HIPAA: Wake-Up Call for Health Care Providers

Rebecca C. Lageman and Jordan R. Melick

The Health Insurance Portability and Accountability Act (HIPAA) may have an overall negative financial impact on health care providers across the board because of the significant amount of capital expenditures that could be required to ensure compliance including, potentially, a complete overhaul of many organizations' technological, process, and security systems. The impact of HIPAA on an individual health care system will be determined by the current state of that organization's information technology system, as well as its preparedness in the coming months. Although it is extremely difficult to estimate total systemwide costs of HIPAA compliance, estimates range from $3.8 billion to $43 billion. Key words: government regulations, health care providers, HCFA, HIPAA, information technology, privacy.

Outlook

In 1996, Congress signed into law the Health Insurance Portability and Accountability Act (HIPAA), a series of standards that attempt to regulate the way health information is transmitted and secured electronically.1 HIPAA also addresses the protection of privacy with regard to all personal health information. Although the law was passed four years ago, the final regulations have just started to be enacted within the last year.

HIPAA may have an overall negative financial impact on health care providers across the board because of the significant amount of capital expenditures that could be required to ensure compliance. Exacerbating this issue are existing negative pressures facing hospitals and other health care systems nationwide. Thus, at one of the most opportune times, health care providers will have to review, evaluate, and implement various capital projects—an undertaking that will dip further into their already-limited pools of resources. Compliance with the HIPAA regulations may necessitate a complete overhaul of many organizations' technological, process, and security systems. This will require evaluations of all current systems and the development of plans for compliance. An additional burden will be the periodic monitoring demanded of health care organizations to maintain compliance with the regulations. The severity of the financial and operational impact will be directly related to the level of disparity between that organization's current information technology (IT), security, and communications systems and those required by HIPAA.

History

Electronic health information saw tremendous growth in the last decade. The transmission of information via electronic means presents an opportunity to introduce efficiencies into the health care market. However, the growth of e-health information

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transmission brings growing consumer concern about reduced privacy in electronic records. HIPAA (Public Law 104-191) was enacted to standardize the interchange of health care data to improve efficiency and effectiveness in the industry. In addition, HIPAA regulations should help protect the security and confidentiality of all health information. Currently, many organizations allow physicians and other health care professionals to access any patient records in their database, not just those of their own patients. Additionally, the growth of the Internet has not only brought improvements in communications but also additional security and privacy issues to the industry. HIPAA standards should improve information security and reduce the growth of health care system expenditures by efficiently streamlining the flow of information within the system.

Components of HIPAA regulations

- Guarantee health insurance access, portability, and renewal
- Prohibit discrimination based on health status
- Prevent health care fraud and abuse
- Simplify administration, creating efficiencies
- Promote the use of medical savings accounts
- Provide health insurance tax deductions for the self-employed

Signed into law in August 1996, HIPAA has always promised to be a significant undertaking that would tax health care organizations both financially and logistically. Now, as the final regulations of the law are published by the Health Care Financing Administration (HCFA), interested parties are finally treating HIPAA as a time-sensitive issue. Currently, only two regulations have been finalized, the Transactions and Code Sets standard and the Privacy regulations. The Transactions and Code Sets standard, finalized in August 2000, will attempt to standardize the digital exchange of health care data among providers, vendors, and health plans by streamlining the manner in which health information is coded. The Privacy regulations, finalized in December 2000, will attempt to protect the confidentiality and security of personal health records, including electronic, paper, and oral records. Other standards are expected soon (see Table 1).

Table 1. Timetable for HIPAA rulemaking

<table>
<thead>
<tr>
<th>Standard</th>
<th>Publication date</th>
<th>Final ruling</th>
<th>Required compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transactions and Code Sets</td>
<td>07-May-98</td>
<td>17-Aug-00</td>
<td>16-Oct-02</td>
</tr>
<tr>
<td>National Provider Identifier</td>
<td>07-May-98</td>
<td>Expected Q1 2001</td>
<td></td>
</tr>
<tr>
<td>National Employer Identifier</td>
<td>16-Jun-98</td>
<td>Expected Q1 2001</td>
<td></td>
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<tr>
<td>Security</td>
<td>12-Aug-98</td>
<td>Expected Q1 2001</td>
<td></td>
</tr>
<tr>
<td>Privacy</td>
<td>03-Nov-99</td>
<td>28-Dec-00</td>
<td>14-Apr-03</td>
</tr>
</tbody>
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Notice of Proposed Rulemakings still in development include National Health Plan Identifier, Claims Attachments and Enforcement: no date has been set for publication of these rules.

The National Individual Identifier standard has been withdrawn.
Every health care provider, health plan, and clearinghouse that maintains or transmits health information via electronic means must be in compliance with all HIPAA regulations 24 months from the effective date of the final rules (36 months for small entities). Normally, the effective date is 60 days after a rule is published. Failure to comply will result in a $100 fine for each violation, up to a maximum penalty of $25,000 for each standard. However, a single health care provider could be found in violation of multiple standards, resulting in fines of $125,000 or more. There are additional fines for wrongful disclosure offenses and for selling private information.

Although HIPAA may affect most, if not all, health care entities, health care providers are not required to conduct business electronically under HIPAA. HIPAA applies only to those providers that already transmit (or plan to transmit) health information electronically. In fact, HIPAA may discourage many paper-based providers from trying to convert to systems that transmit information electronically. However, many providers have their own health plans, are self-insured, or pay claims under managed care contracts that do use electronic data transmissions. These must also comply with the HIPAA standards. If the outside vendors are found in violation of HIPAA regulations, the health care providers themselves may be fined.

The most important component of the HIPAA regulations may also cause the most distress to health care providers. This portion of the law, known as Administrative Simplification, should improve efficiency in health care delivery by standardizing electronic data interchange and protect the confidentiality and security of health data by determining and enforcing standards for the transfer of all health information. Government officials estimate that this part of the bill could save the health care industry more than $3.5 billion per year by providing national standards for all electronic transfers of health information. However, the costs associated with preparing the industry for compliance with these regulations are high. While most organizations are aware that they will need to update or replace their current electronic systems, available capital is insufficient. Investments in new technology will have to compete with other needs, such as new equipment and additional staff.

Preparedness

The impact of HIPAA on an individual health care system will be determined by the current state of that organization's IT system, as well as its preparedness in the coming months. Many health care organizations have already expressed fears that the costs and implications of HIPAA will greatly exceed those of Year 2000 (Y2K) compliance. Unlike Y2K, HIPAA preparation not only has technology implications, but also involves evaluations of legal, regulatory, process, and security measures.

From a ratings perspective, a system's level of preparation is an important credit consideration. Organizations that do not take
action now to prepare for HIPAA regulations will risk paying large noncompliance fines. While it may seem early to plan with only two standards finalized, the others will likely finalize soon, and avoiding preparations will only result in costly, last-minute attempts at compliance. Drafts of the proposed standards are available, and changes to these in the final regulations should not be significant. Because most providers will need to evaluate their current information systems and educate staff about HIPAA before beginning any kind of system transformation, planning now will enable health care systems to spread out the costs of implementation over several years.

Financial Impact

HIPAA will likely be a large burden on most providers. While health care administrators have known about HIPAA for years, most have spent very little time preparing for the possible financial impact of HIPAA. In addition, current industry trends have already left organizations strapped for cash and thus lacking the financial stability to implement these changes.

It is extremely difficult to estimate the possible costs of becoming HIPAA-compliant. HCFA places its cost estimate at a conservative $5.8 billion. Most believe HIPAA will consume at least as much as was required for Y2K, which the American Hospital Association (AHA) estimates at $8.2 billion. However, the more likely number could be three to four times that amount. The AHA recently sponsored a report by the First Consulting Group that places the cost estimate of complying with just some parts of HIPAA at $22.5 billion. A study conducted by the Blue Cross/Blue Shield Association calculates the estimate to be much higher, $43 billion. It is difficult to assess the exact costs of implementation, as there is no historical experience upon which to model it and not all of the final regulations have been published.

It is important to recognize that compliance is not just a matter of purchasing a new IT system. HIPAA compliance will also require the hiring and retraining of staff and the modification of existing systems, as well as the cultural and behavioral changes with respect to patient privacy and how information is shared.

Technological Solutions

Technological compliance with HIPAA will require significant resources for many health care systems. Unlike systems with higher liquidity that may have the available capital to invest in new or updated IT systems, some less financially sound organizations may need to rely on the use of application service providers (ASPs). For a monthly fee, an ASP will host the necessary application for the provider on an external intranet, saving providers the costs of an entirely new internal system. For some health care entities, use of an ASP may be the best alternative.

Parts of the HIPAA regulations may challenge even more technologically advanced health care systems. For example, larger, more complex systems may have a variety of patient information mediums at various locations, making it more difficult for them to streamline information transmission. The real costs of compliance will depend on the gap between an individual system's current privacy and security systems and the HIPAA requirements. An additional challenge will
be the expansion of the privacy regulations to include not only electronic health records but paper and orally transmitted health information as well.

Conclusion/Outlook

While HIPAA may not seem to be an immediate threat to the financial stability of many health care systems, the eventual impact of these regulations will be significant. Unlike preparations for Y2K, HIPAA will require ongoing, detailed analysis of existing systems and development of future plans for compliance. Even after systems become compliant, organizations will need to monitor their systems to remain in compliance.

Currently, only two standard regulations, the Transactions and Code Sets standard and the Privacy standard, have been finalized, resulting in an actual compliance deadline. This may have immediate negative financial effects on health systems, as plans need to be implemented. The other regulations are expected to be announced in the coming months. However, the timeline for this process is unknown, and the transition between presidential administrations will likely cause some delay to the publication of additional final regulations. It is likely that the remainder of the regulations will take effect over the next two to three years, giving systems somewhat of a cushion in which to evaluate their current organizations and develop plans for compliance.

There is no doubt that HIPAA will eventually benefit the health care industry. By streamlining the information dissemination process, the industry should see significant administrative cost savings. Predictions of up to $30 billion have been recorded. In addition, improving the accuracy of information should enable health plans to enhance their ability to monitor quality of care. However, despite these optimistic predictions, significant cost savings will be seen only once all the standards have been implemented. Each component must be in place for the system to work efficiently. Unfortunately, the most difficult part of the process will not likely be the technological changes. Those changes requiring procedural, cultural, and behavioral modifications will be the most challenging to health care providers.

Health care organizations that begin preparing for HIPAA regulations now will be in a better financial and organizational position to comply with the rules as they are finalized. Those that wait until the final rules are announced will have significant time constraints for compliance.

REFERENCES
