



August 6, 2021

Richard Landen
Denise Love
Co-Chairs
National Committee on Vital and Health Statistics
Subcommittee on Standards
CDC/National Center for Health Statistics
3311 Toledo Road
Hyattsville, MD 20782-2002

Via: NCVHSmal@cdc.gov

RE: Request for Public Comment on Healthcare Standards Development, Adoption, and Implementation

Dear Mr. Landen and Ms. Love,

The National Uniform Claim Committee (NUCC) is pleased to submit the following comments on the National Committee on Vital and Health Statistics (NCVHS) "Request for Public Comment on Healthcare Standards Development, Adoption, and Implementation."

The NUCC is a Data Content Committee, Designated Standards Maintenance Organization (DSMO), and advisor to the Secretary of Health and Human Services (HHS) for the adoption of new and modified standards under the Health Insurance Portability and Accountability Act (HIPAA). We have a diverse membership of health care providers, health plans, designated standards maintenance organizations, public health organizations, and vendors. Our goal is to promote the development of a uniform claim "form" for use by the professional health care community to transmit related claim and encounter information to and from all third-party payers. As such, we provide a broad perspective on professional data reporting and claims processing needs impacting the industry.

The NUCC is committed to the work of administrative simplification. Our member organizations see first-hand the burdens that come from manual, outdated processes. While the health care industry has made significant progress since the passage of HIPAA to standardize and automate administrative transactions, we also see a continued need to improve the standards and operating rules development, adoption, and implementation processes. We strongly support these efforts by the NCVHS to identify opportunities to improve the nation's health care infrastructure.

1. How can data sharing be improved between patients, providers, payers, public health system, and other actors in health care? What are the barriers to these improvements?

Gaps in Current Electronic Capabilities

While there has been much work with developing and implementing data exchange standards, there remain gaps in the current versions of standards that inhibit the ability to fully automate data exchange. The main issue with the gaps is the speed at which updated versions of the standards can be adopted and implemented as part of the regulatory process. The NCVHS should look at the Office of the National Coordinator for Health Information Technology's (ONC) Standards Version Advancement Process (SVAP) as a potential model for adopting updated versions of standards. Additionally, the failure to issue a regulation for the electronic attachments standard, which was recognized as a business need 25 years ago in HIPAA and again 11 years ago in the Patient Protection and Affordable Care Act (ACA), is an ongoing gap that needs to be addressed.

The NUCC recommends that HHS, the standards development organizations (SDO), and other industry stakeholders focus on the gaps that currently exist in being able to share data electronically. Every instance where a phone, fax, or web portal is used to send or receive health care information should be examined as a potential function that can be replaced by a more automated solution.

The CAQH Index¹ is a resource the NCVHS can leverage for identifying opportunities to address ongoing gaps in the use of the current versions of HIPAA standards. The 2020 report shows consistent and high adoption, greater than 80 percent, of the Health Care Claim and Eligibility and Benefit Verification electronic standards for medical services. Conversely, Prior Authorization, Attachments, Claim Payment, and Remittance Advice all have low adoption rates of the electronic standards and high reliance on manual process. Further work and resources should be invested in understanding why these transactions have not reached higher adoption rates, especially considering the volume at which they are used. We suspect the reason for lower adoption is the need to fix issues within the standards, which emphasizes the need for a more flexible process, such as the ONC SVAP, for updating standards.

Compliance with Mandated Standards

One pivotal component of data sharing is compliance by the sending and receiving partners with the standard being used. The goal of standards is to standardize the information that is sent and received between organizations, which provides an efficient and cost-effective system for the exchange of information. Despite the many years of experience with the HIPAA-mandated X12 transactions, the NUCC continues to hear of situations of noncompliance with the Health Care Claim: Professional (837P) Technical Report Type 3 (TR3). For data exchanges such as the 837P and other administrative transactions, the burden of being compliant falls more heavily on the senders. If the sender does not follow the standard, the receiver can reject the transaction, leading to additional rework for the sender. Similarly, if the receiver requests data be sent in a transaction despite them not conforming to the standard's requirements, the sender must do so, or the receiver will not accept or process the transaction. Tolerance for allowing noncompliant data in transactions is counter to the efficient and cost-effective system the industry is striving to attain.

The NUCC is aware of the work that has been done by the Centers for Medicare & Medicaid Services (CMS) to educate the industry on compliance with the mandated standards and manage the complaint-driven

¹ <https://www.caqh.org/sites/default/files/explorations/index/2020-caqh-index.pdf>

process. The Administrative Simplification Enforcement and Testing Tool (ASETT) is a helpful resource for the industry to test their compliance and file complaints. We also appreciate CMS' new report of its Compliance Review Program findings, most recently released on July 15. The new report provides greater detail on the transactions and common violations. We are hopeful that these reports will educate other organizations on their violations and encourage noncompliant organizations to become compliant. **The NUCC recommends that HHS continue its Compliance Review Program and assess penalties to violators of HIPAA.**

Standards Must be Standardized

A related concern to compliance with mandated standards is the allowance for variations in the use of the standards, which might be framed as innovation or a proprietary business need of an entity. Variations can be found with the data content within the standard or with a version other than what is currently mandated. The unintended consequence is that organizations are required to support multiple variations of data content or standard versions. The result is a loss of efficiency and increased costs and administrative burden.

While there is a need for innovation, variations to data reporting should not be allowed within an existing mandated standard. CMS has established an exceptions process that permits covered entities to apply to use a different standard than what is currently mandated. Innovation should be limited to scenarios where an existing mandated standard does not exist. Allowing early adopters to implement new, nonmandated standards will provide real-world experience and information on the costs and benefits of implementation.

One specific example that has resulted in variations with a standard is the failure to adopt the Current Procedural Terminology (CPT®) Guidelines and Conventions (CPT Guidelines) under HIPAA. The CPT Guidelines are critical to the correct use of the CPT codes. The lack of stakeholder uptake has resulted in some organizations creating their own instructions for how to report the CPT codes, thus imposing a burden on the entire health care system in the claims and coordination of benefits processing.

Keeping Pace with Industry Needs

Effective and efficient data sharing require standards that meet the current business needs, which in turn means that the development and adoption processes for newer versions of standards must also keep pace with the industry's needs. **The NUCC continues to support previous recommendations by NCVHS for a more predictable schedule for the development and publication of updated versions of standards and the ability to address incremental updates to standards.** We continue to believe that having predictability with the development and adoption processes will give the industry more confidence in the process and facilitate the appropriate and timely allocation of resources. Again, we encourage the NCVHS to look at the ONC SVAP as a potential model.

Costs and Benefits

The NUCC believes it is essential for the industry to have a true understanding of the costs and benefits to implement newer versions of standards and strongly supports a requirement to undertake a cost-benefit analysis for all proposed new or updated versions of standards. We also recommend that these

analyses be done on a periodic basis following implementation to understand optimal timing to move to updated versions of standards. Since the first implementation of HIPAA-mandated standards, industry stakeholders have been told they will receive a return on their investment in the form of faster processing times, more data for decision making, less rejections and rework, and less need to submit additional clinical information, and other benefits. While a portion of these have been achieved, it is only a fraction of the opportunity that remains to improve the transactions and bring meaningful reductions in costs and increases in benefits.

Comprehensive, Real-World Testing

Comprehensive, real-world testing and piloting of new and updated standards are essential for ensuring that the standards truly meet the business requirements of the industry. The current implementation approach is to adopt the standards and then address any necessary fixes in a subsequent version. This process might be sufficient if the next version of the standard could be developed and implemented in a timely manner, but that is not the case today. Currently, when an adopted standard is not meeting business requirements, workarounds must be employed, which are manual and burdensome for all organizations. It is clear that the industry needs a process to test or pilot standards prior to national implementation, yet the industry currently lacks the infrastructure to conduct real-world testing.

The primary drawback to completing comprehensive testing is the cost. Both sending and receiving organizations must program their systems to accommodate the updated or new standards being testing, which is time and resource consuming and outside the normal workflow. Implementing the necessary programming changes must be done in blind faith not knowing if the new standards will be adopted and implemented. **The NUCC recommends that HHS provide federal funding and resources necessary to have comprehensive, real-world testing.**

Industry Participation

There is an immediate need to increase the membership and diversity of membership in the standards development process. The success of standards is dependent on fully understanding all aspects of the industry's business requirements and building the standards to meet those needs.

Terminology Standards

Data interoperability enables providers and payers to coordinate care among organizations and act based on comprehensive and current information. The scope of data interoperability has expanded to encompass social and behavioral services, public health, cost and quality assessment, and research, in addition to administrative uses. Terminology standards, therefore, must be multifaceted and meet the varied needs of the industry. They must be credible, comprehensive, and developed using rigorous and evidence-based processes.

The CPT code set, International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM), and International Classification of Diseases, Tenth Revision, Procedure Coding System (ICD-10-PCS) are terminology standards that are pivotal for describing medical services, procedures, and diagnoses. Additional critical terminology standards are the Current Dental Terminology (CDT) for describing dental

services and the National Drug Codes (NDC) for describing drugs and biologics. They are all evidence-based, flexible, reflect current clinical practice, universally used, and trusted by the health care system.

The terminology curators for these standards continually demonstrate successful coordination in the development, adoption, implementation, and conformity of the standards across disparate health-related data systems. The code sets will continue to play a vital role in data sharing among providers, patients, payers, public health systems, and other actors in health care. **The NUCC recommends that NCVHS continue to support these trusted terminology standards.**

Consumer Friendly Terminology

Patients are widely recognized across all stakeholders as playing an increasingly integral role in the care they are receiving. To better inform and empower patients, they must have improved access to their health information as well as tools to assist them in interpreting the medical terms they will find in their clinical records, related administrative documentation, and other care delivery and treatment resources.

One specific resource for patients is the CPT Consumer Friendly Descriptors. Each CPT code has a CPT Consumer Friendly Descriptor that is a more easily understandable version of the medical procedure. Their use in records and documents for patients provide for better understanding of the clinical information allowing the patient to be more informed of their care. **The NUCC asks that NCVHS recommend that HHS promote the use of the consumer-friendly terminologies for use in patient materials and resources.**

2. Are there any new standards or use cases available or under development that should be considered by NCVHS for recommendation to HHS for adoption to support interoperability, burden reduction and administrative simplification? Some examples might include new information sharing in health care, such as data or semantics for social determinants of health, public health case reporting, or All Payer Claims Databases. Please do not limit responses to these examples.

The NUCC has not tracked new use cases for data interoperability and has not received any recent requests to revise or add new data elements in the claim transaction.

3. How have other industries effectively implemented, tested, and certified standards for data and their exchange that could be considered for health care?

The NUCC does not have the necessary experience or expertise with other industries' implementations of electronic data standards to propose what might be applicable to health care.

4. What short term, mid-term and long-term opportunities or solutions do you believe should be priorities for HHS?

The above comments on today's systems and processes are all recommendations for necessary changes to improve the standards development, adoption, and implementation. Ideally, these changes should be made expeditiously. The following are recommendations for how HHS should stage our recommended changes.

Short-term (0 – 12 months)

- Identify the gaps in the current electronic capabilities and develop a plan for eliminating them.
- Continue to conduct compliance audits and publish the findings.
- Encourage stakeholder uptake of the CPT Guidelines.
- Develop and publish a proposal for conducting cost-benefit analyses for new and updated versions of standards.
- Develop and publish a plan to increase participation in standards development work.
- Issue recommendations supporting current HIPAA-mandated terminologies.
- Develop and publish a plan to provide more consumer-friendly resources.

Mid-term (13 – 24 months)

- Implement the plan for eliminating the gaps in the current electronic capabilities.
- Develop and publish a proposal for how standards can be tested, analyzed, adopted, and implemented in a timely manner and solicit public comment.
- Develop and publish a new process for comprehensive, real-world testing of new and updated versions of standards, including funding resources.
- Implement the plan to increase participation in standards development work.
- Implement the plan to provide more consumer-friendly resources.

Long-term (25 – 60 months)

- Implement the new process for how standards are tested, analyzed, adopted, and implemented in a timely manner.
- Implement the new process for conducting cost-benefit analyses of new and updated versions of standards.
- Implement the new process for comprehensive, real-world testing of new and updated standards.

The NUCC appreciates the opportunity to comment on this request for public comment. If you have any questions, please contact me at (312) 330-2953 or nancy.spector@ama-assn.org

Sincerely,

/s/

Nancy Spector
Chair, National Uniform Claim Committee