



# Health Insurance Portability and Accountability Act

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Issues of Standardization, Privacy  
and Security for Health Care  
Providers and Payers



# HIPAA Overview

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- Portability
- Standardization of electronic transactions
- Standardization of identification
- Privacy
- Security



# Who Does HIPAA Impact?

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- Impacts Medicaid, Medicare, Indian Health Services, CHIP (Children's Health Insurance Programs)
- Health Insurance Payers
- **Health care providers** that conduct electronic transactions
- Business associates of payers and providers



# Continuing With Paper Claims

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- Providers that have less than 10 FTE employees may continue to bill Medicare using paper claims (no limitations for Medicaid processing)
- Consider what your future electronic processing needs may be
- HIPAA is fast becoming known as “best practice” in the medical community and in public expectation



# #1 Standardization Issues

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Standardization of information so that communication can flow smoothly from person to person and from organization to organization.

- Transaction Codes and Data Sets
  - Affects EDI transaction format and content
  - More cost effective, improved efficiency and accuracy



# Standardization Rules

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- Standardization affects:

Health Claims	Health Encounter Information
Health Claims Attachments	Enrollments & Dis-Enrollments
Health Plan Eligibility	Payment and Remittance Advice
Claim Status	First Report of Injury



# Standardization Rules

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- Original October 2002 compliance date
- Deadline extended to October 2003
- Extensions must be filed by October 15, 2002.
- Providers will be required to transmit in HIPAA compliant formats
- Payers will be required to receive HIPAA compliant formats



# Standardization Rules

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- DMA is working with First Health to determine what remediation is necessary for the current MMIS.
- DMA has filed for an extension and will notify providers when testing is ready to begin.



# Standardization Rules

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- “PayerPath” is considered a clearinghouse under HIPAA regulation.
- Even if providers are only using PayerPath as a mechanism to bill Medicaid services *they are considered a covered entity.*
- Even if providers are not billing for Medicare or Medicaid, but are still electronically billing other third party insurance, *they are considered a covered entity.*



## #2 Standardization Issues

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- Identifiers
  - Employer
  - Health Care Provider
  - Health Plan
  - Individual (delayed indefinitely)
- Systems modified to accommodate new formats



## #3 Privacy Issues

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Appropriate availability of information to assure patients that quality health care is being delivered ***and that patient information is accurate and protected.***



# HIPAA Privacy Rules

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- Applies to all forms of PHI

**Any information, whether oral or in recorded in any form or medium...that relates to the past, present, or future physical or mental health or condition of an individual, or the provision for the health care of an individual**

- Consent is optional



# Permissible Use of PHI

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- Payers and providers may use and disclose PHI for purposes of Treatment, Payment and Operations



# Treatment

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- The provision, coordination or management of health care and related services by one or more health care providers
  - Includes consultations and referrals to and with other health care providers



# Payment

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- Activities of a provider or health plan to obtain or provide reimbursement for health care.
- Activities undertaken by a health plan to obtain premiums or to determine it's responsibility for coverage and provision of benefits.



# Operations

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- Case management and care coordination
- Contacting about treatment alternatives
- Outcome evaluations and development of clinical guidelines
- Conducting quality assessment
- Evaluating practitioner and provider performance
- Conducting training programs
- Training of non-health care professionals
- Conducting or arranging for legal services, medical review and auditing functions
- Business planning and development, including cost management
- Business management and general administrative activities



# Privacy Notice

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- Notice of Privacy Practices takes the place of consent
- Describes how a provider or payer may use or disclose PHI for purposes of treatment, payment and operations
- Describes rights of individuals



# Privacy Notice

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- Describes how a provider may disclose PHI without authorization
  - To public health authorities (contagious diseases, birth, deaths, immunizations)
  - To police or others when required by law
  - To government to review how programs are working
  - Abuse, neglect, domestic violence

# Authorization & Minimum Necessary

## Minimum Necessary

“When using or disclosing protected health information or when requesting protected health information from another covered entity, a covered entity must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure or request.”



# Access & Audit Trails

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- Authorization
- Exemptions for disclosure without authorization (research, public health, requirement of law)
- “Minimum necessary”
- Defined roles and permitted access to PHI
- Audit trails for release of PHI outside of TPO (6 yr. requirement)



# Individual Rights

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- Right to request restrictions
- Right to revoke authorization
- Right to access, inspect & copy
- Right to amend
- Right to accounting of disclosures
- Right to file a complaint



# HIPAA Preemption Rules

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- HIPAA provides for “floor” preemption.
- Where state law is more stringent, State law prevails.
- State law **will not** be preempted if it provides for the reporting of disease, injury, child abuse, birth or death or for the conduct of public health surveillance, investigation or intervention.



# HIPAA Preemption Rules

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- Protects state laws that require a health plan to report or provide access to information for the purpose of management, fraud investigation, financial audits, program monitoring or licensure or certification of facilities or individuals



# HIPAA Preemption Rules

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- An in-depth analysis of applicable state law regulating privacy and confidentiality is required.
- H&SS anticipates being able to share results of preemption analysis with business partners and the public.



# Business Associates

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- HIPAA requires that your business associates maintain the same level of confidentiality and security of PHI.
- A business associate is an individual or organization who performs a function or activity on your behalf involving the use and disclosure of PHI.



# HIPAA Privacy Rules

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- Contracts and Business Associate agreements
- Policy and procedure development and modification
- Documentation, documentation, documentation.....



# HIPAA Privacy Rules

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- Training, training, training...

April 2003

6 months from now....



# #4 Security Issues

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- Focus on four main objectives:

<b>Administrative Procedures</b>
<b>Physical Safeguards</b>
<b>Technical Security Services</b>
<b>Technical Security Mechanisms</b>



# HIPAA Security Rules

## Administrative Procedures

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- **Contingency Plan**
  - ✓ Data Backup
  - ✓ Disaster Recovery
- **Access Control**
  - ✓ Authorization
  - ✓ Chain of Trust
- **Internal Audit**
  - ✓ Supervision
  - ✓ Personnel Clearance
- **Security Configuration**
  - ✓ Documentation
  - ✓ Virus Checking
- **Security Management**
  - ✓ Risk Analysis
  - ✓ Policies
- **Termination Procedures**



# HIPAA Security Rules

## Physical Safeguards

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- Protection of physical computer systems
- Facility Security
- Backups & Disaster Recovery Plans
- Policies and guidelines on workstation use
- Secure workstation location



# HIPAA Security Rules

## Technical Security Services

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- Protection, control and monitoring of information and access
  - Encryption
  - Procedure for emergency access PLUS one of the following:
    - Role-based access
    - User-based access
    - Context-based access



# HIPAA Security Rules

## Technical Security Mechanisms

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- Prevent unauthorized access to data that is transmitted over a communications network
  - Entity authentication
  - Access control
  - Authorization control
  - Alarm, audit and event reporting



# HIPAA Security Rules

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- Documentation, Documentation, Documentation...
- Training, Training, Training...

Late 2004



# HIPAA Penalties and Enforcement

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- General penalty for failure to comply - \$100 per incident (transactions)
- Wrongful disclosure of PHI - \$50,000 and/or 1 year imprisonment
- Disclosure with intent to sell, transfer or use for commercial advantage - \$100,000 and/or 5 years imprisonment



# What Do I Do Now?

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- Establish Support
  - CEO, CFO, CIO, Pres, VP, Directors
  - Physicians, Nursing Mgmt.
  - Privacy and Compliance Officer
  - Legal
  - HIMS Administrator & Records Mgmt
  - IS Management
  - Program Managers



# Develop Your Project Plan

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- Formulate Steering Committee
- Educate yourselves and critical players
- Develop your project plan
  - Reasonable and manageable segments
  - Start with high level and work toward more detail
  - Estimate what financial & human resources will be required at each step
  - Set deadlines - anticipate delays – allow room for overlapping tasks



# What Do I Do Next?

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- **Assess and Identify PHI**
  - Identify types, quantities and uses of PHI
  - Where does it come from? Where does it go?
- **Evaluate Business Processes**
  - Identify and document data handling (minimum necessary) and roles
  - Review current and future data systems, data requirements and remediation needs



# Prioritize and Implement Your Plan

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- Prioritize areas of greatest need
- Identify business associates and trading partners
- Review & revise contracts and agreements
- Review & revise policies and procedures
- Plan for and implement workforce training



# Thank You!

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