



# ***Moving Toward Compliance***



**Guidance on Compliance with HIPAA  
Transactions and Code Sets after the  
October 16, 2003 Implementation Deadline**

- **On July 24, 2003, HHS provided guidance regarding its enforcement approach for compliance**
- **The law is clear: October 16, 2003 is the deadline that Congress has given us**
- **HHS wants to ensure that the health care industry understands its enforcement approach in light of concerns expressed about the low rate of readiness**
  - ✓ A significant number of covered entities will not be ready to transmit HIPAA compliant transactions

# *The Guidance*

- **Dual Goals:**
  - ✓ Move all covered entities toward compliance
  - ✓ Avoid disruption of cash flow
- **CMS will focus on obtaining voluntary compliance and use a complaint-driven approach**

# Complaint-driven approach



- **If CMS receives a complaint, CMS will evaluate the entity's good faith efforts to comply and give the opportunity to**
  - ✓ Demonstrate compliance
  - ✓ Document its good faith efforts to comply and/or
  - ✓ Submit a Corrective Action Plan
- **CMS will not impose penalties on covered entities that deploy contingencies to ensure the smooth flow of payments, if the entity has made good faith efforts to become compliant.**
  - ✓ This determination will be made on a case-by-case basis

# **“Good Faith Efforts”**

- **Good faith efforts mean that prior to and after the deadline the covered entity makes sustained and demonstrable progress toward HIPAA compliance**
- **For a health plan, “good faith” would also include efforts to assure that they can exchange transactions successfully with their provider network**
  - ✓ Demonstrated outreach activities (letters, conferences, phone calls, mailings, website, etc)
  - ✓ Encouraged providers, or those who submit claims on their behalf, to schedule testing, providing testing schedules and statistics showing testing results

- **As long as a health plan can demonstrate its active outreach and testing efforts, it can implement contingencies that would allow uninterrupted payments to providers**
  - ✓ Contingency example - accept a non-standard transaction after 10/16/03 to allow more time to “test”
- **This flexibility will permit health plans to mitigate unintended adverse effects on cash flow, business operations, and availability and quality of patient care**

- **Health plans have special responsibilities to get processes and systems HIPAA compliant**
  - ✓ Work with trading partners and conduct outreach
  - ✓ Ensure adequate testing opportunities
  - ✓ Develop contingencies
- **All covered entities must be prepared to document their “good faith efforts” to comply with the standards if a complaint is filed against them**

- **CMS will work with health plans and their associations between now and October**
  - ✓ Meet to get assessments of their operations, their progress, and their contingency plans.
- **Work with the NCVHS to assess the extent to which we are achieving a smooth transition to HIPAA standards**
- **Continue to provide information to covered entities, via our web site, HIPAA Roundtable calls, CMS HIPAA hotline, and askhipaa email**



# *For more information*



- Visit the CMS website at [www.cms.hhs.gov/hipaa/hipaa2](http://www.cms.hhs.gov/hipaa/hipaa2)
- Download the “Guidance Document” from our website
- Watch the free HIPAA webcast at [www.eventstreams.com/cms/tm\\_001](http://www.eventstreams.com/cms/tm_001)
- Call CMS toll-free at 866-282-0659 or send an email to [askhipaa@cms.hhs.gov](mailto:askhipaa@cms.hhs.gov)