




PRACTICAL ADVICE FOR THE REAL WORLD

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## **2011 HFMA Lone Star Winter Institute Healthcare and Technology**



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### **Transitioning to HIPAA 5010/ICD-10 and Electronic Health Records**

- The implementation of 5010, ICD-10 and Electronic Health Records (“EHR”) are intended to improve patient quality, enhance claim processing, improve data reporting and promote increased interoperability across industry stakeholders.
- There will be significant impacts to provider billing and payment processing if providers fail to appropriately coordinate and implement as necessary.

## Legal Risks In Transitioning to HIPAA 5010/ICD-10 and Electronic Health Records

- Health care is one of the most data sensitive industries.
- These changes will impact virtually every department of every health care provider organization.
- Failure of providers to give proper consideration and attention to these changes will have significant long-term implications

## Overview of Changes

- ICD-10 – CMS rule adopting two medical data code sets as HIPAA standards for use in reporting diagnoses and inpatient hospital procedures in health care transactions. The standards adopted under this rule will replace the ICD-9 code sets, developed nearly 30 years ago, with greatly expanded ICD-10 code sets.
- HIPAA 5010 – this updated version of the standards for certain electronic health care transactions replaces the current versions of the standards and is intended to promote greater use of electronic transactions.

## Overview of Changes

- The new 5010 version of the standard for electronic health care transactions is essential to the use of ICD-10 codes because the current standard cannot accommodate the use of the greatly expanded ICD-10 code sets.
- EHRs and their meaningful use are an essential aspect of health provider planning and potential reimbursement.

## Areas of Impact

- Finance, accounting and financial reporting
- Health care claims adjudication and administration
- Medical and case management
- Customer billing
- Provider payment

HIPAA compliant transactions are just one aspect of ICD-10 and EHR transition readiness. Every tool, system and interface will need to be adapted.

## Compliance Risks

- Failure to give proper attention to these changes will result in information not flowing properly, critical historical data becoming lost and coding and billing becoming inaccurate or noncompliant
- Whenever provider systems have some capacity for capturing, sharing and/or storing an ICD code or whenever the data they generate flows directly or indirectly to the billing or EHR system, they must be evaluated and upgraded as appropriate.

## Compliance Risks During the Transition Phase

- HHS estimates that the switch to ICD-10/HIPAA 5510 could cause significant cash flow problems for providers due to delays in payments caused by code and system problems.
- HHS predicts that claims errors will increase from an annual 3% using ICD-9 to an annual 6%-10% of all claims at the ICD-10 implementation date.

## Compliance Risk During the Initial Phase

- As systems are tested, errors with coding , data input and software-interoperability failures may occur.
- Providers are open to errors during the implementation period as they learn the system and adjust to a new way of doing things.
- Smaller, rural and cash-strapped facilities may have a harder time as they may lack the IT talent and time to give/get proper training

## Compliance Risks During Transition Phase

- Specific risks include:
  - Protection of patient confidentiality;
  - Documentation-related issues;
  - Restricted access
  - Hardware-software-related issues
  - Mismatches between workflow and clinical info systems
  - Cost Reporting
  - Lack of trained personnel in workforce
  - Lack of trained auditors and surveyors

## Possible Consequences

- The HITECH Act significantly increased penalties for violations of the HIPAA Privacy Rule. Increase in the past, civil monetary penalties for HIPAA violations from \$100.00 per violation, with a maximum of \$25,000.00 for all violations of an identical requirement in a single year to fines starting at \$100.00 per violation (Maximum \$25,000.00 per year) up to \$50,000.00 per violation (\$1,500,000.00 per year).

## Potential Consequences

- HITECH also provides that HHS must develop a methodology by which victims of privacy violations may receive a share of penalties that are collected by the federal government.
- Finally, HITECH provides that state attorneys general may bring a civil action to enjoin privacy or security violations or obtain damages on behalf of state residents for such violations.

## Potential Consequences

- In October 2010, federal enforcers announced a plan to nearly triple the number of its Medicare fraud strike force units around the nation.
- The vast majority of providers, who comply with the law, will also see their compliance and other costs increase.
- RACS, MICS, ZPICS
  - Will the auditors know the score?

## Potential Consequences

- Potential increases in negative outcomes, malpractice claims
- Potential negative impact on quality of care reporting

## What Can We do?

- Planning/Coordination
- Execution
- Training
- Auditing

## QUESTIONS

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