

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop DO-01-10
Baltimore, Maryland 21244-1850



Date: February 28, 2024

GL-2024-02

Subject: Statement of Enforcement Discretion for Referral Certification and Authorization Transaction Standard at 45 CFR § 162.1302 for HIPAA Covered Entities Subject to the CMS Interoperability and Prior Authorization Final Rule (CMS-0057-F) that Implement an All-FHIR-Based Prior Authorization API

The Office of Burden Reduction and Health Informatics (OBRHI) National Standards Group (NSG), on behalf of the Department of Health and Human Services (HHS), announces an enforcement discretion for HIPAA covered entities that implement FHIR-based Prior Authorization APIs as described in the CMS Interoperability and Prior Authorization final rule (CMS-0057-F). HIPAA Administrative Simplification enforcement action will not be taken against HIPAA covered entities that choose not to use the X12 278 standard as part of an electronic FHIR prior authorization process.

This application of enforcement discretion comes in response to public comments received on multiple notices of proposed rulemaking and extensive stakeholder outreach to CMS and HHS and is intended to promote efficiency in the prior authorization process.

HHS will continue to evaluate the HIPAA prior authorization transaction standards, including continuing to seek stakeholder input and evaluating the results of testing an all-FHIR-based transaction.

Should you have questions about this guidance, send inquiries to AdministrativeSimplification@cms.hhs.gov with the subject line: Enforcement Discretion Question. Questions on other topics related to the adopted standards or operating rules may be sent to this same e-mail address. For more information, visit the CMS Administrative Simplification website at go.cms.gov/AdminSimp. For the latest news about Administrative Simplification, sign up for Email Updates at https://public.govdelivery.com/accounts/USCMS/subscriber/new?topic_id=USCMS_7834.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Cimmino".

Michael Cimmino

Director, National Standards Group

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