

Subject: 90-Day Enforcement Discretion Period Announced for Operating Rules

CMS Announces 90-Day Period of Enforcement Discretion for Compliance with Eligibility and Claim Status Operating Rules

Today, the Centers for Medicare & Medicaid Services' Office of E-Health Standards and Services (OESS) announced that to reduce the potential of significant disruption to the health care industry, it will not initiate enforcement action until March 31, 2013, with respect to HIPAA covered entities (including health plans, health care providers, and clearinghouses, as applicable) that are not in compliance with the operating rules adopted for the following transactions as required by the Affordable Care Act: eligibility for a health plan and health care claim status. Notwithstanding OESS' discretionary application of its enforcement authority, the compliance date for using the operating rules remains January 1, 2013.

Industry feedback suggests that HIPAA covered entities have not reached a threshold whereby a majority of covered entities would be able to be in compliance with the operating rules by January 1, 2013. This enforcement discretion period does not prevent applicable HIPAA covered entities that are prepared to conduct transactions using the adopted operating rules from doing so, and all applicable covered entities are encouraged to determine their readiness to use the operating rules as of January 1, 2013 and expeditiously become compliant. Although enforcement action will not be taken, OESS will accept complaints associated with compliance with the operating rules beginning January 1, 2013. If requested by OESS, covered entities that are the subject of complaints (known as "filed-against entities") must produce evidence of either compliance or a good faith effort to become compliant with the operating rules during the 90-day period. HHS will continue to work to align the requirements under Section 1104 of the Affordable Care Act to optimize industry's ability to achieve timely compliance.

OESS is the U.S. Department of Health and Human Services' (HHS) component that enforces compliance with HIPAA transaction and code set standards, including operating rules, identifiers and other standards required under HIPAA by the Affordable Care Act.

For copies of the operating rules for the eligibility for a health plan and health care claim status transactions, visit the Council for Affordable Quality Healthcare (CAQH) CORE website at <http://www.caqh.org>. Links to information on the operating rules for eligibility for a health plan and health care claim status are available at <http://www.cms.gov/Regulations-and-Guidance/HIPAA-Administrative-Simplification/Affordable-Care-Act/OperatingRulesforEligibilityandClaimsStatus.html>

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