

HIPAA COMPLIANCE

CONT'D FROM P. 1
process electronic reimbursement claims. The U.S. Department of Human Services has approved standardized codes to be used for medical concepts, diagnoses and procedures, as well as electronic insurance claims and other transactions. It does not require clinical social workers to use electronic transactions, but eventually there may be advantages for doing so.

HIPAA privacy regulations establish that personal health information must be kept confidential. The regulations establish a baseline of patient/client protections by defining the rights of individuals, administrative obligations of providers and permitted uses of protected health information.

In addition to these two sets of regulations, a security regulation, which has not yet been finalized and published, will outline minimum administrative, technical and physical safeguards required to prevent unauthorized access to client records. (Some security measures are already recommended in the electronic transactions and code set standards and the privacy regulations.)

HIPAA will also finalize a system putting into place standard national numbers to identify health care providers, health plans and employers. In 2002, the Employer Identification Number (EIN) issued by the Internal Revenue Service was selected as the identifier for employers and went into effect on July 30. Identifier numbers for health plans and providers will be determined.

What is a covered entity?
Social workers who fit the definition of a "covered entity" are required to comply with the HIPAA regulations. Covered entities are:

- A health care provider who transmits health or behavioral health claims-type information electronically, including practitioners in agencies or private practice.
- A health plan, including HMOs, health insurers and group health plans.
- A health care clearinghouse, which is an organization that translates nonstandard claims information between payers and providers.

Some social workers may not transmit health claims-type information electronically and thus are not covered entities. Nevertheless, over the next few years these transactions are likely to become standard industry practice.

How do social workers comply with electronic transactions and code set standards?

The initial deadline for complying with the electronic transaction and code set standards has passed. Covered entities should have been in compliance by Oct. 16, 2002 (October 2002 News). Covered entities who were not in compliance on Oct. 16, 2002, were required to complete an extension form for compliance by Oct. 16, 2003.

Morgan explained that most of the requirements under the electronic transactions and code set standards will affect providers, health plans and clearinghouses that transmit medical and billing data.

Social workers affected by HIPAA, however, should talk with their software vendors to ensure that their computer software is HIPAA compliant. Testing of data transmission for compliance is also advised; several companies offer testing services for data transmission.

Social workers should also ensure that all patient-identifiable information is encrypted before transmitting it over the Internet, including in e-mail messages. A computer "firewall" is recommended to provide security and restrict outside access.

How do social workers comply with the privacy regulations?

There are three main forms social workers qualifying as covered entities should prepare in order to be HIPAA compliant, although additional forms may be used.

The most complex of these is the "Notice of Privacy Practices." This form details the way client information is handled within the practitioner's office, and it should be distributed to clients, posted in the office and onto any Web sites affiliated with the practice.

Morgan explained that a nationwide model form is difficult for practitioners to use, because each state has its own privacy standards. Under HIPAA regulations, state privacy standards that are stricter than the federal privacy standards take precedence and must be reflected in the practitioner's document. The "Notice of Privacy Practices" must also dovetail with and explain established in-house policies.

"Social workers must find out what their state requirements are" before preparing the form, Morgan said.

Another form covered entities should prepare is an authorization for release of records. "This is fairly simple and straightforward," Morgan said. However, specific elements are required under HIPAA. The form should be designed to obtain permission from clients for release of records to another party.

"The tricky part is to know when using the form is required and when it isn't. However, there is nothing to prevent you from getting consent even if HIPAA does not require it," Morgan said. She also noted that NASW's Code of Ethics already requires social workers to obtain consent from clients ("Privacy and Confidentiality," section 1.07).

Covered entities must also develop a contract for any business associates that use client information to perform a task for the entity. HIPAA regulations include a model form for this contract. This form is to ensure that businesses dealing with identifiable client information in areas such as claims, legal concerns or billing will be compliant with HIPAA. A "business associate" is a separate organization usually operating under a contract with the covered entity.

HIPAA also establishes a "Minimum Necessary Standard" under the privacy regulations. This standard ensures that the minimum amount of information about clients or patients is disclosed for any given transaction.

To comply with these standards, social workers should review their procedures and perform evaluations such as ensuring that client records are not easily accessible, computers are safeguarded and confidential conversations are not overheard.

How will the regulations be enforced?

Failure to comply with HIPAA regulations could result in financial penalties or criminal charges.

However, Morgan noted, HHS has said that "enforcement is going to be complaint-driven. Random searches or audits are unlikely during the early years of enforcement." Furthermore, if a complaint is filed, HHS will approach the situation with the goal of helping providers come into compliance.

"What's most important is documenting a good-faith effort to comply," Morgan explained. "If you are working toward compliance, keep a record of what you are doing. This will create a paper trail, so if regulators do evaluate your compliance, you can demonstrate the steps you've taken."

Such efforts include spending time reading about HIPAA regulations, attending continuing education and training courses, consulting with attorneys, purchasing HIPAA forms, using online resources and performing security reviews.

"While understanding what is required for HIPAA compliance is somewhat complicated, the provisions are designed to ultimately make things simpler," Morgan said. "Social workers don't need to panic, but everyone should make sure they are keeping themselves educated about these regulations."

HIPAA Resources

There are many resources to help social workers become familiar with what is required for HIPAA compliance:

- NASW's Web site has posted practice updates, several forms, a HIPAA overview and other notices on HIPAA compliance. Go to www.socialworkers.org/practice/hipaa/default.asp.
- The national office of NASW is offering an online set of HIPAA training courses which qualify in some states for continuing education credits. Chapters have also information on continuing education courses for social workers on HIPAA compliance. Check chapter Web sites for details.
- National staff Sherri Morgan and General Counsel Carolyn Polowy, sponsored by the NASW Legal Defense Fund, will be providing HIPAA training through the California, Missouri, Kansas, West Virginia, Montana and the Metro Washington chapters.
- The HHS Office for Civil Rights and the HHS Centers for Medicare and Medicaid Services (CMS) offer information on HIPAA. E-mail askhipaa@cms.hhs.gov, or see www.hhs.gov/ocr/hipaa/. For questions on the privacy rule, call (866) 627-7748 and leave a message. CMS also offers links to a provider-readiness check list, a covered entity decision tool and other useful links at www.cms.gov/hipaa/hipaa2/default.asp.

WELFARE VIEWS

CONT'D FROM P. 1
administration's strategies include orienting the current system toward securing full-time work for recipients and increasing the number of hours recipients are required to work.

In addressing NASW's concern about services for recipients with multiple barriers to self-sufficiency, Horn said that the Bush administration is concerned that "despite successes, far too many recipients are not engaged in meaningful, effective work." He said the administration is promoting a "universal engagement strategy" in which each recipient is required to have a plan toward self-sufficiency.

Horn said the welfare reauthorization proposal's engagement strategy should help reveal the issues — such as domestic abuse, depression, or substance abuse — that recipients may be facing.

Woodside told Horn that NASW agrees that each welfare recipient should have a plan, but she expressed concern that the president's proposal does not spell out that an up-front assessment is required, nor does it

stipulate that qualified professionals be in place to make the assessment. "We'd like to make sure that really happens," she told Horn. Clark noted that having employees in place who are able to provide a competent biopsychosocial assessment is crucial.

Horn said he does not support a single standardized assessment and believes states can develop their own tools if provided with a requirement framework.

On enhancing the capacity of the welfare infrastructure, Horn said, "We must help states develop the capacity" to effectively manage their welfare cases. He said the Bush plan will include increased funding to states for technical assistance.

Woodside said that states are in definite need of financial help on workforce issues. She noted a "mismatch" in the number of workers and the number of families needing services and said that state budget deficits are resulting in hiring freezes and staffing cuts.

Woodside also stressed the importance of ensuring that the workers who are in place are skilled. "The workers them-

selves are concerned" about their competence, she said. "Many feel unqualified [to perform assessments]."

"The more judgment people need to make [about clients' needs], the better educated and skilled they need to be," Woodside told Horn.

Horn is a clinical child psychologist. He was appointed to the Administration for Children and Families in July 2001. Before his appointment, he was president of the National Fatherhood Initiative. He also served in the previous Bush administration on commissions and advisory boards addressing children and welfare. He has written and edited a number of books and has written a weekly newspaper column, "Fatherly Advice."

"The meeting was a good opportunity for us to explain our strategies and priorities on welfare reform," Dempsey said.

"We were pleased to have been invited to meet with Horn, and we hope this meeting will help us keep the lines of communication open with the Bush administration on welfare reform and other issues," Clark said.

COMING to NASW ONLINE

HIPAA HIGHLIGHTS

Web links to resources, information about a new online training program, a slide-show presentation and a list of live training sites. Look on the home page.

2002 ANNUAL REPORT

An online summary of last year's activities and accomplishments from chapters and the national office. Look under "About NASW."

RESEARCH SPOTLIGHT

News about cutting-edge research from schools of social work, calls for conference papers, and information on new grants. Look under "Resources."

WOMEN'S HISTORY MONTH

Features about women's contributions to the social work profession. Look on the home page.

LONG-TERM CARE STANDARDS

Read and comment by March 31 on NASW's draft Standards for Social Work Services in Long-Term Care Facilities. Look on the home page.

www.socialworkers.org