

Calendar No. 256

107TH CONGRESS
1ST SESSION

H. R. 3323

IN THE SENATE OF THE UNITED STATES

DECEMBER 5, 2001

Received; read twice and placed on the calendar

AN ACT

To ensure that covered entities comply with the standards for electronic health care transactions and code sets adopted under part C of title XI of the Social Security Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Administrative Sim-
3 plification Compliance Act”.

4 **SEC. 2. EXTENSION OF DEADLINE FOR COVERED ENTITIES**
5 **SUBMITTING COMPLIANCE PLANS.**

6 (a) IN GENERAL.—

7 (1) EXTENSION.—Subject to paragraph (2),
8 notwithstanding section 1175(b)(1)(A) of the Social
9 Security Act (42 U.S.C. 1320d–4(b)(1)(A)) and sec-
10 tion 162.900 of title 45, Code of Federal Regula-
11 tions, a health care provider, health plan (other than
12 a small health plan), or a health care clearinghouse
13 shall not be considered to be in noncompliance with
14 the applicable requirements of subparts I through R
15 of part 162 of title 45, Code of Federal Regulations,
16 before October 16, 2003.

17 (2) CONDITION.—Paragraph (1) shall apply to
18 a person described in such paragraph only if, before
19 October 16, 2002, the person submits to the Sec-
20 retary of Health and Human Services a plan of how
21 the person will come into compliance with the re-
22 quirements described in such paragraph not later
23 than October 16, 2003. Such plan shall be a sum-
24 mary of the following:

1 (A) An analysis reflecting the extent to
2 which, and the reasons why, the person is not
3 in compliance.

4 (B) A budget, schedule, work plan, and im-
5 plementation strategy for achieving compliance.

6 (C) Whether the person plans to use or
7 might use a contractor or other vendor to assist
8 the person in achieving compliance.

9 (D) A timeframe for testing that begins
10 not later than April 16, 2003.

11 (3) ELECTRONIC SUBMISSION.—Plans described
12 in paragraph (2) may be submitted electronically.

13 (4) MODEL FORM.—Not later than March 31,
14 2002, the Secretary of Health and Human Services
15 shall promulgate a model form that persons may use
16 in drafting a plan described in paragraph (2). The
17 promulgation of such form shall be made without re-
18 gard to chapter 35 of title 44, United States Code
19 (commonly known as the “Paperwork Reduction
20 Act”).

21 (5) ANALYSIS OF PLANS; REPORTS ON SOLU-
22 TIONS.—

23 (A) ANALYSIS OF PLANS.—

24 (i) FURNISHING OF PLANS.—Subject
25 to subparagraph (D), the Secretary of

1 Health and Human Services shall furnish
2 the National Committee on Vital and
3 Health Statistics with a sample of the
4 plans submitted under paragraph (2) for
5 analysis by such Committee.

6 (ii) ANALYSIS.—The National Com-
7 mittee on Vital and Health Statistics shall
8 analyze the sample of the plans furnished
9 under clause (i).

10 (B) REPORTS ON SOLUTIONS.—The Na-
11 tional Committee on Vital and Health Statistics
12 shall regularly publish, and widely disseminate
13 to the public, reports containing effective solu-
14 tions to compliance problems identified in the
15 plans analyzed under subparagraph (A). Such
16 reports shall not relate specifically to any one
17 plan but shall be written for the purpose of as-
18 sisting the maximum number of persons to
19 come into compliance by addressing the most
20 common or challenging problems encountered
21 by persons submitting such plans.

22 (C) CONSULTATION.—In carrying out this
23 paragraph, the National Committee on Vital
24 and Health Statistics shall consult with each
25 organization—

(i) described in section 1172(c)(3)(B) of the Social Security Act (42 U.S.C. 1320d–1(c)(3)(B)); or

(ii) designated by the Secretary of Health and Human Services under section 162.910(a) of title 45, Code of Federal Regulations.

(D) PROTECTION OF CONFIDENTIAL INFORMATION.—

(i) IN GENERAL.—The Secretary of Health and Human Services shall ensure that any material provided under subparagraph (A) to the National Committee on Vital and Health Statistics or any organization described in subparagraph (C) is redacted so as to prevent the disclosure of any—

(I) trade secrets;

(II) commercial or financial information that is privileged or confidential; and

(III) other information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(ii) CONSTRUCTION.—Nothing in clause (i) shall be construed to affect the application of section 552 of title 5, United States Code (commonly known as the “Freedom of Information Act”), including the exceptions from disclosure provided under subsection (b) of such section.

(6) ENFORCEMENT THROUGH EXCLUSION FROM PARTICIPATION IN MEDICARE.—

(A) IN GENERAL.—In the case of a person described in paragraph (1) who fails to submit a plan in accordance with paragraph (2), and who is not in compliance with the applicable requirements of subparts I through R of part 162 of title 45, Code of Federal Regulations, on or after October 16, 2002, the person may be excluded at the discretion of the Secretary of Health and Human Services from participation (including under part C or as a contractor under sections 1816, 1842, and 1893) in title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(B) PROCEDURE.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) (other than the first and sec-

1 ond sentences of subsection (a) and subsection
2 (b)) shall apply to an exclusion under this para-
3 graph in the same manner as such provisions
4 apply with respect to an exclusion or proceeding
5 under section 1128A(a) of such Act.

6 (C) CONSTRUCTION.—The availability of
7 an exclusion under this paragraph shall not be
8 construed to affect the imposition of penalties
9 under section 1176 of the Social Security Act
10 (42 U.S.C. 1320d–5).

11 (D) NONAPPLICABILITY TO COMPLYING
12 PERSONS.—The exclusion under subparagraph
13 (A) shall not apply to a person who—

14 (i) submits a plan in accordance with
15 paragraph (2); or

16 (ii) who is in compliance with the ap-
17 plicable requirements of subparts I
18 through R of part 162 of title 45, Code of
19 Federal Regulations, on or before October
20 16, 2002.

21 (b) SPECIAL RULES.—

22 (1) RULES OF CONSTRUCTION.—Nothing in
23 this section shall be construed—

24 (A) as modifying the October 16, 2003,
25 deadline for a small health plan to comply with

the requirements of subparts I through R of part 162 of title 45, Code of Federal Regulations; or

(B) as modifying—

(i) the April 14, 2003, deadline for a health care provider, a health plan (other than a small health plan), or a health care clearinghouse to comply with the requirements of subpart E of part 164 of title 45, Code of Federal Regulations; or

(ii) the April 14, 2004, deadline for a small health plan to comply with the requirements of such subpart.

(2) APPLICABILITY OF PRIVACY STANDARDS BEFORE COMPLIANCE DEADLINE FOR INFORMATION TRANSACTION STANDARDS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, during the period that begins on April 14, 2003, and ends on October 16, 2003, a health care provider or, subject to subparagraph (B), a health care clearinghouse, that transmits any health information in electronic form in connection with a transaction described in subparagraph (C) shall comply with the requirements of subpart E of part 164 of

1 title 45, Code of Federal Regulations, without
2 regard to whether the transmission meets the
3 standards required by part 162 of such title.

4 (B) APPLICATION TO HEALTH CARE
5 CLEARINGHOUSES.—For purposes of this para-
6 graph, during the period described in subpara-
7 graph (A), an entity that processes or facilitates
8 the processing of information in connection with
9 a transaction described in subparagraph (C)
10 and that otherwise would be treated as a health
11 care clearinghouse shall be treated as a health
12 care clearinghouse without regard to whether
13 the processing or facilitation produces (or is re-
14 quired to produce) standard data elements or a
15 standard transaction as required by part 162 of
16 title 45, Code of Federal Regulations.

17 (C) TRANSACTIONS DESCRIBED.—The
18 transactions described in this subparagraph are
19 the following:

20 (i) A health care claims or equivalent
21 encounter information transaction.

22 (ii) A health care payment and remit-
23 tance advice transaction.

24 (iii) A coordination of benefits trans-
25 action.

1 (iv) A health care claim status trans-
2 action.

3 (v) An enrollment and disenrollment
4 in a health plan transaction.

5 (vi) An eligibility for a health plan
6 transaction.

7 (vii) A health plan premium payments
8 transaction.

9 (viii) A referral certification and au-
10 thorization transaction.

11 (c) DEFINITIONS.—In this section—

12 (1) the terms “health care provider”, “health
13 plan”, and “health care clearinghouse” have the
14 meaning given those terms in section 1171 of the
15 Social Security Act (42 U.S.C. 1320d) and section
16 160.103 of title 45, Code of Federal Regulations;

17 (2) the terms “small health plan” and “trans-
18 action” have the meaning given those terms in sec-
19 tion 160.103 of title 45, Code of Federal Regula-
20 tions; and

21 (3) the terms “health care claims or equivalent
22 encounter information transaction”, “health care
23 payment and remittance advice transaction”, “co-
24 ordination of benefits transaction”, “health care
25 claim status transaction”, “enrollment and

1 disenrollment in a health plan transaction”, “eligi-
 2 bility for a health plan transaction”, “health plan
 3 premium payments transaction”, and “referral cer-
 4 tification and authorization transaction” have the
 5 meanings given those terms in sections 162.1101,
 6 162.1601, 162.1801, 162.1401, 162.1501,
 7 162.1201, 162.1701, and 162.1301 of title 45, Code
 8 of Federal Regulations, respectively.

9 **SEC. 3. REQUIRING ELECTRONIC SUBMISSION OF MEDI-**
 10 **CARE CLAIMS.**

11 (a) IN GENERAL.—Section 1862 of the Social Secu-
 12 rity Act (42 U.S.C. 1395y) is amended—

13 (1) in subsection (a)—

14 (A) by striking “or” at the end of para-
 15 graph (20);

16 (B) by striking the period at the end of
 17 paragraph (21) and inserting “; or”; and

18 (C) by inserting after paragraph (21) the
 19 following new paragraph:

20 “(22) subject to subsection (h), for which a
 21 claim is submitted other than in an electronic form
 22 specified by the Secretary.”; and

23 (2) by inserting after subsection (g) the fol-
 24 lowing new subsection:

25 “(h)(1) The Secretary—

1 “(A) shall waive the application of subsection
2 (a)(22) in cases in which—

3 “(i) there is no method available for the
4 submission of claims in an electronic form; or

5 “(ii) the entity submitting the claim is a
6 small provider of services or supplier; and

7 “(B) may waive the application of such sub-
8 section in such unusual cases as the Secretary finds
9 appropriate.

10 “(2) For purposes of this subsection, the term ‘small
11 provider of services or supplier’ means—

12 “(A) a provider of services with fewer than 25
13 full-time equivalent employees; or

14 “(B) a physician, practitioner, facility, or sup-
15 plier (other than provider of services) with fewer
16 than 10 full-time equivalent employees.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 subsection (a) shall apply to claims submitted on or after
19 October 16, 2003.

1 **SEC. 4. CLARIFICATION WITH RESPECT TO APPLICABILITY**
 2 **OF ADMINISTRATIVE SIMPLIFICATION RE-**
 3 **QUIREMENTS TO MEDICARE+CHOICE ORGA-**
 4 **NIZATIONS.**

5 Section 1171(5)(D) of the Social Security Act (42
 6 U.S.C. 1320d(5)(D)) is amended by striking “Part A or
 7 part B” and inserting “Parts A, B, or C”.

8 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR IMPE-**
 9 **MENTATION OF REGULATIONS.**

10 (a) IN GENERAL.—Subject to subsection (b), and in
 11 addition to any other amounts that may be authorized to
 12 be appropriated, there are authorized to be appropriated
 13 a total of \$44,200,000, for—

14 (1) technical assistance, education and out-
 15 reach, and enforcement activities related to subparts
 16 I through R of part 162 of title 45, Code of Federal
 17 Regulations; and

18 (2) adopting the standards required to be
 19 adopted under section 1173 of the Social Security
 20 Act (42 U.S.C. 1320d–2).

21 (b) REDUCTIONS.—

22 (1) MODEL FORM 14 DAYS LATE.—If the Sec-
 23 retary fails to promulgate the model form described
 24 in section 1(a)(4) by the date that is 14 days after
 25 the deadline described in such section, the amount

1 referred to in subsection (a) shall be reduced by 25
2 percent.

3 (2) MODEL FORM 30 DAYS LATE.—If the Sec-
4 retary fails to promulgate the model form described
5 in section 1(a)(4) by the date that is 30 days after
6 the deadline described in such section, the amount
7 referred to in subsection (a) shall be reduced by 50
8 percent.

9 (3) MODEL FORM 45 DAYS LATE.—If the Sec-
10 retary fails to promulgate the model form described
11 in section 1(a)(4) by the date that is 45 days after
12 the deadline described in such section, the amount
13 referred to in subsection (a) shall be reduced by 75
14 percent.

15 (4) MODEL FORM 60 DAYS LATE.—If the Sec-
16 retary fails to promulgate the model form described
17 in section 1(a)(4) by the date that is 60 days after
18 the deadline described in such section, the amount
19 referred to in subsection (a) shall be reduced by 100
20 percent.

Passed the House of Representatives December 4,
2001.

Attest:

JEFF TRANDAHL,

Clerk.

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