AMA
AMERICAN MEDICAL ASSOCIATION

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Donald M. Berwick, MD
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Re: CMS-0032-IFC, HIPAA Administrative Simplification: Adoption of Operating Rules for Eligibility for a Health Plan and Health Care Claim Status Transactions; RIN: 0938-AQ12

Dear Administrator Berwick:

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 operating rules for eligibility for a health plan and health care claim status transactions. 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. Physicians should be able to easily and readily access information on a patient's eligibility for a specific service with a specific physician at a specific location, as well as track the status of claims every step of the way as they are being processed.

The AMA further supports required compliance by January 1, 2013, with the specified Council for Affordable Quality Healthcare's (CAQH) Committee on Operating Rules for Information Exchange (CORE), Phase I and Phase II operating rules (updated for Version 5010) for the eligibility for a health plan transaction and CAQH CORE Phase II operating rules (updated for Version 5010) for the health care claim status transaction. **The health care industry's required adoption of and compliance with these operating rules will help to advance the goal of the administrative simplification provision of the ACA, which is to create as much uniformity in the implementation of the electronic standards as possible.**

The AMA is also pleased to provide specific comments on the following additional items addressed in the IFC:

Defining conflicts between standards and operating rules

Table 2 on page 40462 of the IFC is confusing, and we recommend that it be removed from the final rule. Table 2 attempts to illustrate scenarios in which there is or is not a conflict between the standard and the operating rule. This table attempts to broadly convey when standards and operating rules may or may not conflict with one another. We believe this attempt will add confusion to the health care industry and be subject to multiple and/or conflicting interpretations. We are also unclear as to how "is not" and "cannot" are being defined differently, since according to the table, one would be in conflict and the other would not.

It is important to keep in mind that there are different types of requirements throughout a standard and its implementation guide. There are loop and segment requirements in addition to business usage requirements. Table 2 and related text do not provide the level of detail necessary to explain differences in the requirements within a standard and how an operating rule may or may not conflict with the requirement. For example, in the Health Care Eligibility Request and Response (270/271), various loops for reporting names are required. Then within the loop, various data elements are required or situational. Does the fact that the specific loop is required mean that no operating rule can conflict with that and all of the data elements within that loop? An example of a business usage note is N3 - Subscriber Address, which states: "Required when the patient is the subscriber or considered to be the subscriber. If not required by this implementation guide, do not send." Can an operating rule then require this information?

As exemplified above, the AMA and numerous other organizations may interpret the chart differently due to varying terminology used in the health care industry. Replacing the chart with a decisive process that provides organizations and individuals with a process to obtain clear documented guidance would benefit all organizations involved in the standard setting, operating rule development and interpretation processes. Therefore, **because of the confusing nature of Table 2, we recommend that Table 2 be removed from the final rule, and that the National Committee on Vital and Health Statistics (NCVHS) be tasked with identifying an independent process that will review the proposed standards and operating rules against one another specifically to identify and reconcile conflicts between the two.**

CORE certification

The IFC states that the adoption of CAQH CORE operating rules does not require the Health Insurance Portability and Accountability Act (HIPAA) covered-entities to obtain the CAQH CORE certification that currently is available on a voluntary basis. The IFC goes on to name specific CAQH CORE operating rules and a specific version, i.e., Phase I CORE 153:

Eligibility and Benefit Connectivity Rule, version 1.1.0, March 2011. The CORE rules include language that states "CORE-certified entities…". We believe that this language within the adopted operating rules will cause confusion to the health care industry. Organizations may either believe they must become CORE-certified to comply with the operating rules or they may believe they do not need to comply with the operating rule because they are not CORE-certified. **We recommend that CAQH CORE update the rules being adopted in this IFC to remove any references to CORE certification.**

Acknowledgment transaction standard

We believe that the adoption of a robust acknowledgment system will eliminate the ambiguity and uncertainty as to where health claim transactions are as they journey to their intended destination and significantly reduce health care transactions costs. **Therefore, the AMA strongly recommends that health claims acknowledgements be added to the list of HIPAA standard transactions and that the standard for these acknowledgements should be the ASC X12 TA1, 999 and 277CA standard transactions.**

While we recognize that the following items are outside the scope of this IFC, we request that our comments be considered at this time.

Timing of the updates to standards and operating rules

As the attached timeline (presented by the AMA to NCVHS in public testimony on April 28, 2011) demonstrates, CORE could have a very compressed time period to look at new standards and create operating rules if the same hearing NCVHS uses to consider adopting the most current X12 standard as the new mandated standard is also used to review the associated recommended CORE operating rules. CORE could end up having a very limited amount of time, six months or less, to perform its necessary tasks. Of more consequence, CORE will have little, if any, real world feedback on the use of the "to be adopted X12 standard" if it is compelled to submit its operating rules contemporaneously with the X12 standards submission for review by NCVHS. Although the AMA recognizes the synergy of timing, **we urge that CORE not be limited to submitting operating rules at the same time that NCVHS reviews X12 standards, and that NCVHS be requested to review operating rules throughout the life cycle of mandated standards to allow for the updating or creation of operating rules based on real world experience. As the IFC does not appear to prohibit X12's incorporating "operating rule like requirements" in their guides, asking X12 to do that would provide the time buffer CORE will need to create additional operating rules of critical need for the health care industry as they will not have been envisioned at the time of the standard's approval.**

CAQH CORE interpretation process for operating rules

Questions will arise as the health care industry implements the operating rules, and so there needs to be a mechanism for individuals to pose their questions and receive official

interpretations. Those interpretations must also be made available for industry review and consideration as they implement operating rules. The Accredited Standards Committee (ASC) X12 Insurance Subcommittee (N) has a Request for Interpretation (RFI) portal that allows individuals to search previous RFIs or submit an RFI. **We strongly recommend that CAQH CORE establish a process through which the health care industry can submit requests for interpretations of the operating rules.**

Secondly, **we recommend that a coordination process be put in place between CAQH CORE and ASC X12 for any requests for interpretation for an operating rule that relates to a standard.** Such a coordination process is necessary to prevent either organization from formulating an interpretation that impedes on the other's work product.

Thank you for the opportunity to provide comments on the adoption of operating rules for eligibility for a health plan and health care claim status transactions. 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 Margaret Garikes, AMA's Director of Federal Affairs, at (202) 789-7409 or margaret.garikes@ama-assn.org.

Sincerely,

James L. Madara, MD