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# **Clearinghouse Transactions and Connectivity**

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A White Paper describing clearinghouse requirements for transaction translation and connectivity via trading partner relationships

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# Purpose and Scope

## Purpose

The purpose of this white paper is:

- To address changes in the Health Care Clearinghouse business model that have been motivated by provisions of the HIPAA legislation and associated regulations.
- To provide a common understanding of a covered entity's ability to selectively enter into electronic trading partner modes/relationships under HIPAA.
- To provide a common understanding of situations in which traditional types of Health Care Clearinghouse fees are not allowed under HIPAA.

This paper will describe the expected results of applying HIPAA rules to clearinghouse operations. The Business Issues Sub Work-Group of the SNIP Transactions Work-Group has identified issues related to clearinghouse transaction translation requirements under HIPAA rules and the conditions under which a clearinghouse may be required to enter into a trading partner agreement with another clearinghouse, a provider or a vendor.

## Scope

The scope of this white paper will address the following issues:

1. What will be the necessary trading partner agreement structure to achieve connectivity to all payers for HIPAA transactions?
2. What are the requirements for the clearinghouse industry to establish clearinghouse-to-clearinghouse, provider-to-clearinghouse and payer-to-clearinghouse connectivity for the exchange of HIPAA transactions?

2 (a): Description of the different types of CH business relationships as they relate to the requirements in #2; clarification as to whether these business relationships are to be considered per-transaction, per-time period (month, quarter, year), or whether the entire CH enterprise is going to be categorized according to its predominant business relationships, etc.

**Under  
Consideration**

3. What are acceptable revenue streams (who can and cannot be charged)?
4. Can a clearinghouse process a non-standard to non-standard translation of formats, content and codes?
5. What is the impact on today's trading partner models?
6. Current common practice vs. WEDI-SNIP's suggested practice under HIPAA.

7. The value proposition related to HIPAA's compliance.

## Salient Rules

**§160.103 Definitions.** *Health care clearinghouse* means a public or private entity, including a billing service, re-pricing company, community health management information system or community health information system, and "value-added" networks and switches, that does either of the following functions:

- (1) 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.
- (2) Receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

**§ 162.925(a)(5) Requirements for covered entities...** A health plan that operates as a health care clearinghouse, or requires an entity to use a health care clearinghouse to receive, process, or transmit a standard transaction may not charge fees or costs in excess of the fees or costs for normal telecommunications that the entity incurs when it directly transmits, or receives, a standard transaction to, or from, a health plan.

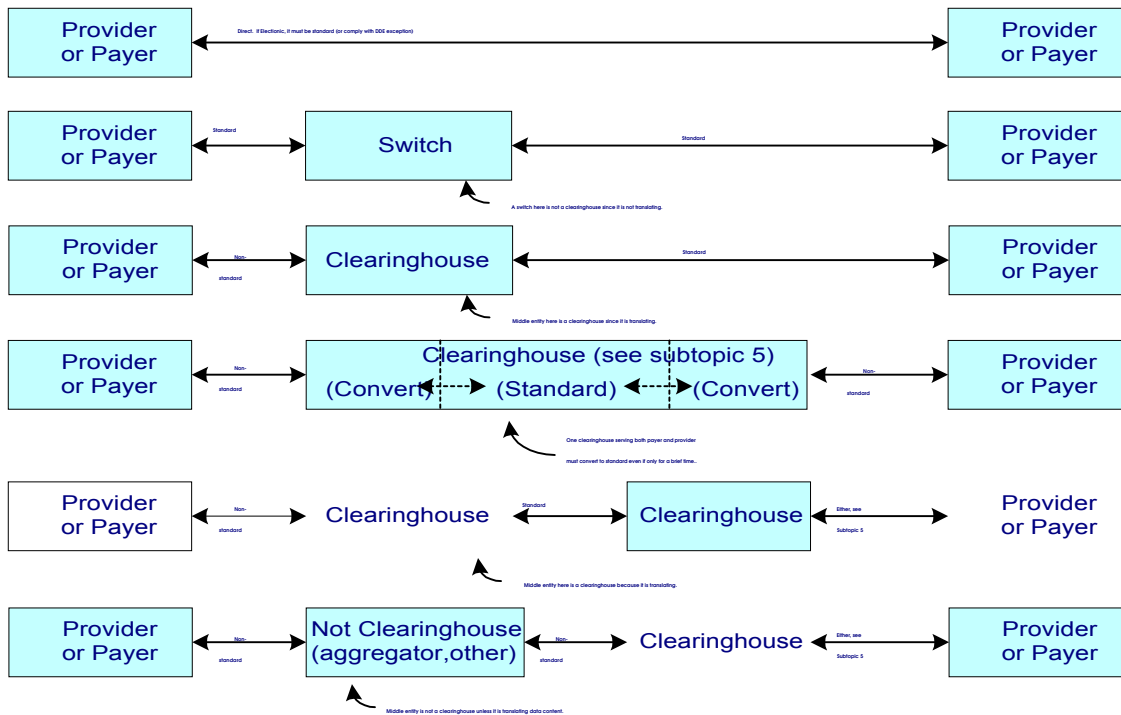
**§ 162.925(a)(1) Additional requirements for health plans...** (a) *General rules.*

(1) If an entity requests a health plan to conduct a transaction as a standard transaction, the health plan must do so.

## Definitions:

### What Is and Is Not a Clearinghouse?

The defining characteristic of a *health care clearinghouse* in **§160.103** above is translation, either non-standard into standard, or standard into non-standard. An entity in the middle, such as a billing service, re-pricing company, network, or switch, becomes a *clearinghouse* only if it translates. The following different scenarios illustrate the distinction for entities in the middle:



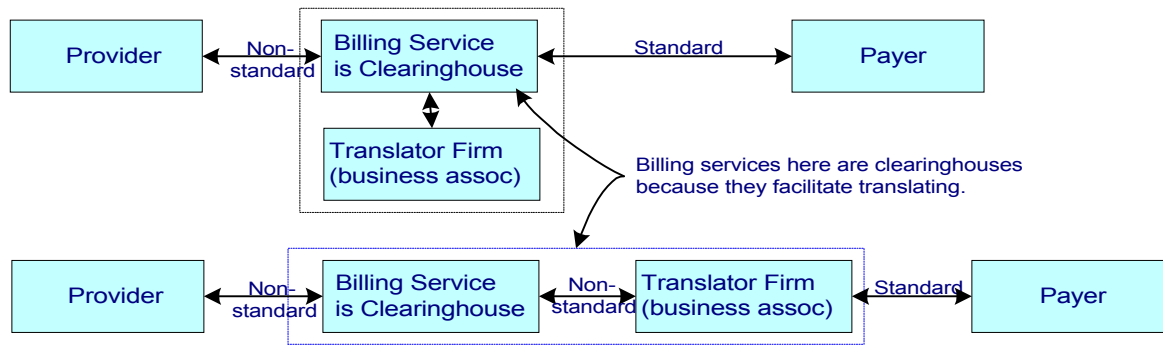
Additional clarification includes the following:

- **Can an entity be part clearinghouse, part not clearinghouse? No.** The definition says an entity becomes a clearinghouse if it translates health information to or from standard for another entity. So if, as a single entity, it does *any* translation, even if only the smallest part of its business volume, it is a clearinghouse. It would require division into two entities to separate itself from the definition.

**Under Consideration**

- [Under consideration] **How does a clearinghouse stop being a clearinghouse?** How, for example, would a CH be able to stop performing translation services and reclassify itself as a “value-add switch”?)
- **What does “facilitates the processing” mean?** It is clear from the preamble<sup>1</sup> that *facilitates the processing* in the clearinghouse definition does not include telecommunications or routing activities of the telephone companies, Internet Service Providers, VANs, or data switches, and that it does not include the non-translation activities in the common parlance of *clearinghouse*. Presumably, the phrase refers to who is performing the translation; so we interpret *facilitates the processing* to mean employment of a business associate such that an entity in the middle that does not itself translate, but accomplishes this by engaging another entity, is a clearinghouse.

<sup>1</sup> See quotation from preamble in the attachment to this paper.

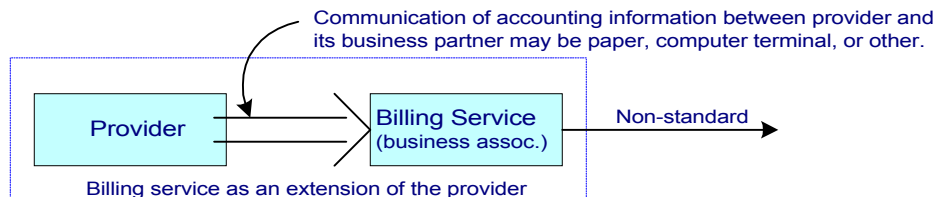


- **Does a provider or payer become a clearinghouse if it translates its own data into standard? No.** In addition to the definition, the preamble further clarifies: "In order to fall within this definition of clearinghouse, the covered entity must perform the clearinghouse function on health information received from some other entity." So a provider or payer, that generates non-standard data internally and translates it into standard before sending it, is not because of the translation a clearinghouse.
- **Is a middle entity a clearinghouse because it converts transactions into its internal form? No.** Converting incoming transactions to proprietary internal form does not itself cause an entity to be a clearinghouse. In order to be a clearinghouse, it must either (1) translate incoming non-standard to standard for the entity it is receiving it from, or (2) translate standard to non-standard for the covered entity it is sending it to.
- **Is a billing service a clearinghouse? Not unless it translates to standard.** When a billing service is only acting as an extension of the health care provider's office and does not translate to standard, it is not a clearinghouse. This distinction is made clear in the transaction rule preamble as follows:

"If an entity does not perform the functions of format translation and data conversion, it is not considered a health care clearinghouse under our definition. Billing services, for example, are often extensions of a health care provider's office, primarily performing data entry of health care claims and reconciling the payments received from a health plan. ..."

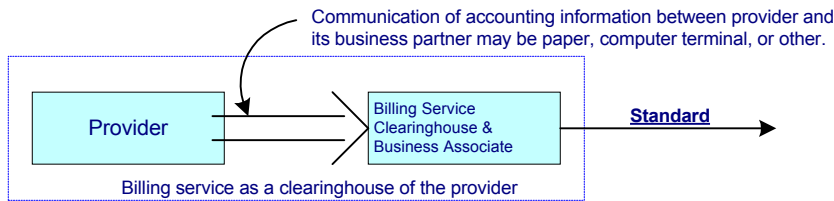
[Standards for Electronic Transactions, Supplementary Information III (B) (2) Health Care Clearinghouse, 8/14/00].

A billing service acting as an extension of a provider is a business associate of the provider and subject contractually to privacy, security, and other requirements.

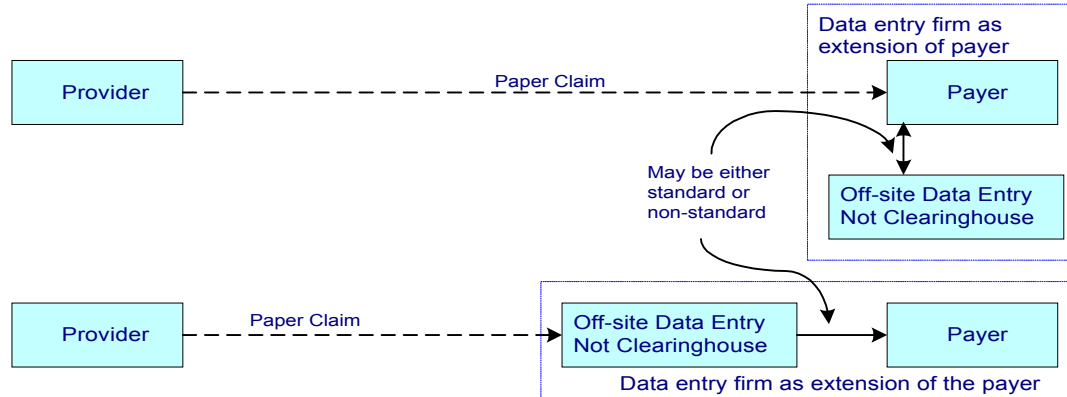


If the billing service converts health information to a standard transaction it is acting as a clearinghouse as defined in §160.103 Definitions, and does become a covered entity. So, a billing service taking in non-standard health information (superbills, encounter forms, transcription, etc.), entering that information into an information system and sending a claim out as standard is classified as a clearinghouse and a covered entity under HIPAA. Since this is a common practice, even the simplest of billing services will likely fall under the clearinghouse definition. **[The SNIP Business Issues sub-group is submitting this point for clarification as a question to HHS as follows: If a billing service takes in paper based health information in the form of charge slips, superbills, etc.; enters that information into an information system; and generates a compliant standard transaction; is the billing service acting as a clearinghouse as defined under HIPAA?]**

**Question to HHS**



**Is a claims data entry firm a clearinghouse? Usually no.** A payer may outsource data entry of paper claims to a business associate, which is an extension of the payer, not a clearinghouse, such that it is not required to translate the claims into standard. The status as extension of the payer applies to either of the following work flows:



A claims data entry firm acting as an extension of a payer is a business associate of the payer and subject contractually to privacy, security, and other requirements.

**Under Consideration**

In the second model, why is the first receiving entity not a CH? It's taking Non-STD from a provider and delivering it to a payer. If it does not hand the payer a std 837, then it looks like a CH that is in violation of the rule. What exactly qualifies it as an "extension of the payer" in this instance, making it exempt?

- **Is a re-pricing company a clearinghouse? Only if it translates.** If a re-pricing company is a conduit for transactions going between provider and payer but does not perform clearinghouse functions, it is not a clearinghouse. If it is positioned as an off-site business associate of the payer, such that it is not a conduit of the



transaction, it is not a clearinghouse regardless of what it does.

## **Overview**

While the long-term goal of HIPAA is simplification, the path that will lead us there is not always clear. In an attempt to become compliant, payers, providers and clearinghouses are forced to re-evaluate their roles in this process. With HIPAA's definition of a clearinghouse specifically indicating functions an entity must perform in order to be a clearinghouse, some of the rules of business will change. Not only are the transactions standardized, the question often comes up concerning the format, content and codes all relative to the transactions.

It is evident that the business model of current day clearinghouses will change and anticipating the model that will meet the needs of all parties involved is part of the challenge of this paper and group. In addition to how the interactions between the three parties will be conducted, the issue of trading partners is applicable. Clearinghouses need to have trading partner relationships with other clearinghouses in order to exchange information between them destined to a payer or provider.

The issues surrounding this piece of the HIPAA puzzle are complicated. Our goal in this paper is to bring clarity to the changing clearinghouse business model, address the major issues involved in compliance and come to a best practice consensus.

## **Business Drivers**

Traditionally health care clearinghouses have facilitated data interchange activities in the health care industry. These organizations have provided a combination of software and services that have focused on streamlining translation and connectivity protocols necessary for the exchange of electronic healthcare data. Often clearinghouse have allowed their clients to avoid the information technology costs associated with maintaining networks, applications and employee training. These clearinghouses have controlled who they chose to be their network members (customers) and generated revenue by charging those members (payers, providers, clearinghouse trading partners and other entities) for the use of clearinghouse services. These fees are most commonly charged per transaction but may also include a monthly, annual or one time only subscription fee. However, in certain instances, provisions within HIPAA prohibit organizations from selectively entering into trading partner relationships and charging for certain types of transactions and connectivity. Clearinghouse organizations must reevaluate the business benefits and revenue potential of the services being offered.

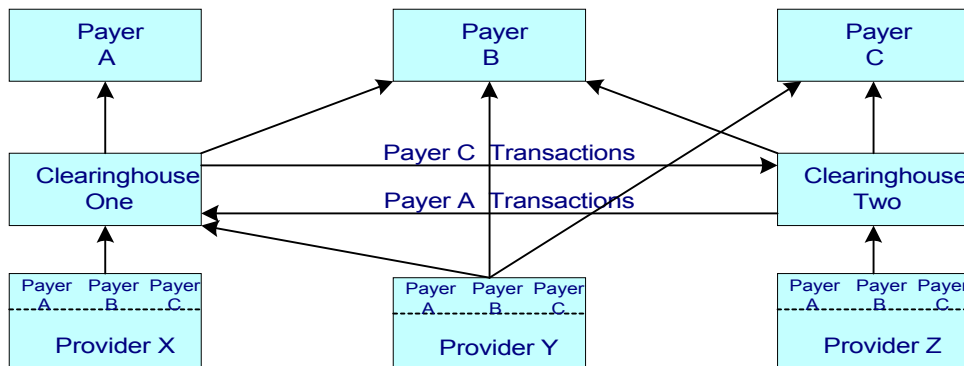
## **Background and Suggested Solutions**

### **Case Description:**

The following describes the situation depicted in the diagram below:

- Payer A can only receive non-standard transactions and uses Clearinghouse 1 as a Designated Clearinghouse to translate standard transactions into their non-standard format.
- Payers B and C can receive standard transactions directly from a provider. However, providers must conform to their communication protocol requirements.
- Clearinghouse 1 has connectivity established to Payers A and B and Provider X.
- Clearinghouse 2 has connectivity established to Payers B and C and Provider Z.
- Provider X sends/receives standard transactions but has contracted with Clearinghouse 1 as a Business Associate to route transactions to the destination payers. Provider X could go direct to a payer but has chosen to contract with a business associate to maintain connectivity to several payers each using a different communication network and protocol.
- Provider Y sends standard transactions to Payer A through Clearinghouse 1 as a HIPAA Trading Partner and directly to Payers B and C.
- Provider Z is using Clearinghouse 2 to translate non-standard transactions into standard and to route transactions to the destination payer using the payer’s communication protocol.

Diagram depicts inquiry/submitting transaction routing. In this example, response transaction route would be the reverse. That may not always be the case.



**Subtopic 1:** What will be the necessary trading partner agreements to achieve connectivity for HIPAA transactions?

Trading partner agreements, though not a requirement under HIPAA’s final rule, are strongly recommended for the direct exchange of electronic data between entities. A “Chain of Trust” may be part of a trading partner agreement. trading partner agreement’s and trading partner

relationships exist between parties directly exchanging data and not necessarily between the entities for which data is being exchanged. Therefore, in the preceding diagram:

- Providers X and Y have a trading partner agreement with Clearinghouse 1
- Provider Y also has a trading partner agreement with Payers B and C
- Provider Z has a trading partner agreement with Clearinghouse 2
- Clearinghouse 1 and 2 have a trading partner agreement with each other
- Clearinghouse 1 has trading partner agreement with Payer A and Payer B
- Clearinghouse 2 has agreements with Payers C and B.

**Subtopic 2:** What are the requirements for the clearinghouse industry to establish clearinghouse-to-clearinghouse, provider-to-clearinghouse and payer-to-clearinghouse connectivity for the exchange of HIPAA transactions?

**Questions (refer to diagram and situation description)**

1. Provider Z has a Business Associate Agreement with Clearinghouse 2 and wishes to exchange transactions with Payer A. Can Clearinghouse 1 refuse to facilitate the exchange of standard transactions between Clearinghouse 2 and Payer A?

**Suggested Solution:**

Since Clearinghouse 1 is a Designated Clearinghouse for Payer A, it cannot refuse to facilitate the exchange of standard transactions between Payer A and the Business Associate of Provider Z (Clearinghouse 2). However Clearinghouse 1 can require a Trading Partner Agreement from Clearinghouse 2.

2. Can Clearinghouse 1 refuse to exchange standard transactions with Clearinghouse 2 that are destined for Payer B?

**Recommendation:**

Yes. Since Clearinghouse 1 is not the Designated Clearinghouse for Payer B, it may refuse to facilitate the exchange of transactions destined for those Payers unless it has entered into a Trading Partner Agreement to facilitate the exchange.

3. Provider X wishes to exchange transactions with Payer C through Clearinghouse 1. Clearinghouse 1 does not have direct connectivity to Payer C and wishes to enter into a Trading Partner Agreement with Clearinghouse 2 to facilitate the exchange. Can Clearinghouse 2 refuse to enter into an agreement to process those transactions?

Suggested Solution:

Yes. Since Clearinghouse 2 is not the Designated Clearinghouse for Payer C, they are not required to accept trading partner relationships to exchange transactions for that payer. Clearinghouse 2 may use their own discretion in determining whether or not to enter into a Business Associate Agreement and facilitate the exchange of standard data.

4. Provider Z does not have a trading partner relationship with Payer C. Their clearinghouse, Clearinghouse 2, has connectivity to Payer C. On rare occasions Provider Z has a transaction for Payer C. Can Clearinghouse 2 forward this transaction under their agreement with Payer C?

Suggested Solution:

Trading partner relationships are entered into by the parties directly exchanging data, therefore the Trading Partner Agreement that exists between Payer C and Clearinghouse 2 and Provider Z and Clearinghouse 2, are sufficient to allow the exchange of data. However, Payer C may, at their discretion, require Provider Z to complete an EDI enrollment process prior to accepting claims electronically from the provider's business associate, Clearinghouse 2.

5. Provider Y exchanges transactions directly with Payers B and C and wishes to exchange transactions with Payer A. Can Clearinghouse 1 refuse to facilitate the exchange of these transactions?

Suggested Solution:

No. Because Clearinghouse 1 is the Designated Clearinghouse for Payer A, it must accept all requests for trading partner Relationships from the provider or the business associate of the provider wishing to exchange standard transactions with Payer A.

6. Payer C wishes to return transactions to Provider X through Clearinghouse 1. Is Clearinghouse 1 required to accept these transactions?

Suggested Solution:

Not unless the Business Associate Agreement with Provider X requires it to do so. Since Clearinghouse 1 has not entered into a Business Associate Agreement with Payer C, it is not required to accept transactions directly from the payer.

**Subtopic 3:** What are the acceptable revenue streams (what can and can't be charged)?

**For the purpose of this white paper and sub-topic 3, we have developed the following terms:**

HIPAA Trading Partner	A clearinghouse, payer, provider (or provider business associate) with which a covered entity exchanges data but does not contract for services (such as translation or data transport). For example, the relationship between a provider and a payer is typically a HIPAA trading partner relationship.
Business Associate	An organization with which a covered entity has contracted for service (such as a billing service or clearinghouse).
Designated Clearinghouse	A Clearinghouse house designated by a payer to send and/or receive any standard transactions on the payer's behalf.

**Questions (refer to the diagram and situation in sub-topic 2)**

1. Provider X has a Business Associates Agreement with Clearinghouse 1 to exchange transactions with Payer B because Provider X is not able to support the connectivity protocols required by the payer. Can Provider X be charged for transactions sent to Payer B?

Suggested Solution:

Yes. Since Payer B is willing to exchange standard transactions directly and has not contracted with Clearinghouse 1 as a Designated Clearinghouse, the clearinghouse may bill Provider X for their services. The way in which those services are priced and packaged is up to the clearinghouse, will vary and could include: transaction fees, sign-up fees, monthly or annual membership fees, support fees and/or fees for other services Provider X might use.

2. Clearinghouse 2 has a Business Associates Agreement with Provider Z and is taking in non-standard transactions, translating those transactions to a standard and sending them to Clearinghouse 1 for destination to Payer A. In turn, Clearinghouse 1 is returning transactions to Provider Z through Clearinghouse 2. Can Clearinghouse 1 charge Clearinghouse 2 for the exchange of these transactions?

Suggested Solution

Not unless Clearinghouse 2 has hired Clearinghouse 1 as a Business Associate. Since Clearinghouse 1 is the Designated Clearinghouse for Payer A, it may not

charge Provider Z's Business Associate simply for the exchange of standard transactions to Payer A.

3. Provider Y wishes to exchange standard transactions with Payer A and must do so through Payer A's Designated Clearinghouse, Clearinghouse 1. Must Provider Y pay Clearinghouse 1 for this exchange?

#### Suggested Solution

Not unless Provider Y wishes to enter into a Business Associate Agreement with Clearinghouse 1 to perform services beyond the exchange of standard transactions with Payer A.

Payers typically have contracted with one or more clearinghouses as their business associate to receive and send electronic transactions on the payer's behalf in a standard or non-standard format. The clearinghouse normally provides a variety of services to the payer including translation of data into the payer's proprietary format. Often the payer will designate the clearinghouse as an exclusive or non-exclusive gateway for data exchange and providers are directed to the Designated Clearinghouse(s) in order to exchange electronic transactions with the payer. In other cases, payers agree to exchange data with clearinghouses as trading partners but do not consider the clearinghouse a business associate and do not designate the clearinghouse as a gateway. These Trading Partner Payers are not customers of the clearinghouse per se and are normally tracked separately from those payers who are.

Providers typically have contracted with a clearinghouse as a business associate with the clearinghouse providing a variety of services including translation and distribution of claims to multiple payer formats and destinations. In today's business model it is rare that a provider would be a trading partner with a clearinghouse without also contracting with the clearinghouse as a business associate. Under HIPAA, however, a trading partner relationship without a business associate relationship will not be uncommon.

The guiding principle regarding the ability of a Clearinghouse to charge any entity for a service is whether or not that entity has voluntarily requested the service. If a third party (e.g., the target payer) *requires* that an entity use a clearinghouse service, then neither the clearinghouse nor any of its agents may charge the entity for that service. On the other hand, if the use of the Clearinghouse service is completely voluntary and the entity would have been able to send or receive the transaction without using a Clearinghouse, then the Clearinghouse is entitled (but not required) to charge the entity for the service.

For example, under HIPAA, a provider or its business associate (billing service, vendor, clearinghouse, etc.) wishing to exchange standard transactions with a payer who has designated a clearinghouse for data exchange, but who prefers not to contract with the payer's Designated Clearinghouse for translation or other services, may not be charged in excess of their own telecommunication costs. A Designated Clearinghouse must accept standard transactions from these providers and/or their business associates at no charge. This new breed of customer, the HIPAA Trading Partner, will probably require changes to provider/submitter classification, reporting and accounting processes.

**Subtopic 4:** Can a clearinghouse contract with another clearinghouse to translate non-standard transactions to standard?

Yes

**Subtopic 5:** Can a clearinghouse translate non-standard transactions into another non-standard translation of formats, content, and codes?

The question is illustrated with the following three scenarios:

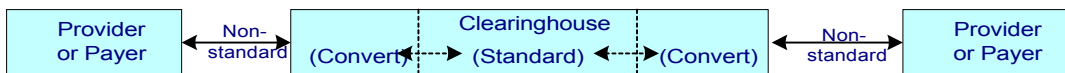
1. EDI communication must be standard between a provider and a payer:



2. But the provider and the payer may each use non-standard communication by employing a clearinghouse. At some point the transactions are required to exist in standard form. This requirement can be met by standard communications between the two clearinghouses:



3. But what if the provider and payer use the same clearinghouse? The rules require the clearinghouse to convert the transactions, at least temporarily, into standard.



One clearinghouse serving both payer and provider must convert transactions to standard even if only for a brief time. If the clearinghouse is actually the payer acting as a clearinghouse, it must convert the transactions to standard before use.

The principle is that communication between the provider and payer must be standard in data and format. To comply when both the provider and payer use non-standard communications through the same clearinghouse<sup>2</sup>, the clearinghouse must translate the incoming transactions from non-standard to standard, then re-translate the standard into the outgoing non-standard.

If the clearinghouse does not translate into standard, even for a moment, then the provider

<sup>2</sup> Please refer to the preliminary FAQ question and response quoted as an attachment to this paper. The FAQ response states the requirement that at some point the transaction must be converted to standard in *both* data and format.

and payer are not in compliance with the requirement to use standards.

There are several considerations about this requirement:

- **Capability exists.** General purpose clearinghouses will already have the basic capability to meet this requirement because while some transactions may be processed non-standard to non-standard as shown, other transactions will be exchanged with entities that only work with standard EDI; so the clearinghouse must be able to convert these latter transactions to and/or from standard EDI. As a covered entity, they must have the capability of receiving and/or sending standard transactions.
- **Performance.** The standard transaction must exist, even if for only a brief period of time, and the clearinghouse must be able to demonstrate this capability.
- **Standard data content and data conditions required.** The requirement for same data content means the inclusion of all required data (either derived from the incoming transactions or other means), exclusion of non-standard data, use of standard codes and identifiers, and use of the same meaning of the data. The parties cannot strike a deal to get around data requirements of a standard. The rules state that we cannot use a reduced data set, require more data, or use non-standard codes or meaning. A clearinghouse must edit to enforce data standards.
- **Standard format required.** The rules are also clear that the single clearinghouse must convert each transaction into standard format as well as into standard data. Otherwise, the provider and payer would not be in compliance with the requirement to use standard transactions.

Question  
to HHS

[The SNIP Business Issues sub-group is submitting this point for a formal and final response as a question to HHS as follows: If a clearinghouse is under contract to both a provider and a health plan, and currently receives transactions from the provider in its proprietary format and translates them to the plan's proprietary format, do the HIPAA regulations require that this process change? Would the clearinghouse be required under the regulations to convert non-standard provider transactions to standard format before then changing them to the plan's proprietary format, adding a seemingly unnecessary step to the current process?]

**Subtopic 6:** Can a clearinghouse assist its clients in creating standard data content?

Yes. Though in many cases developing processes to accomplish this may be challenging, healthcare clearinghouses may use various techniques in order to ensure their clients are able to produce compliant content. A business associate and/or trading partner agreement can specify the methods employed to accomplish this task.

**Subtopic 7:** What is the impact on today's trading partner and business models?

**Improved data flow:** HIPAA's standard transactions remove many of the barriers to the flow of data between healthcare organizations, their business associates and governmental agencies. Once in place, standard transactions reduce the cost and time of implementing



EDI between trading partners with most of the effort focused on establishing trading partner relationships and electronic communications. Similarly, the effort required to maintain and support EDI is reduced. HIPAA prevents healthplans from selectively authorizing trading partner relationships. Unless a healthplan has outsourced all or part of its transaction processing to a designated clearinghouse, the healthplan must accept standard transactions direct from any healthcare provider or the provider's business associate. These factors are likely to have the effect of increased numbers of direct trading partner relationships between healthplans and clearinghouses and/or healthplans and providers.

**Reduced cost of EDI implementation:** Once the conversion to standards is complete, on an ongoing basis, HIPAA reduces the cost of EDI implementation and support to vendors of healthcare information systems. With HIPAA, vendors have the ability to create new applications and processes (such as auto-post routines for entering electronic remittance) while programming to a single standard format. Establishing and maintaining direct connections to healthplans becomes a more manageable process. In many cases, vendors are likely to implement the HIPAA standard and create simple communication tools that enable the provider to exchange standard transactions directly to healthplans, healthplan designated clearinghouses or the clearinghouse business associate of the provider's choosing. In other cases however, particularly when the vendor is also acting as a data aggregator, clearinghouse or is receiving rebates from a particular clearinghouse, it's possible the vendor may choose to maintain a proprietary non-standard transaction format, thereby preventing the provider from sending direct to a healthplan or its designated clearinghouse and eliminating or restricting the provider's ability to select its own clearinghouse business associate.

**Potential impacts on revenue:** If a healthplan has contracted with a clearinghouse to act as its designated clearinghouse in accepting all or part of its standard electronic transactions, the clearinghouse must accept standard transactions for that healthplan from any healthcare provider or any provider business associate. HIPAA prevents a clearinghouse from charging a provider fees for processing standard transactions to or from a healthplan for which the clearinghouse is designated as the gateway for standard data exchange unless the clearinghouse is also acting as the business associate of the provider. At least initially, these factors will likely have the effect of increasing the number of clearinghouse-to-clearinghouse trading partner relationships. They are also likely to reduce the flow of revenue from clearinghouse-to-clearinghouse transactions.

Traditionally, healthcare clearinghouses collect revenue under an 80/20 rule. That is to say, 80% percent of revenue comes from 20% of the client base. That 20% is made up predominately from fees paid by receivers/healthplans. Second to receiver/healthplan revenue, for larger, more established clearinghouses, is the revenue earned through other clearinghouses dependent on them for receiver/healthplan connectivity and finally fees from providers who have historically paid little for claims processing and often nothing for additional services such as format translation and transactions such as eligibility or claim status.

Clearinghouses operating under this model may experience the most dramatic impact on current revenue streams as healthplan trading partners, unwilling to bear the full cost of clearinghouse services, implement standard transactions in-house and take on direct connectivity at no charge to the covered entities and their business associates who choose to submit standard transactions direct. Similarly, clearinghouse trading partners once dependent on the larger clearinghouse partner for connectivity are able to themselves

support direct connectivity, thereby narrowing the revenue stream. An exclusive agreement with a healthplan today means many new channels of revenue for a clearinghouse with fees coming in from the healthplan, other clearinghouses, providers and their business associates. Under HIPAA, agreements with healthplans unable/unwilling to exchange standards directly, means a clearinghouse will receive many transactions for which only back-end (payer/receiver) revenue is available.

In recent years a new clearinghouse model has emerged where the main source of revenue is the submitter and healthplan connectivity is achieved for the most part through direct connections with local government intermediaries and Blues plans and the rest through trading partner relationships with other clearinghouses. Clearinghouses under this model have much to gain from HIPAA as more providers choose to implement EDI and look for a single source solution for transaction processing. Reduced revenue from healthplans shifting to direct connectivity is less significant and the possibility of cost savings exists, as the fees paid to other clearinghouse trading partners designated by healthplans are no longer allowed. Since the cost of these trading partner transactions typically range from .03¢ to .10¢ apiece, the savings could be significant.

As clearinghouses work to find ways to identify new sources of revenue, submitters and receivers dependent on translation can expect to pay more for that service. While the final effect on today's business and trading partner models is not yet known, what is known is that in order to compete against low cost direct connectivity, today's clearinghouses must find ways to add value in the form of robust translation and editing programs, greater payer connectivity, innovative transaction and workflow management tools, as well as improved customer service.

## **Value Proposition**

Traditionally health care clearinghouses have facilitated data interchange activities in the health care industry. These organizations have provided a combination of software and services that have focused on streamlining the submitting and receiving of electronic transactions. Additionally, clearinghouses have allowed their clients to avoid the information technology costs associated with maintaining networks, applications, multiple trading relationships and training employees. The services and technological advances that have been put forth by the clearinghouse industry are partially responsible for the implementation of the HIPAA legislation. Clearly, the functionality and process improvements made possible by clearinghouses have provided significant benefits to the healthcare industry. HIPAA's mandated implementation of standard transactions on the part of healthplans will gradually enable healthplans to manage EDI exchanges independent of a clearinghouse relationship and will likely shift the value of clearinghouse connectivity and translation services from the payer, to the provider. With that value shift so too move the channels for potential revenue.

For the traditional clearinghouse who has in the past depended on revenue generated by payers and clearinghouse trading partners, a focus needs to be given to building relationships with healthcare providers and in particular, their vendors, with special attention paid to the value added services that will initially attract the customer and later build customer loyalty. In addition, services beyond translation and transportation will be crucial to ongoing revenue from payer sources. By providing value added services such as enhanced reporting, data analysis, regulatory compliance and innovative approaches for processing hard to obtain transactions, clearinghouses can maintain their role as critical players in the

health care industry. As long as clearinghouses can continue to provide enhanced functionality while helping their clients avoid the cost of maintaining systems and networks and the training costs associated with employees utilizing state of the art technology, their place in the industry is not only secure but also critical.

## Attachment

### Preamble: Section 160.103 - Definitions<sup>3</sup>

#### *Health Care Clearinghouse.*

In the [Privacy] NPRM, we defined "health care clearinghouse" as a public or private entity that processes or facilitates the processing of nonstandard data elements of health information into standard data elements. The entity receives health care transactions from health care providers or other entities, translates the data from a given format into one acceptable to the intended payor or payors, and forwards the processed transaction to appropriate payors and clearinghouses. Billing services, repricing companies, community health management information systems, community health information systems, and "value-added" networks and switches would have been considered to be health care clearinghouses for purposes of this part, if they perform the functions of health care clearinghouses as described in the preceding sentences.

In the final regulation, we modify the definition of health care clearinghouse to reflect changes in the definition published in the Transactions Rule. The definition in the final rule is:

Health care clearinghouse means a public or private entity, including billing services, repricing companies, community health management information systems or community health information systems, and "value-added" networks and switches, that does either of the following functions:

(1) 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.

(2) Receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

We note here that the term health care clearinghouse may have other meanings and connotations in other contexts, but the regulation defines it specifically, and an entity is considered a health care clearinghouse only to the extent that it meets the criteria in this definition. Telecommunications entities that provide connectivity or mechanisms to convey information, such as **telephone companies and Internet Service Providers, are not health care clearinghouses** as defined in the rule **unless** they actually carry out the functions outlined in our definition. **Value added networks and switches are not health care clearinghouses unless** they carry out the functions outlined in the definition. The examples of entities in our proposed definition we continue to consider health care clearinghouses, as well as any other entities that meet that definition, to the extent that they perform the functions in the definition.

**In order to fall within this definition of clearinghouse, the covered entity must perform the clearinghouse function on health information received from some other entity.** A department or component of a health plan or health care provider that transforms nonstandard information into standard data elements or standard transactions (or vice versa) is not a clearinghouse for purposes of this rule, unless it also performs these functions for another entity. As described in more detail in § 164.504(d), we allow affiliates to perform clearinghouse functions for each other without triggering the definition of "clearinghouse" if the conditions in § 164.504(d) are met.

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<sup>3</sup> Quoted for reference purposes from final privacy rule preamble. Emphasis added as a convenience.

**FAQ. Question proposed by SNIP Business Issues Workgroup and Response****Question about same clearinghouse serving both provider and payer [c.f. Subtopic 5]**

If a clearinghouse is under contract to both a provider and a health plan, and currently receives transactions from the provider in its proprietary format and translates them to the plan's proprietary format, do the HIPAA regulations require that this process change? Would the clearinghouse be required under the regulations to convert non-standard provider transactions to standard format before then changing them to the plan's proprietary format, adding a seemingly unnecessary step to the current process?

**Answer.**

In order to be considered a health care clearinghouse under HIPAA, a health care clearinghouse must perform the functions required in the definition of a health care clearinghouse in 160.103. A health care clearinghouse must process non-standard transactions received from another entity into standard transactions and must receive standard transactions from another entity and process into non-standard transaction for that entity. In this example, the health care clearinghouse must translate the non-standard transaction it received into a standard transaction, prior to translating it back into a non-standard transaction for the other entity. Health care clearinghouses are required to accept and send standard transactions. If a covered entity chooses to use a business associate, in this case, a health care clearinghouse, the covered entity must require the health care clearinghouse to comply with all applicable requirements of the regulation.

[Stanley Nachimson, HCFA, Thursday, February 15, 2001]

**Question about billing services acting as a clearinghouse by taking in paper charge slips and sending out a standard transaction [Definitions]**

If a billing service takes in paper based health information in the form of charge slips, superbills, etc.; enters that information into an information system; and generates a compliant standard transaction; is the billing service acting as a clearinghouse as defined under HIPAA?