



Date: August 28, 2003

To: All Managed Care entities providing services for Oregon Medicaid recipients

From: Rick Howard, Manager Health Financing Operations, Health Services Department of Human Services (DHS)

Subject: HIPAA Good Faith Policy and Trading Partner Agreement (TPA) submission due date

The purpose of this letter is to notify all Managed Care entities of DHS' policy on Good Faith efforts as established by the Center for Medicare and Medicaid Services (CMS) and the due date of October 1, 2003 for a TPA.

### **Background**

To improve the efficiency and effectiveness of the health care system, Congress enacted the Health Insurance Portability and Accountability Act (HIPAA) of 1996, which included a series of "administrative simplification" provisions that required the Department of Health and Human Services (HHS) to adopt national standards for electronic health care transactions. All covered entities must be in compliance with the electronic transactions and code sets standards by October 16, 2003.

### **Enforcement Approach**

The Secretary of HHS has made CMS responsible for enforcing the electronic transaction and codes sets provisions of the law.

CMS will focus on obtaining voluntary compliance and use a complaint-driven approach for enforcement of HIPAA's electronic transactions and code sets provisions. When CMS receives a complaint about a covered entity, it will notify the entity in writing that a complaint has been filed. Following notification from CMS, the entity will have the opportunity to 1) demonstrate compliance, 2) document its good faith efforts to comply with the standards, and/or 3) submit a corrective action plan.

**Good Faith Policy** – CMS's approach will utilize flexibility granted in Section 1176(b) of the Social Security Act to consider good faith efforts to comply with the implementation of HIPAA when assessing individual complaints. Under

Section 1176(b), HHS may not impose civil money penalty where the failure to comply is based on reasonable cause and is not due to willful neglect, and the failure to comply is cured within a 30-day period. HHS has the authority under the statute to extend the period within which a covered entity may cure the noncompliance “based on the nature and extent of the failure to comply”.

**Based on this “Good Faith” policy DHS has established the following guidelines.**

DHS will not accept electronic media claims in the National Standard Format (NSF) or Universal Billing (UB) 92 format, after October 15, 2003, unless the Agent or Provider has a duly executed Trading Partner Agreement and completed registration as an EDI Submitter as defined in OAR 410-001-0100. For more information on this, please refer to the DHS Electronic Data Interchange Packet available on DHS’ web site at:

[http://www.dhs.state.or.us/admin/hipaa/testing\\_reg.html#packets](http://www.dhs.state.or.us/admin/hipaa/testing_reg.html#packets).

A TPA must be completed including registration as an EDI Submitter to set up a testing sequence even if you cannot test every transaction and code set type you may eventually need to utilize. The testing requirement applies to Agents and Providers who submit electronic claims to DHS through a clearinghouse or other third party submitter, including encounter claims submitted by contracted managed care plans.

Once a transaction type has been approved for a particular provider, any future transactions for that type and provider must be in the approved HIPAA compliant format.

This transitional testing period from the proprietary format to the HIPAA format began July 2003 (refer to the attached Targeted Pilot and Testing Dates document for additional information).

DHS Companion Guides as well as all necessary HIPAA Transaction and Code Sets information are available on the DHS web site noted above.

**What this means to you:**

- **If you have not already done so you have approximately 30 days to acquire, complete and submit a TPA to DHS.**
- **DHS will not accept old lines of business (NSF/UB92) once a trading partner has started submitting with the approved HIPAA compliant format to a “production” data processing environment.**

If you have questions please e-mail DHS at [dhs.hipaatesting@state.or.us](mailto:dhs.hipaatesting@state.or.us) or call DHS HIPAA Testing at 503-947-5347.