

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Medicaid

Regulation/Package Title: CSO EDI 2014 Rule Amendment

Rule Number(s): 5160-1-20

Date: February 3, 2014

Rule Type:

New

5-Year Review

Amended

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Rule 5160-1-20, "Electronic data interchange (EDI) trading partner enrollment and testing" describes and defines general provisions for covered entities (including health plans, health

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care clearinghouses and health care providers), and EVS vendors to enroll as a trading partner with the Ohio Department of Medicaid (ODM). This rule outlines the trading partner responsibilities related to the submission of EDI files for testing and production in the HIPAA compliant EDI standard formats. Entities must submit the appropriate documentation both before testing and prior to submitting claims for production adjudication. Requirements for each phase of testing are defined, in addition to specific requirements to be met prior to obtaining approval to move to production adjudication.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

Sections 5162.03 and 5164.02 of the Ohio Revised Code.

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

Yes. Pursuant to Section 1104 of the Affordable Care Act and 45 CFR 162.920, ODM is required to provide the capability for the use of EDI 270/271 and 276/277 files in real time and free of charge.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The purpose of this regulation is to define the enrollment and testing requirements for covered entities and Eligibility Verification Services (EVS) vendors wanting to become a Medicaid EDI trading partner. This rule ensures the integrity of ODM's data and also protects ODM from being held financially liable for any breach of information by trading partners.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

ODM will measure the success of this regulation by monitoring the enrollment, quarterly reports, and testing activities of current and potential trading partners.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

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If applicable, please include the date and medium by which the stakeholders were initially contacted.

ODM utilized its Clearance process to inform stakeholders of the intended change in rule 5160-1-20 and solicit feedback concerning the proposed changes.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

ODM received four comments during the two week clearance process. The only comments received were from State of Ohio staff. The concerns expressed were in relation to the means in which the rule would be implemented and inclusion of EVS vendors. We explained that this rule is to bring ODM into compliance with the ACA legislation which requires fast eligibility for trading partners and does not allow ODM to distinguish between trading partners who submit claims and those who do not.

No changes were made to the rule based on comments received.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

None. ODM determined that this was the most efficient process for enrolling and testing trading partners, it is in compliance with the federal requirements and consistent with industry standards. The regulatory intent of this rule ensures the integrity of ODM's data and also protects ODM from being held financially liable for any breach of information by its trading partners.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

No. The agency did not consider performance based measures as the technical requirements for the transmission of EDI files are highly specific, variance from these standards are highly likely to cause the file transmission to fail.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

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All Medicaid regulations governing trading partners are promulgated and implemented by ODM. No other state agencies impose requirements that are specific to the Medicaid program. These regulations were reviewed by the ODM legal and legislative staff to ensure that there is no duplication within the Medicaid rules.

13. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The EDI file transmission testing process currently in place in ODM does not allow for variance from the application of our current standards. The reporting and liability aspects of the regulation will apply to all entities seeking to become trading partners and extended to existing trading partners when their contracts are reviewed and updated.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

The scope of the impacted business community includes trading partners, entities seeking to become trading partners and EVS vendors who submit, receive, route, and/or translate EDI transactions directly related to the administration or provision of medical assistance.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

Trading partners that are not actively submitting and receiving 837 health care claim transaction sets, but who are actively submitting and receiving 270/271 and 276/277 transaction sets, will be able to do so free of charge. Currently these trading partners are being charged a monthly premium to transmit these files. Trading partners who process eligibility inquiries but not claims will be asked to submit the National Provider Identification (NPI) numbers of the providers they represent. The trading partners already have this information, so the cost in providing this list to ODM would be minimal. The first report is due at the time of initiating a trading partner agreement with ODM. Subsequent reports are due quarterly based on the calendar year, no later than January 1, April 1, July 1 and October 1. Trading partners will be responsible for any breach of information and be held fully liable for any and all costs relating to such breaches.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

The agency doesn't anticipate any negative or adverse impact resulting from the capability for the use of EDI 270/271 and 276/277 files other than the negligible cost of producing the initial and quarterly reports of NPIs represented by the trading partner. EVS vendors will no longer have to pay for eligibility information and traditional trading partners will have access to fast eligibility determination. This rule change is being made to accommodate the changing HIPAA legislation. Trading partners will be responsible for any breach of information and be held fully liable for any and all costs relating to such a breach; the potential of such cost cannot be estimated at this time.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

This rule increases the capabilities of ODM's trading partners while reducing their costs. The cost to produce the required quarterly reports that EVS vendors will be required to send will be minimal. The testing requirements are consistent with industry standards and federal regulation. This rule ensures the integrity of ODM's data and protects ODM from being held financially liable for any breach of information on the part of trading partners.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No because of the technical requirements of EDI file transmission standards must be held consistently for all current and potential trading partners.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Not applicable.

18. What resources are available to assist small businesses with compliance of the regulation?

The following resources are available:

Contact Information:

E-mail: DAS-EDI-Support@DAS.Ohio.gov

Phone: 614-387-1212, M-F 8am-5pm

Website:

<http://Medicaid.Ohio.gov/PROVIDERS/Billing/TradingPartners.aspx>

5160-1-20

Electronic data interchange (EDI) trading partner enrollment and testing.

(A) For purposes of this rule, the following definitions apply:

- (1) "Covered entity," as defined by 45 C.F.R. 160.103 (rev. ~~2/2006~~6/2014), is a health plan, a health care clearinghouse, or a health care provider that transmits health care information in an electronic format in connection with a transaction covered by this rule. The following definitions apply:
 - (a) "Health plan" is an individual or group health plan that provides, or pays the cost of medical care.
 - (b) "Health care clearinghouse" is a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and value-added networks and switches, that does either of the following functions:
 - (i) Processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or
 - (ii) Receives a standard transaction from another entity and processes or facilitates the processing of health information into a nonstandard format or nonstandard data content for the receiving entity.
 - (c) "Health care provider" is a provider of medical or health services, and any person or organization who furnishes, bills for, or is paid for health care services in the normal course of business.
- (2) "Electronic data interchange (EDI) transactions" are transactions developed by standards development organizations recognized by the federal centers for medicare and medicaid services (CMS) and adopted by the Ohio department of ~~job and family services (ODJFS)~~medicaid (ODM). The different EDI transactions are defined as follows:
 - (a) "ANSI X12 820 premium payment" is a transaction used to make a payment and/or send a remittance advice.
 - (b) "ANSI X12 834 monthly member roster or enrollment/disenrollment in a health plan" is a transaction used to establish communication between

the sponsor of the insurance product and the payer.

- (c) "ANSI X12 835 health care claims payment/remittance advice" is a transaction used to make a payment and/or send an explanation of benefits remittance advice.
- (d) "ANSI X12 837 health care claim" is a transaction used to submit health care claim billing/encounter information, or both, from providers (institutional, professional, or dental) of health care services to payers, either directly or via clearinghouses.
- (e) "ANSI X12 270 eligibility, coverage, or benefit inquiry" is a transaction used to inquire about the eligibility, benefits or coverage under a subscriber's health care policy.
- (f) "ANSI X12 271 eligibility, coverage, or benefit information response" is a transaction used to communicate information about, or changes to, eligibility, benefits, and/or coverage.
- (g) "ANSI X12 276 health care claim status request" is a transaction used to request the status of a health care claim.
- (h) "ANSI X12 277 health care claim status notification" is a transaction used to respond to a request regarding the status of a health care claim.
- (i) "ANSI X12 278 health care services review information request and response" is a transaction used to transmit health care service information for the purpose of referral, certification/authorization, notification, or reporting the outcome of a health care services review.

(3) "Eligibility verification services (EVS) vendor" means an entity with which a state contracts for the purpose of providing Medicaid recipient eligibility verification data to state-approved Medicaid Providers that provide medical services to persons who are eligible for Medicaid assistance.

~~(3)~~(4) "Trading partner" is a covered entity or EVS vendor that submits, receives, routes, and/or translates EDI transactions directly related to the administration or provision of medical assistance provided under a public assistance program.

(B) Trading partners submitting EDI transactions.

- (1) Trading partners must meet the definition of a covered entity as defined in paragraph (A)(1) of this rule ~~and be a health plan, a healthcare clearinghouse or a health care provider~~ or be an EVS vendor.
- (2) To enroll as a medicaid EDI trading partner with ~~ODJFS~~ODM under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and be issued a trading partner number, a covered entity must complete the following:
 - (a) Complete and submit the Medicaid ~~The JFS 01957~~ "Trading Partner Profile" by completing the trading partner enrollment process form ~~(rev. 5/2006)~~.
 - (b) The JFS 06306 "Designation of an 835 or 834-820 Trading Partner" form (rev. 12/2006). This form is required only if the trading partner will be receiving the 835 remittance advice on behalf of its clients.
 - (c) A trading partner agreement. Two original trading partner agreements must be signed by an authorized representative of the trading partner and submitted to ~~ODJFS~~ODM. A countersigned original will be returned to the trading partner and must be kept on file.
- (3) Once the medicaid trading partner number is assigned, the trading partner is eligible to submit claims, claim status inquiries, or eligibility inquiries for the testing process in accordance with paragraph (C) of this rule.

(C) Testing requirements.

- (1) To become an active trading partner with ~~ODJFS~~ODM, all trading partners must abide by all ~~ODJFS~~ODM testing requirements as outlined in this paragraph and in the "Electronic Data Interchange Trading Partner Information Guide." The "Electronic Data Interchange Trading Partner Information Guide" is available at ~~http://jfs.ohio.gov/OHP/tradingpartners/pdfs/EDITradingPartnerInformationGuide.pdf (rev. 1/2011)~~ medicaid.ohio.gov.
 - (a) Trading partners are required to submit three files per the following transaction types that must pass testing: 837 (professional, institutional and dental), 270 (eligibility) and 276 (claim status inquiry).
 - (b) Trading partners ~~must~~ are only required to test the transaction types that they will be submitting in production.

- (c) Each file must contain a minimum of fifty claims, [claim status inquiries](#), [or eligibility inquiries](#).
 - (d) All EDI files must completely pass X12 integrity testing, HIPAA syntax, and HIPAA situation testing. Trading partners are required to modify their EDI files in accordance with any new federally mandated HIPAA standards.
 - (e) During testing, trading partners may submit one claim file per day, per [837](#) transaction (one professional, one institutional, and one dental) and/or one eligibility inquiry and/or one claim status inquiry per day.
 - (f) Test files are considered passing when ninety per cent of the claims submitted pass the test adjudication process. A ninety per cent pass rate must be reached for each transaction type tested.
- (D) Trading partners that are not actively submitting and receiving 837 health care claim transaction sets ~~may not submit and receive 270/271 and 276/277 transaction sets~~, [but who are actively submitting and receiving 270/271 and 276/277 transaction sets are subject to the following requirements:](#)
- (1) [Trading partners must provide, in a manner specified by ODM, a report of all providers by national provider identifier \(NPI\) that the trading partner represents. The first report is due at the time of initiating a trading partner agreement with ODM. Subsequent reports are due quarterly based on the calendar year, no later than January 1, April 1, July 1 and October 1.](#)
 - (2) [Trading partners shall be responsible for any breach of information and be held fully liable for any and all costs relating to such a breach.](#)