



July 28, 2015

*Submitted electronically via: [www.regulations.gov](http://www.regulations.gov)*

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-0026-NC  
P.O. Box 8013  
Baltimore, MD 21244-8013

**Re: CMS-0026-NC – Request for Information Regarding the Requirements for the Health Plan Identifier**

Dear Sir or Madam:

The National Business Group on Health appreciates the opportunity to comment on the HPID final rule.

The National Business Group on Health represents 426 primarily large employers, including 71 of the Fortune 100, who voluntarily provide health benefits and other health programs to over 55 million American employees, retirees, and their families.

As our members continue to implement HIPAA regulations and other group health plan requirements, a primary concern will be minimizing the administrative and cost burdens associated with those requirements. Allowing plan sponsors flexibility to adapt their regulatory compliance to existing benefit and administrative arrangements will reduce these burdens and allow plan sponsors to devote more resources toward maintaining and improving health benefits for their employees. Therefore, we support HHS's efforts to take into account the National Committee on Vital and Health Statistics's (NCVHS's) recommendations regarding use of the HPID and changes in the national's health care system such as implementation of the Affordable Care Act.

However, our members are concerned that the HPID final rule does not take into account the administrative structures of large, self-insured group health plans. Specifically:

- Our members—primarily large employers sponsoring self-insured plans—often operate in 50 states and offer a variety of health benefits options tailored to (1) different lines of business, (2) coverage availability in different geographic areas,

and (3) full-time, part-time, seasonal, and temporary work arrangements. Therefore, our members' group health plans will enter into agreements with multiple third party administrators to provide major medical, prescription drug, enrollment/disenrollment, claims processing, and payment services—among other services integral to group health plan administration.

- Often, large, self-insured group health plan sponsors will not perform most health care transactions such as eligibility determinations, claims status, or EFT and remittance advice and instead engage third party administrators to perform these functions on their behalf. In some cases, plan sponsors will perform only some of these functions and engage third party administrators to perform the others.
- Many National Business Group on Health members offer health benefits that consist of multiple components. For example, a plan sponsor may offer both insured and self-insured group health plan options that provide major medical and prescription drug coverage and offer those options with health flexible spending arrangements (health FSAs), employee assistance programs, wellness programs, or on-site health centers—different combinations of which provide complete packages of health benefits for employees and their dependents. These components may constitute a single group health plan or separate group health plans (and therefore separate covered entities). These components may be available simultaneously to plan participants.

Because our members provide health benefits through a large variety of arrangements and plans, it remains unclear for many of them exactly how many HPIDs they would need to obtain and the circumstances in which they would be required to use HPIDs. Large employers also often do not have the information or infrastructure necessary to monitor compliance with many of HIPAA's Transactions and Code Sets and Administrative Simplification requirements. By necessity, they rely on third party administrators for these purposes and would need to do so to comply with the HPID final rule.

Therefore, we encourage HHS to take into account the needs and administrative features of large, self-insured plans by:

- (1) Providing that self-insured group health plans do not have to use HPIDs in connection with health care transactions;
- (2) In the alternative, clarifying what constitutes a controlling health plan, taking into account the variety of health plan designs described above; and
- (3) Clarifying how the HPID would be used, if at all, in connection with the certification of compliance requirement.

Finally, we emphasize that complying with the HPID final rule would involve new administrative procedures as well as extensive coordination with multiple third party

administrators. Our members are concerned that compliance will require substantial time and that there will be inadvertent errors in determining the number of HPIDs required and obtaining HPIDs. Therefore, we recommend that HHS allow plan sponsors:

- (1) At least one year to obtain and implement HPIDs; and
- (2) Flexibility in correcting inadvertent errors, such as by allowing corrections for a certain period without penalty or allowing an exemption from applicable penalties in the case of *de minimis* errors.

Again, thank you for considering our comments and recommendations on the HPID final rule. Please contact me or Steven Wojcik, the National Business Group on Health's Vice President of Public Policy, at (202) 558-3012 if you would like to discuss our comments in more detail.

Sincerely,

A handwritten signature in black ink that reads "Brian Marcotte". The signature is written in a cursive style with a long, sweeping tail on the letter "e".

Brian Marcotte  
President