

House Bill 522 Interim Update

Committee for Electronic Data Exchange

September 3, 2008



BACKGROUND

HB 522 and the State of the Industry

House Bill 522 requires the Commissioner of Insurance to appoint an advisory committee to make recommendations on standardization of health insurance ID cards and standards for electronic data exchange to enable providers to obtain real time, robust eligibility information. The bill also calls for TDI to implement an ID card pilot project.

When HB 522 was enacted, there were no carriers in Texas providing machine readable ID cards that could provide eligibility information, and there were no national standards for machine readable ID cards. On the other hand, there were standards for electronic data exchange. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) required the Secretary of Health and Human Services to adopt such data exchange standards. In 2000, the Secretary adopted final transaction standards and code sets, addressing seven particular transactions by adopting the ASC X12N Version 4010.¹ The eligibility transaction standards (270/271) were one of those adopted. They had been developed independently by the Eligibility Work Group within the Insurance Subcommittee of X12, which is an accredited standards committee under the American National Standards Institute.

The 270/271 standards set a very low floor in terms of what information carriers were required to provide, but it also standardized and provided exclusive methods for exchanging more complex, though optional, information. For example, the 270/271 standards require that a 271 response to a 270 inquiry from a provider indicate whether the enrollee has active or inactive coverage but does not mandate such a response as to particular service codes and does not mandate additional information about the coverage, such as co-pays and deductibles. The 270/271 standards do, however, contain the complete listing of service codes and provides the format for providing more information about coverage, if a carrier decides to do so.

Due to provider dissatisfaction with the minimal information some carriers were providing in their HIPAA-compliant 271 responses, in 2006 some of the data allowed by but not mandated in the 270/271 transactions were designated as “required” by the Committee on Operating Rules for Information Exchange (CORE). CORE was created by the Council on Affordable Quality Healthcare (CAQH), a nonprofit alliance of health plans and trade associations. CORE is a multi-stakeholder initiative representing more than 100 companies including

¹ The federal rule adopting the standards for electronic transactions may be viewed here: www.cms.hhs.gov/TransactionCodeSetsStands/Downloads/txfinal.pdf.

providers, health plans, clearinghouses, trade associations and IT system vendors. Under CORE, organizations voluntarily pledge themselves to follow the CORE operating rules; they also undergo third party certification. CORE's Phase I operating rules utilize the X12 HIPAA 270/271 transaction standards while also establishing complementary business rules for system connectivity, real-time processing, security, availability, response times, and acknowledgements. Under the Phase I rules there are minimum standards for confirming which health plan a patient is covered under and whether there is coverage for certain service types, e.g. medical care, hospital inpatient, pharmacy, etc. CORE Phase I also requires basic information about co-payment, base deductible, and co-insurance levels to be provided.

Recent Initiatives

Since HB 522 was passed, there have been a number of national and local developments. First, regarding ID cards, in November of 2007 a national organization, the Workgroup for Electronic Data Interchange (WEDI), adopted standards for ID cards, including requirements for machine readable elements. These standards only allow for two types of machine readable formats – magnetic stripes and/or PDF barcodes. To date, staff has been unable to find evidence of any health insurer in the country using any machine readable elements other than these two. For health insurance, as opposed to prescription coverage, carriers appear to only be using the magnetic stripe. There does not appear to be any inclination by the carriers to move away from the magnetic stripe format, although some carriers question whether machine readable elements are necessary at all.

Additionally, in the area of eligibility verification, two significant initiatives are currently underway. First, in May of 2008, HHS commenced rulemaking to adopt updated ASC X12 HIPAA standards, from Version 4010 to Version 5010, by submitting its Notice of Proposed Rule Making for Office of Management and Budget clearance. This will include updating the 270/271 standards. Among other things, the new standards are expected to “raise the bar” by adopting some of the non-mandated aspects of the standard that are required aspects under the CORE Phase I rules.

Second, CORE has published its proposed Phase II rules. Regarding the content of the data carriers must provide if they are CORE-certified, the Phase II rules provide for reporting of more specific patient liability information, such as remaining deductible. The rules also provide for eligibility information on 39 additional service codes, beyond the 9 required in Phase I.² The Phase II rules also enhance connectivity and interoperability standards, provide rules for better patient identification, provide standardized error codes reporting and require the reporting of claims status (X12's 276/277 transactions). CORE certification also applies to vendors such as clearinghouses and large providers to ultimately make the end-to-end transaction work.

Another initiative which is currently in the works is the Texas Medicaid Access Card Project by the Texas Health and Human Services Commission (HHSC). While that project originally contemplated use of ID cards with micro chips containing fingerprint data for enhanced

² The nine service codes specified in the Phase I rules may be viewed here: www.caqh.org/pdf/154.pdf. The 39 additional codes in the Phase II rules may be viewed here: www.caqh.org/pdf/260.pdf.

security of Medicaid transactions, HHSC has indicated that it is moving toward adopting the WEDI standard for machine readable ID cards in the request for proposals it should issue in 2008. HHSC has also indicated that it will permit bidders for its Access Card contract to permit the use of the Medicaid eligibility verification system by commercial insurers so that providers will be able to use the same system for all eligibility transactions. HHSC anticipates distributing up to 15,000 readers for the cards. If providers could use those readers for commercial inquiries, adoption of the new technology could increase rapidly. Depending on which bid HHSC adopts, this project could significantly impact what standards should be adopted for commercial carriers under HB 522.

Finally, three carriers have already begun projects in Texas utilizing magnetic stripe cards which can be swiped by providers to obtain real time eligibility information. Humana Insurance Company expects to transition all of its cards to magnetic stripes in 2009, while Blue Cross and Blue Shield of Texas expects to have over a million such cards issued in selected areas of the state in 2009. United Healthcare has been providing cards with magnetic stripes since 2004, and currently all of their commercial cards issued in Texas have a three track magnetic stripe, which can be used over proprietary and open systems to get eligibility information. The carriers have agreed to provide TDI information regarding the success of their projects.

Issues

Recommending Standards

The primary issues for the HB 522 advisory committee will involve recommending standards for ID cards and eligibility verification. Regarding ID cards, it appears that carriers may be voluntarily moving to the WEDI ID card national standards using magnetic stripe cards. No other type of card format appears to have been given serious consideration by the carriers. The stated concern with cards carrying large amounts of data has been that the information will be outdated almost immediately, while online real time data can be much more accurate and detailed. Privacy concerns have also been expressed about having large amounts of person data on a card. Instead, many advocate that the card should be a “key” to obtaining secure, real time information online at the time of service. Nevertheless, even assuming that the WEDI standard is recommended by the Committee, there are WEDI elements which are optional which the committee may consider recommending be required in Texas.

Regarding eligibility verification, the primary issues appear to be whether to recommend requiring compliance with the CORE Phase I requirements, the Phase II requirements, or the coming 5010 standards. Some members of the committee have recommended additional requirements, which will also have to be considered. Each level of functionality and detail required of carriers will presumably have a corresponding benefit to providers and cost to carriers. Some carriers have argued that HB 522 referenced the CORE standards to ensure that that Texas would follow national standards, rather than creating unique eligibility verification standards. Deciding among the various possible standards may be the most difficult issue for the Committee to resolve.

Connectivity

There is also an issue of whether to regulate how the card “connects” to the eligibility transaction. Providers would appear to prefer to have a single portal for obtaining information from all payers. However, so far there does not appear to be a viable method for requiring such a single portal without either benefiting a single vendor or creating a state sponsored portal. Thus, the Committee’s recommendations may focus on the ID cards and the eligibility transactions separately.

COMMITTEE ACTIVITIES

Meetings

The HB 522 Committee on Electronic Data Exchange (CEDE) was appointed in August of 2007 and has had eleven meetings, as well as e-mail exchanges. TDI staff has also met and discussed the project numerous times separately with stakeholders in the payer, provider, and clearinghouse communities. The purpose of the CEDE meetings has generally been to obtain information about the current state of the industry regarding ID cards and electronic data exchange and where the industry is going, and to discuss potential requirements for cards and eligibility verification. There has been extensive discussion of various national and local initiatives by national standards setting bodies, as well as Texas carriers. There have also been discussions of potential recommendations for the required committee report and potential content and issues relating to the pilot project and data collection, based on draft rules distributed by TDI staff.

Pilot

TDI staff has drafted and circulated several versions of draft rules to mandate implementation by carriers of a pilot project under the bill. However, formal rulemaking on the draft has been postponed due to the recent initiatives discussed above which have occurred since the bill was passed. One of the most significant occurrences was the adoption of national standards for machine readable health ID cards by WEDI in November of 2007. The WEDI standards were the result of lengthy discussions among representatives of all areas of the healthcare and insurance industries. The formats recommended by WEDI, the magnetic stripe and PDF barcodes, are well tested and long used in different industries, and additional testing of the those formats through a pilot appears unnecessary.

It was also significant that three large carriers independently and voluntarily had created their own ID card projects - Blue Cross, Humana, and United Healthcare, together making up approximately 43% of the Texas health insurance market. Those companies, or their sister companies already completed a successful joint pilot in Florida, and Blue Cross and Humana are pursuing a similar pilot here. United Healthcare has been issuing magnetic stripe cards and testing different kinds of readers since 2004.

It is believed that TDI will be able to obtain useful information about the benefits of magnetic stripe technology from reviewing those two carriers’ pilot projects. Again, those pilots have demonstrated that significant “testing” is not required to see whether a system works. The

carriers' online software systems are able to provide data. The issue which has generally arisen has been whether the systems are sufficiently beneficial to providers to encourage general adoption by that group.

Additionally, TDI received credible comments from several carriers that a limited pilot, testing the ability to obtain real time eligibility information through the use of smart cards, was not technologically feasible. This was because carriers do not make changes their electronic systems on a county by county basis. If real time electronic transaction standards are mandated, carriers will have to make very significant system-wide changes to their software which would not be limited to one county. Also, in light of the several national initiatives underway currently to change the standards for such eligibility transactions, it appeared likely that TDI's pilot standards would entail significant costs to the carriers, not be limited to a single county, and would be quickly outdated as new national standards were released.

NEXT STEPS

TDI staff is currently drafting portions of Committee report for presentation to, and discussion by, the Committee. It is anticipated that the Committee will be able to approve and submit to the Commissioner by December 1, 2008, a report making recommendations for ID card and eligibility verification standards to be implemented statewide. TDI anticipates publishing an informal draft rule to implement uniform standards concurrently with the Committee Report.