

September 22, 2011

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Madam Secretary:

Re: Observations and Recommendations on the Adoption of a Standard for Electronic Acknowledgment Transactions

The National Committee on Vital and Health Statistics (NCVHS) is the statutory advisory committee with responsibility for providing recommendations on health information policy and standards to the Secretary of the Department of Health and Human Services (HHS). Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), NCVHS is to advise the Secretary on the adoption of standards and code sets for HIPAA transactions.

The Patient Protection and Affordable Care Act (ACA or the Act) enacted on March 23, 2010, calls for NCVHS to assist in the achievement of administrative simplification to “reduce the clerical burden on patients, health care providers, and health plans” by providing advice and recommendations to the Department of Health and Human Services (HHS). Section 1104 (4)(A)(iii) of the Act, specifically calls for the adoption of standards and associated operating rules that shall provide for the “*timely acknowledgment, response and status reporting* that supports a transparent claims and denial management process (including adjudication and appeals).”

The NCVHS Subcommittee on Standards held a public hearing on April 27, 2011, for the specific purpose of gaining industry and stakeholder insight about standards for health care electronic acknowledgment transactions. In this letter, we offer observations and recommendations for the adoption of these standards. Where we refer to the electronic acknowledgments in this letter, it is to be assumed these all pertain to health care transactions.

Background on Standards for Electronic Acknowledgments

Use of electronic acknowledgments in response to the receipt of an administrative transaction from a trading partner is one of the most efficient and cost-effective ways to ensure that both parties can communicate information about the status of a transaction before processing. We describe each type of acknowledgment later in this letter, but

note here that collectively, they inform submitters as to whether their transaction has been received, if it can or will be processed, or if it has been rejected and why. During the April hearing, a number of testifiers stated that when these standard acknowledgments are not used, the resulting lack of information and feedback is sometimes referred to as “the black hole.” Without electronic acknowledgments, the sender does not know the status of a transmitted transaction in a timely way, and therefore may sometimes resort to repeated manual queries to the receiver of the information.

Currently, there are three types of acknowledgments used for health care transactions. These are described below, and their use is shown in graphic form in an appendix at the end of the letter.

- TA1 – used to provide a simple acknowledgement of the receipt of any electronic transaction used in health care. Applicable to any and all of the adopted ASC X12 transactions (i.e., claims, payment or remittance advice, eligibility, enrollment/disenrollment, referral authorization, etc).
- 999 Implementation Acknowledgment – used to notify submitters that an electronic transaction has either been “accepted”, “rejected” or “accepted with errors.” The term “accepted with errors” means that part of the transaction can be used and processed. This type of acknowledgment is applicable to all ASC X12 transactions, similar to the TA1.
- 277CA Health Care Claim Acknowledgment – acknowledges receipt, acceptance for processing, or rejection (including the reason for rejection) **only** for an electronic health care claim transaction. The 277CA provides for an audit trail as well.

Though acknowledgements are important in the process of communicating about transactions, the original HIPAA legislation did not include acknowledgements as one of the transactions for which the Secretary was to adopt a standard. However, absence of a mandated standard for the acknowledgments has created two issues. First, only some covered entities are voluntarily using the available industry standards referenced above. And second, even among those entities that do use acknowledgments, the use of that standard is inconsistent. This inconsistency in use undermines administrative simplification.

Debate about standards for acknowledgments is not new. In February 2010, NCVHS discussed this topic and the Designated Standards Maintenance Organization (DSMO) made a recommendation to the Committee to consider the adoption of a standard. In March 2010, the Affordable Care Act was enacted, and as stated above, included provisions related to the adoption of operating rules that support acknowledgments. In August 2010, the Committee reviewed proposed operating rules for eligibility and claim status transactions that included guidelines for the use of the acknowledgment transactions.

As noted above, there is some evidence for the use of standards for acknowledgments across the health care industry. Entities following the proposed operating rules use them; other health plans and clearinghouses conduct acknowledgment transactions on a voluntary basis, outside of the operating rules. Medicare has mandated the use of the

acknowledgment standard for claims when X12 Version 5010 goes into effect in January 2012. Despite such voluntary usage however, HHS has not yet adopted standards for acknowledgments. Furthermore, HHS did not adopt the operating rules specifically related to acknowledgments in the Interim Final Rule with Comments published on July 8, 2011. These operating rules were excluded because any new standard must first be adopted by regulation.

During the April 2011 hearing, virtually all testifiers were supportive of a mandate for acknowledgment standards because of the time and cost saving benefits. Such testimony indicates that there is a tangible business case for health plans and providers for the use of acknowledgments. There was consensus that providers should be informed, as soon as possible, about the status of their inquiry, claim or other transaction. Without timely, relevant information, manual intervention is often necessary. Reducing manual efforts benefits both parties to any exchange.

Based on the testimony and commentary, NCVHS has developed several observations and formal recommendations for the Secretary with respect to adoption of an acknowledgment standard under HIPAA.

Observations from testimony

- 1. Current acceptance and use of the acknowledgment transaction:** Although not currently mandated under HIPAA, the acknowledgment transactions and corresponding standards appear to have significant industry support. Still, there is no widespread voluntary adoption and use within the health care industry. The lack of consistent guidance that specifies which, when and how the acknowledgement transactions must be used, underscores the need to define and mandate their standardized use. Promulgation by HHS of a regulation to adopt the acknowledgment standards will resolve inconsistencies and ensure the avoidance of any unnecessary burden on covered entities. For purposes of this observation, we explain the current inconsistencies in use as follows: a) some organizations do not use acknowledgments at all; b) some organizations use only some of the acknowledgments, and c) each organization that uses the acknowledgement transactions may use different business rules for their use.
- 2. Support for the adoption of existing acknowledgment transaction standards:** There was across the board support for the adoption of the three main acknowledgment transactions noted earlier in this letter, as developed and balloted by ASCX12N.
- 3. Support for the regulatory rule making process to assure transparency:** Testifiers indicated overwhelming support for the current process of adopting new standards through a notice of proposed rulemaking (NPRM). This assures transparency, as well as time for consideration of the impacts on organizations that are not yet using the standard.
- 4. Interest in finding ways to accelerate the rulemaking process:** Though the proposed rule process was favoured, there is understandable industry concern about the length of time it takes standards organizations to develop, vet, ballot, approve and publish standards, and for HHS to produce, clear and publish regulations to adopt those standards.

5. **Conditions for submission of the acknowledgment transactions:** Each of the three acknowledgment transactions being recommended for adoption in this letter must have its own separate condition for submission explicitly defined. For example, testifiers agreed that the TA1 acknowledgment should only be required when the submitter of the transactions (i.e., a provider submitting an eligibility inquiry) has elected to receive the TA1 acknowledgment back. Testifiers seemed to agree that the 999 acknowledgment should be required in all instances, and that the 277CA health care claim acknowledgment should be required in response to each claim submitted.
6. **Understanding differences between using acknowledgments in real time versus batch situations:** Testifiers agreed that in cases when transactions are conducted in real-time and result in an instantaneous response, an acknowledgment transaction is not necessary. However, for most batch transactions an acknowledgment is needed to inform the submitter that the transaction has been received and accepted for further processing or rejected.
7. **Pharmacy exclusion:** Most pharmacy claim transactions are conducted in real-time and some testifiers stated that there was no need to use an acknowledgment. However, there may be a need for an acknowledgment from a pharmacy to a health plan for the receipt of a remittance advice from the plan.

Recommendations

Based on the testimony and our observations above, the Committee makes the following recommendations. The Secretary should:

- 1.1 Adopt the ASC X12 TA1, 999 and 277CA Acknowledgment Transactions as standard transactions and define them in regulations as follows:
 - The ASC X12 TA1 is an electronic acknowledgment transaction used by the receiver of a standard transaction to report the status of the processing of the envelope of the transaction, including the interchange header and trailer.
 - The ASC X12 999 – Implementation Acknowledgment is an electronic acknowledgment transaction used to report X12 syntactical errors and implementation guide adherence errors.
 - The ASC X12 277CA – Health Care Claim Acknowledgment is an electronic transaction used to acknowledge the receipt of a health care claim and to communicate the results of a pre-processing application level validation errors
- 1.2 adopt the ASC X12 standards and corresponding Implementation Guides that are the current versions at the time of adoption, as the standards and implementation specifications for each of the three acknowledgment transactions being recommended.
- 1.3 define the conditions under which each of the acknowledgment transactions will be expected to be used, as follows:
 - The ASC X12 TA1 should only be required when a submitter of a transaction has elected to receive the TA1 acknowledgment back

- The ASC X12 999 – Implementation Acknowledgment should be required as a response to all ASC X12 transactions regardless of the submitter of the transaction.
 - The ASC X12 277CA – Health Care Claim Acknowledgment should be required in response to each submitted claim
- 1.4 Adopt these transactions, standards and implementation specifications using available expedited procedures as permissible in the rule making process, such as a shortened comment period.
 - 1.5 Encourage the industry to use these transactions and the corresponding standards and implementation specifications prior to the adoption date and the mandate for their use.
 - 1.6 Adopt the operating rules from CAQH CORE related to the use of acknowledgments for eligibility and claims status that were included in Phase I and Phase II, but excluded in the IFR published on July 8, 2011.
 - 1.7 Ensure that the proposed rule solicit suggestions about additional operating rules that will best support the use of the available acknowledgment standards with all transactions, in addition to those operating rules already available for eligibility and claims status.
 - 1.8 Require the use of the recommended acknowledgment standard for entities that choose to use electronic acknowledgments in connection with real time transactions. Electronic acknowledgments should not be required for all real time transactions. In addition, in the proposed rule, the Secretary should solicit input from covered entities regarding the need for acknowledgments related to non-real time pharmacy transactions.

NCVHS believes there is an opportunity created by the Affordable Care Act to improve the effectiveness of the health care system through expanded adoption of standards that promote administrative simplification and reduce administrative costs. NCVHS embraces opportunities for such improvements, and continues to stand ready to provide additional guidance or assistance to the Secretary as requested.

Sincerely,

/s/

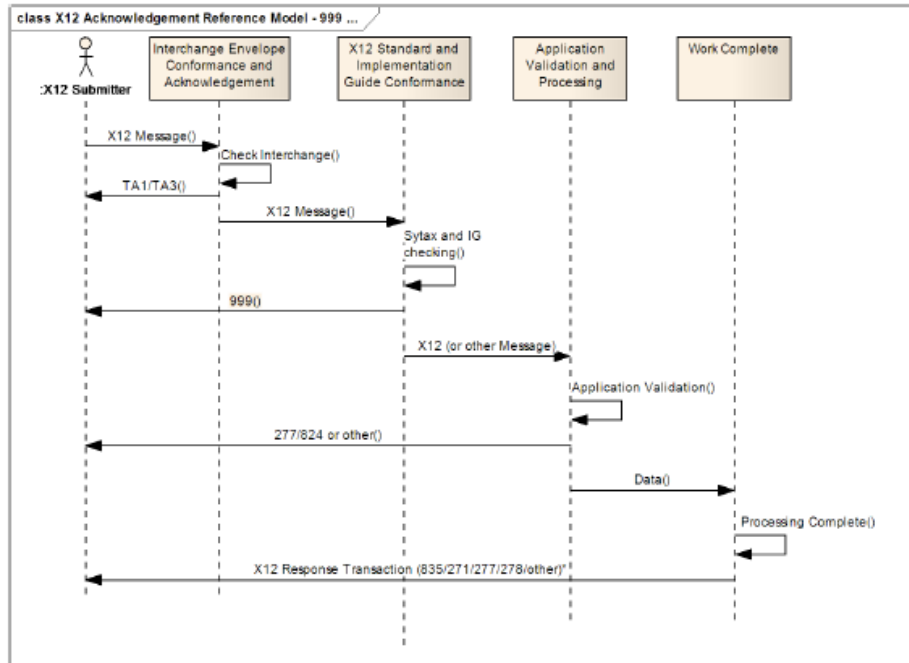
Justine M. Carr, M.D.
Chairperson,
National Committee on Vital and Health Statistics

Appendix: Depiction of Acknowledgment Transaction Use

Cc: Data Council Co-Chairs

APPENDIX

Acknowledgements - Reference Model



What are acknowledgements and how do they work - & when?

