

# Red Light, Green Light, Red Light: Working Through Washington's Roller Coaster of Proposed Rules and Regulations

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By Dan Rode, MBA, CHPS, FHFMA

The old "Hurry up and wait" adage often applies to our work in advocacy and policy influence. In April, we first waited for word on a possible ICD-10-CM/PCS compliance delay. Then, it was off to the races to turn in comments to the Centers for Medicare and Medicaid Services (CMS) following the April 17 delay announcement. Which brought us once again to waiting, for what we hope will be a short period, to hear the final CMS disposition on the proposed ICD-10 date change to October 1, 2014.

We have also spent considerable time waiting for the final regulations from the Office for Civil Rights (OCR) regarding the HIPAA-HITECH legislation. Though the US Office of Management and Budget (OMB) indicated that it was reviewing the final draft on March 24, 2012, we have been waiting for these regulations since 2009 (with an original implementation target of February 2010). We anticipate that this rule will have a number of different compliance dates, and we will update the AHIMA membership with an analysis once the rule is released. The rule is also anticipated to address two interim regulations-breach notification and related HIPAA penalties. Given the current OMB review, there have been no comments from OCR on the specific content of the rule.

In May we also submitted comments on the proposed CMS meaningful use stage 2 requirements rule and the associated Department of Health and Human Services (HHS) Office of the National Coordinator for Health Information Technology (ONC) proposed rule on EHR certification standards for 2014.

Now begins another waiting period-for final meaningful use rules. There will be pressure on CMS and ONC to issue final rules this fall for stage 2 so that vendors and providers will have time to prepare. Preparation is even more of a political issue given the many recent legitimate complaints that too many overlapping implementation projects are under way at the same time. We are not sure how the final rules will also deal with the revision to the ICD-10-CM/PCS implementation timeline. Meanwhile, ONC's HIT Committees are looking at current experiences under stage 1, and hoping to provide a proposal for stage 3 soon.

## Comments Heard

AHIMA's Advocacy and Policy staff members have often called for your support. We believe that your letters had a lot to do with HHS proposing a limited delay, and those who sent a letter-and perhaps a follow-up letter-should pat each other on the back. You have our thanks as well. I also want to especially thank those who took the time to share your personal perspectives when addressing the issues of the delay-a personal letter can make all the difference. I hope this will not be the last time you take up the pen or keyboard to share your perspectives with policymakers. I can assure you that we will remember the success of this effort and call on you again.

## Hill Days

We've been receiving a lot of feedback regarding AHIMA's Hill Days. Members were excited not only to attend AHIMA's Hill Day in Washington, D.C. this March, but also about the webinar training that preceded it. Though not as elaborate as a distance education course, these webinars allowed members to learn the ins and outs of advocacy and gain a firmer grasp of the subject matter at hand. Photos of the event are available on the AHIMA Facebook page.

Several states have also reported to us on their Hill Day events. No two days have been the same, but it appears all were successful. Some states have their legislative and regulatory offices in close proximity, giving state associations the opportunity

to visit both the legislators and government offices associated with Medicaid, health insurance, public health, and other relevant reporting agencies. A few states also held meetings with other associations. Congratulations to all who have taken the time to advocate for your profession. Your efforts are making a difference.

For those of you now in the advocacy groove, there are several current notices of proposed rulemaking (NPRMs) for the Medicare Prospective Payment Systems. The proposal for governance of health information exchange organizations or regional health information organizations is also expected soon. Since it is a pre-NPRM proposal, this serves as an excellent opportunity to influence the NPRM itself. With organizations now dealing with data integrity and privacy issues at a practical level, more and more HIM representatives and professionals are getting involved.

Recently, various HHS agencies have approached the industry for feedback before an official NPRM is released. This method gives us an improved opportunity to address practical solutions to rules that will eventually fulfill legislative mandates. The federal government has also made a notable effort to simplify rules and regulations-not an easy task, but one that deserves our support. The times are changing, and so are the rules. Expect to see this effort continue regardless of the 2012 election outcomes.

## ICD-10 Before ICD-11

Our Washington office was pleased to host the International Health Terminology Standards Data Office (IHTSDO) representatives in April. IHTSDO is the organization responsible for developing and maintaining the SNOMED CT terminology system, as well as working closely with the World Health Organization to see the eventual overlapping of SNOMED CT with ICD-transforming into what many are calling ICD-11. Given that any new ICD system will be built on the foundation of ICD-10, it remains imperative to get ICD-10-CM/PCS in place as soon as possible. Sue Bowman, MJ, RHIA, CCS, senior director of coding policy and compliance at AHIMA, has co-authored a paper on this issue with Dr. Richard Averill, from 3M, in response to a *Health Affairs* article that suggested the US wait for ICD-11. This article is available on the *Journal of AHIMA's* Web site (<http://journal.ahima.org>) and will appear in the print edition of the *Journal* in July.

During their stay, the IHTSDO representatives interviewed US candidates for various mapping projects that will include ICD-10 and ICD-11 in addition to other terminologies and classifications. There is currently a significant shortage of qualified mapping professionals-both in the US and internationally. AHIMA is looking into offering new programs that would help qualified HIM professionals seek out these jobs.

## Advocate in Your Backyard

This month essentially represents the last full sessions of Congress before the Fourth of July and the August recesses. Although there will be two national conventions, the two main party candidates have already been acknowledged. While no candidate will be running on our specific HIM issues, this is a great time to meet your current members of Congress and those campaigning to be part of your next Congressional delegation. The election promises to be close in many areas, so candidates and their staff will be listening. We will be posting information to the online AHIMA Advocacy Assistant with some talking points on issues you may wish to raise. We realize that not every AHIMA member can come to Washington, but hope you will find opportunities more easily closer to home-even at the state or county fair.

Finally, this month I want to acknowledge a new member of AHIMA's Practice Leadership and Advocacy and Influence teams. Lisa Brooks Taylor joined us at the beginning of May and will be working in many areas, but especially with issues and technology related to quality measurement, e-measures, and our efforts to promote the EHR concept of "collect once, use many times." Taylor has been an active member in a variety of AHIMA volunteer programs and will be telecommuting and traveling from her base in Alabama. With quality and other measurement reports so important to our work, she will be a very busy and valuable member of our staff.

Don't forget to keep those comment letters flowing and to meet with your members of Congress.

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