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# “Controlling Health Plans” and Standard Transaction Certification

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# New ACA Provisions

ACA requires Secretary of HHS to adopt . . .

- Operating rules that fill in gaps in transactions
- New EFT/Remittance Advice transaction (effective 1/1/14)
- Health Plan Identifier (HPID) rules (effective 11/5/14)
- **Requirement to certify compliance with standard transaction rules –**
  - First Certification: Eligibility, Claims Status & EFT/Remittance Advice
  - Second Certification: Claims & Encounter, Enrollment/Disenrollment, Premium Payments, Claims Attachments and Authorization/Referrals

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# HIPAA Transaction Rules

## Background.

- Proposed certification rules relate to HIPAA standard transaction rules, that were first issued in 2000
- Apply to HIPAA covered entities – health plans, health care providers & clearinghouses
- If a covered entity conducts certain transactions with another covered entity using electronic media, must use standards and code sets designated by Secretary of HHS
- If any entity requests health plan to use standard transaction, must do so
- For many health plans, business associates handle standard transactions for them

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# Representative Transactions

- Eligibility – Transmission from provider to plan, or plan to plan – and response – related to eligibility, coverage or benefits under plan
- Claim Status – Inquiry about status
- Electronic Funds Transfer (EFT) – Transmission of any of following from health plan to provider: payment, information about transfer of funds and payment-processing information
- Remittance Advice - Transmission of any of following from health plan to provider: explanation of benefits or remittance advice

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# Proposed Certification Rules

- Proposed certification of compliance rules issued on January 2, 2014.
- Who is subject to the certification requirement?

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# Proposed Certification Rules

- Proposed certification rules refer to prior final implement requirement to obtain health plan identifier (HPID).
- Proposed certification rules use same defined term, “controlling health plan”, as establish in HPID rule.

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# Controlling Health Plan Defined

- *Controlling health plan (CHP)* means a health plan that—
  - (1) Controls its own *business activities, actions, or policies*; or
  - (2)(i) Is controlled by an entity that is not a health plan; and
  - (ii) If it has a subhealth plan(s) (as defined in this section), exercises sufficient control over the subhealth plan(s) to direct its/their business activities, actions, or policies.

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# Controlling Health Plans

- “Controlling Health Plan” defined in final rule on HPIDs
- A CHP is not defined by whether it engages in standard transactions.
- A CHP is defined based on whether it “controls any of its own business activities, actions *or* policies.”



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# Controlling Health Plans

- A self-insured group health plan that controls its own policies and is not controlled by another health plan or is controlled by an entity that is not a health plan (for instance, its employer sponsor) *could be* a CHP.

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# Controlling Health Plans

- In the Final Rule on HPID, significant discussion of definition of CHP and self-insured plans.
- Arguably most important point: CHP incorporates existing HIPAA definition of “health plan” in 45 C.F.R. 160.103.

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# HPID Final Rule

- There is no express exemption for self-insured group health plans.
- Self-insured group health plans are health plans under the general HIPAA definition sections of 45 C.F.R. 160.103.
- Potential “need” for identification in standard transactions was to indicate payment source for covered benefits.

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# Proposed Certification Rules

- Implication from HPID rule is that self-insured health plans, if they are CHPs, are subject to the proposed rules for certification of compliance standard.

# HPID Deadlines

Compliance Requirements (45 C.F.R. 162.504)	Deadline
Health Plans that are not small health plans must have an identifier by –	11/5/2014
Health Plans that are small health plans must have an identifier by –	11/5/2015
A health plan must comply with the implementation specs (45 C.F.R.162.512) no later than –	11/7/2016