Understanding CMS's compliance policy

CMS has heard the concerns expressed by the health care industry – most notably, that testing rates are low and the process is complex. This means that many covered entities may not be capable of successfully transmitting HIPAA compliant transactions in time for the October 16, 2003 compliance date. This has the potential to affect provider cash flow.

That is why the Department of Health and Human Services wants to ensure that the health care industry understands its enforcement approach – more specifically, the enforcement approach the Centers for Medicare and Medicaid Services will be adopting as the industry moves towards compliance with HIPAA electronic transactions and code sets.

On July 24, 2003, HHS publicly released a document outlining its guidance on compliance with transactions and code sets after October 16, 2003. The guidance document can be found under downloads below.

In the guidance, CMS discusses two primary goals: First, to move all covered entities towards compliance as soon as possible and second, to avoid the disruption of provider cash flow and any negative impact on access to health care. To achieve these goals, CMS will focus on obtaining voluntary compliance by using a complaint-driven process. If CMS receives a complaint, CMS will evaluate the entity's "good faith efforts" to comply with the standards and will not impose penalties on covered entities who have deployed contingencies to ensure the smooth flow of payments continues. More information on CMS's "good faith policy" can be found in the guidance document.