should be required for every step along the EFT transaction pathway. This end-to-end compliance is critical for achieving meaningful cost savings.

HIPAA ASC X12N designated standards are all related

We are concerned with the following statement found on page 30 of the IFR, "However, we believe that dividing the healthcare payment and remittance advice transactions into two separate transactions, could create the perception that the two are potentially unrelated transactions." Current ASC X12N 835 instruction does not require a health care provider to receive an 835 in order to receive an EFT, only that an EFT must include the TRN. We would encourage clarification in the final rule that enrolling in EFT does not require the enrollment for an electronic RA. These two transactions are separate and distinct transactions, but we would agree that they are related to the extent that a physician or other health care provider in fact enrolls for both transactions.

Request for further clarification

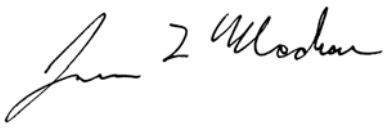
In addition to HHS' education and outreach campaign, we recommend the development of a Frequently Asked Questions (FAQ) document that clarifies that the EFT and RA standards rule requires payers to use EFT, if a physician requests payment via EFT through an EFT or other enrollment form, consistent with existing regulations (45 CFR 162.925 (a)(1)), as well as a clarification that physicians and other health care providers are not required to enroll to receive electronic RAs in order to accept EFT. It is important to keep in mind that payers' deviations from the applicable regulatory requirements are problematic for physician practices. Payers should be encouraged to explicitly ensure that their EFT program complies with all applicable laws and regulations, including prompt payment laws and restrictions on offsets and overpayment recoveries.

While we fully support the EFT process and encourage physicians to enroll in EFTs, it is also important to acknowledge that there are costs and administrative burdens associated with

accepting EFTs in a physician's office, which include the need to set up new bank account(s), transaction fees, and obtaining and completing payer enrollment forms that differ payer to payer. These enrollment forms are also not always readily accessible, and physicians may need to obtain legal advice to ensure the payer enrollment form does not negate protections placed in banking laws or state managed care laws. These costs can be significant, particularly due to health plan/payer variances. The AMA is committed to continuing efforts to educate physicians on the EFT process. The AMA's EFT Toolkit (http://www.ama-assn.org/go/eft) explains how the EFT transaction works, highlights the potential return on investment associated with moving from paper checks to EFT, and walks physicians through the process of adopting it in their practices.

Thank you for the opportunity to provide comments on the adoption of standards for EFTs and electronic RAs. We look forward to working with you and other key stakeholders to bring about meaningful administrative simplification for physicians, their patients, and the health care industry as a whole. Should you have any questions, please contact Mari Savickis, Assistant Director of Federal Affairs, at (202) 789-7414 or mari.savickis@ama-assn.org.

Sincerely,



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