ACP
American College of Physicians
INTERNAL MEDICINE | *Doctors for Adults*

September 6, 2011

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-0032-IFC
P.O. Box 8013
Baltimore, MD 21244-8013

Re: *CMS Administrative Simplification: Adoption of Operating Rules for Eligibility for a Health Plan and Health Care Claim Status Transactions; File Code CMS-0032-IFC*

The American College of Physicians (ACP) is pleased to offer the following comments on the above-referenced interim final rule (IFR) concerning federal adoption of operating rules for eligibility for a health plan and health care claim status transactions. The ACP represents 132,000 internal medicine physicians and students. Internists specialize in primary and comprehensive care of adolescents and adults.

- The College strongly endorses the adoption of the CAQH CORE Phase I and Phase II operating rules related to eligibility and claim status transactions as detailed in the interim final rule.
- The College recommends that this set of Phase I and Phase II operating rules be expanded as part of the final rule anticipated for released by January 1, 2012 to include the CAQH CORE developed rules for acknowledgements.
- The College recommends that CMS name CAQH CORE as the single operating rule authoring entity for medical transactions.
- The College supports the position adopted and detailed within the interim final rule on maintaining voluntary certification for health plans, vendors/clearinghouses and large providers, as exemplified by the CAQH CORE integrated model.

Please contact Neil Kirschner at 202 261-4535 or nkirschner@acponline.org if you have any questions related to these comments,

Respectfully,

Don Hatton, MD, FACP
Chair, Medical Practice and Quality Committee (MPQC)

First and foremost, we enthusiastically support the Department of Health and Human Services' (HHS) recognition of the valuable role of operating rules in achieving administrative simplification and its adoption of the CAQH CORE Phase I and Phase II Operating Rules related to eligibility and claim status transactions.

While (*organization*) wholeheartedly endorses this landmark step by HHS, we urge two important revisions to the IFR and consideration of several other changes and clarifications.

1. **Adopt CAQH CORE Phase I and II Operating Rules for Acknowledgements.**[1] (Reference IFR Section II.D.a).

   The omission of operating rules for Acknowledgements, contrary to the National Committee on Vital and Health Statistics' recommendation in September 2010 to adopt all of the CAQH CORE Phase I and II Rules, is significant as the ROI for the use of operating rules drops considerably unless Acknowledgements are integrated into daily administrative data exchange. Both providers and health plans view Acknowledgements as essential to improve the end-to-end processing of transactions and to avoid the electronic "black hole" that can arise in their absence. Treating Acknowledgements as a separate transaction and delaying its inclusion in operating rules leaves ambiguity in the exchange process and severely undermines the value of the operating rules while diminishing the ROI for all stakeholders.

   The goals of administrative simplification will be negatively and greatly impacted if the mandatory use of Acknowledgements is delayed until Acknowledgements are adopted by HHS as a HIPAA standard, as suggested in Section II.D.a. of the IFR. Congress did not limit the scope of operating rules under Section 1104 of the Patient Protection and Affordable Care Act (ACA) to address only HIPAA-mandated standards. Rather, Section 1104 of the ACA amends HIPAA to permit the development of operating rules that meet common business needs for functions that HIPAA does not address— including those that "provide for timely acknowledgement…"

   Development of such operating rules, including those for Acknowledgements, is important because the industry relies on many more standards to meet everyday transactional needs to

[1] CAQH CORE Phase I 150: Eligibility and Benefit Batch Acknowledgement Rule version 1.1.0; CAQH CORE Phase I 151: Eligibility and Benefit Real Time Acknowledgement Rule version 1.1.0; and the real-time and batch Acknowledgements requirements contained in the CAQH CORE Phase II 250: Claim Status Rule, version 2.1.0.)

support the 10 transactions required under HIPAA. As outlined in Table 2 of the IFR, the critical criterion for an operating rule is that it support - and not conflict with - an existing standard mandated under HIPAA. There is no conflict between the CAQH CORE Operating Rules related to Acknowledgments with an existing HIPAA standard. Furthermore, operating rules for Acknowledgements fit squarely within the statutory definition of operating rules because they support and fill gaps to the *existing 2*70/271 eligibility standard and the 276/277 claim status standard. Operating rules for Acknowledgements enable even greater and more rapid adoption of HIPAA transactions.

Since 2005 the CORE Participants included Acknowledgements as a critical part of the CAQH CORE Rules in response to the industry reliance on this information. Acknowledgements address a vital business need - knowing with certainty whether a transaction is accepted or not. The CAQH CORE Phase I and II Operating Rules for Acknowledgements do just that and are consistent with the statutory definition and scope of operating rules under ACA Section 1104, as well as the business intent and goal for ROI.

Finally, the fact that HHS intends to formally adopt a HIPAA transaction for Acknowledgements in the future does not prohibit the agency from mandating Acknowledgements now as operating rules. From a legal perspective, the Secretary has full authority to proceed this way given such operating rules are needed now to promote administrative simplification. This is because fundamentally, the CAQH CORE Operating Rules do not repeat or conflict with what is in the standard. If and when a HIPAA transaction is mandated, the operating rules can be revised to ensure the ACA definition of operating rules is maintained.

We urge that the final rule keep intact the full set of CAQH CORE Phase I and II Operating Rules.

2. **Formally name CAQH CORE as an operating rule authoring entity**. (Reference IFR Section II.C)

The IFR should be amended to formally name CAQH CORE as the operating rule authoring entity for Eligibility and Claim Status. But, in addition to that, we strongly recommend that CMS name CAQH CORE as the *single operating rule authoring entity for medical transactions* to prevent market confusion; eliminate burden to providers, health plans and other stakeholders in negotiating among multiple entities and their unique processes; and prevent duplication of efforts and associated costs.

Operating rules offer the greatest value when they build upon each other. A single operating rule authoring entity enables a phased, consensus-based approach to rule development that consistently focuses and builds on existing operating rules, ensures achievement of ROI, promotes national operating rules and facilitates sharing of best practices.

In addition, we believe that HHS also should urge states to participate in the rule authoring processes led by CAQH CORE in order to have their input considered at the earliest opportunity.

3. **We support the government's position on maintaining voluntary certification for health plans, vendors/clearinghouses and large providers, as exemplified by the CAQH CORE integrated model** (Reference IFR Section II.D.b).

   Based on the ACA requirements and industry needs, we urge HHS to issue regulatory guidance on this topic, and leverage the CAQH CORE experience, when appropriate. CAQH CORE Certification for Phase I and II has demonstrated proven benefits for a wide variety of stakeholders. Monitoring of CAQH CORE Certification processes has confirmed that the maximum ROI is achieved when all entities in the chain of data exchange follow the rules and have online, easily assessable testing through authorized testing entities, independent from certification.

4. **Issue the final rule promptly** (Reference IFR Section III).

   Currently, CMS plans to finalize the rule by January 1, 2012, based on the ACA compliance date of January 1, 2013. We urge CMS to finalize the regulations prior to January 1, 2012, if at all possible. This will provide health plans, vendors/clearinghouses and providers with much-needed extra time to coordinate implementation of the rule's provisions with implementation of HIPAA v5010 standards updates, which will help reduce costs and facilitate sharing of best practices.

Finally, we restate that we recommend that CMS adopt, without exception, the CAQH CORE Phase I and II Operating Rules as a complete set as developed by industry stakeholders. The Operating Rules, as designed by multi-stakeholders, are interdependent and must be used together in order to achieve the maximum ROI for all transactions.

Thank you for considering our comments. Please let me know if I can provide further clarification.

Sincerely,

Name
Title