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## **H.R. 3323 Administrative Simplification Compliance Act of 2001**

The Boundary Information Group (BIG) has prepared the following summary of key provisions of the Act, which was signed into law by the President on December 27, 2001. This Congressional action follows more than a year of debate throughout the healthcare industry regarding whether or not there should be a delay, and if so, for how long. Some organizations proposed no delay, while others proposed delays that amounted to six years or more for all of the HIPAA regulations.

To help clarify the issues, in February, 2001, WEDI held HIPAA success hearings in Chicago. Based on the testimony at those hearings and the work of the WEDI Strategic National Implementation Process (SNIP) Transactions Workgroup, the WEDI Board of Directors advised DHHS Secretary Thompson on February 28, 2001 to find a mechanism for extending the Transactions implementation timeframe by one year for those who could demonstrate good faith in meeting that timeframe. The action taken by the Congress in passing H.R. 3323, is consistent with the WEDI recommendation, by requiring all parties requesting an extension to file a plan which includes testing of the HIPAA Transaction Standards no later than April 16, 2003. As WEDI Board Chair, Steven S. Lazarus (BIG President) appointed and charged the HIPAA Success Task Force, and served on it.

### **Summary of Key Provisions of H.R. 3323**

#### **1. Impact on Privacy**

This legislation does not impact the HIPAA Privacy regulation. The Privacy standards continue to apply to all covered entities during the period **April 14, 2003** through **October 16, 2003** whether or not the electronic transmissions meets the HIPAA standards.

#### **2. Transactions and Code Set Standards**

The legislation grants a one-year extension, to **October 16, 2003**, for all covered entities to come into compliance with the Transactions and Code Sets standard. The extension only applies to the Transaction standards implementation timeframe.

#### **3. Extension Plan Submission**

In order to be eligible for the extension for Transaction compliance, covered entities must submit a plan to the Secretary of HHS by **October 16, 2002**. The plan shall be a summary of an analysis reflecting the extent to which, and the reasons why, the entity is not in compliance; a budget, schedule, work plan, and implementation strategy for achieving compliance; whether the entity plans to use or might use a contractor or other vendor to assist the person achieving compliance; and a timeframe for testing that begins no later than **April 16, 2003**.

4. **Model Plan Publication**  
Secretary of DHHS must publish a model compliance form by **March 31, 2002**. An electronic submission is permitted. BIG consultants are participating with other industry leaders to craft recommendations regarding the design and dissemination of this model compliance plan.
5. **National Committee on Vital Health Statistics (NCVHS) Analysis**  
NCVHS shall receive and analyze a sample of the plans furnished by the industry and shall regularly publish and widely disseminate to the public, reports containing effective solutions to compliance problems identified in the plans submitted. In carrying out this function, NCVHS shall consult with the organizations identified in the 1996 HIPAA legislation as having a consultative role with DHHS, including the Workgroup for Electronic Data Interchange (WEDI), chaired by Dr. Steven Lazarus, BIG President and CEO.
6. **Small Health Plans**  
The compliance date for small health plans remains the same, **October, 16, 2003**.
7. **Requiring Electronic Submission of Medicare Claims**  
All claims submitted to Medicare on or after **October 16, 2003**, must be in the HIPAA standard electronic format, unless:
  - (i.) There is no method available for the submission of claims in electronic form or,
  - (ii.) The entity submitting a claim is a small provider of services or supplier.

The term, "small provider of services or supplier" means:

  - (A). A provider of services with fewer than 25 full-time equivalent employees, or
  - (B). A physician, practitioner, facility, or supplier (other than provider of services) with fewer than ten full-time equivalent employees.
8. **Enforcement through exclusion from participation in Medicare**  
In the case of a covered entity who fails to submit a plan and who is not in compliance with the applicable requirements on or after **October 16, 2002**, the covered entity may be excluded in participation as a Medicare contractor or provider, at the discretion of the Secretary of HHS.

#### **Observations Offered by Boundary Information Group**

- Since **the extension plan requires that testing begin no later than April 16, 2003**, the Transaction Implementation Plan must include the completion of upgrades and/or replacement systems implementation before this date. WEDI Strategic National Implementation Process (SNIP) is preparing a revised model sequencing schedule, which should be available in February, 2002 to accommodate these requirements (<http://wedi.snip.org/>).
- **Virtually all Medicare claims after October 16, 2003 must be submitted electronically** except for small providers. Small providers should note that other health plans may require electronic claims or charge for paper claims, and some billing system vendors may choose to support only electronic claims in the future. There is no requirement in this Act for Medicare to mandate the use of the other transactions electronically.
- Recommendations to the Secretary of DHHS regarding the content and form for the model compliance form will be developed by WEDI through its Policy Advisory Group (PAG) process. **The Model Compliance Form WEDI PAG is expected to be held in February 8, 2002.**

**BIG consultants are available to advise clients on HIPAA Transaction implementation and filing of the extension form.** For further information on BIG's HIPAA consulting services, go to [www.hipaainfo.net](http://www.hipaainfo.net) or contact BIG at (303) 488-9911, or by e-mail to [sslazarus@aol.com](mailto:sslazarus@aol.com).

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January 7, 2002

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