

Legislative Brief

HIPAA Administrative Simplification: *Guidance and Compliance Dates*



In August 1996, President Clinton signed into law the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA is a broad federal law with provisions related to pre-existing conditions and guaranteeing issuance of insurance coverage (Portability Rules), and prohibiting discrimination by a health plan based upon an individual's health status (Nondiscrimination Rules).

HIPAA also includes administrative simplification provisions. Specifically, these provisions address a) uniform standards for electronic health care transactions (Electronic Data Interchange (EDI) Rules) and b) privacy and security of personally identifiable health information (Privacy and Security Rules) that apply to health care providers, health plans and healthcare clearinghouses (Covered Entities).

This issue of the Pilot Employee Benefits Legislative Brief outlines the guidance that has been issued by regulatory agencies with respect to the EDI, Privacy and Security Rules, as well as the initial compliance dates associated with these rules.

Legislative Guidance

EDI Rules

- On August 17, 2000, the U.S. Department of Health and Human Services (HHS) released final regulations designed to standardize electronic transactions conducted within the health care industry. The regulations require Covered Entities that conduct certain transactions electronically, such as health care claims and payments and health plan enrollment, to use standardized formats, content and uniform code sets that are specified in the regulations.
- In December 2001, President Bush signed into law the Administrative Simplification Compliance Act of 2001, which allowed Covered Entities to request an additional year to comply with the EDI standards.
- On February 20, 2003, HHS published modifications to the final regulations, which made changes to certain code sets and transactions.
- On January 16, 2009, HHS published final regulations to update the EDI standards and code sets. The EDI standard provisions are effective **January 1, 2012**. However, until then, Covered Entities may use either the older or updated standards. The effective date for the code set provisions is **October 1, 2013**.
- In July 2003, the Centers for Medicare and Medicaid Services (CMS) issued guidance on enforcement of the EDI Rules. The guidance recognized that Covered Entities may encounter compliance hurdles when dealing with noncompliant Covered Entities and stated that CMS would not impose penalties on otherwise compliant Covered Entities if they deployed contingencies to promote the smooth flow of payments and made a reasonable and diligent effort to comply with the rules.

Privacy Rule

- On December 28, 2000, HHS released final regulations governing the privacy of medical records (the Privacy Rule). The Privacy Rule set out guidelines for the use and disclosure of health information by Covered Entities and established rights for individuals with respect to their own information.
- In August 2002, final modifications to the Privacy rule were published by HHS.

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Security Rule

- The HIPAA statute required Covered Entities that conduct electronic transactions to maintain reasonable and appropriate safeguards to protect the integrity, confidentiality and security of health information and to ensure compliance by their officers and employees.
- On February 20, 2003, HHS published final regulations regarding the security of health information (the Security Rule). The Security Rule established standards and implementation specifications for Covered Entities that transmit or maintain electronic health information to ensure that the confidentiality, integrity and availability of the health information are maintained.

When were health plans initially required to comply with these rules?

EDI Rules

Health plans were required to comply with the EDI Rules no later than October 16, 2002, but were permitted to file for a one-year extension. Small health plans had to comply by October 16, 2003.

Privacy Rule

Health plans were required to comply with the Privacy Rule no later than April 14, 2003. Small health plans had an additional year to comply.

Security Rule

Health plans were required to comply with the Security Rule no later than April 20, 2005. Small health plans had an additional year to comply.

What is a small health plan?

HHS defines a small health plan as a health plan with annual receipts of \$5 million or less. HHS later clarified that, for purposes of determining whether a health plan is a small health plan, they consider pure premiums to be equivalent to annual receipts. In September 2002, CMS released additional clarification on how group health plans may calculate annual receipts. CMS's most recent guidance explains that for purposes of determining whether a health plan has annual receipts of \$5 million or less:

- Fully-insured group health plans should use the amount of total premiums which they paid for health insurance benefits during the plan's last full fiscal year.
- Self-funded group health plans should use the total amount paid for health care claims by the employer, plan sponsor, or benefit fund, as applicable to their circumstances, on behalf of the plan during the plan's last full fiscal year.
- Plans that provide health benefits through a mix of fully-insured and self-funded arrangements should combine total premiums and health care claims paid to determine their annual receipts.

This Pilot Employee Benefits Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

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Compliance Date Chart

Covered Entity	HIPAA Regulations – Effective Dates		
	EDI Rules	Privacy Rule	Security Rule
Small Health Plans	October 16, 2003	April 14, 2004	April 20, 2006
Health Plans	October 16, 2002 A one year extension was permitted for plans that filed prior to 10/15/02.	April 14, 2003	April 20, 2005

Please contact your Pilot Employee Benefits representative with any questions regarding HIPAA Administrative Simplification or any other HIPAA-related issue.

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