

## SUBCHAPTER C—ADMINISTRATIVE DATA STANDARDS AND RELATED REQUIREMENTS

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SOURCE: 65 FR 82798, Dec. 28, 2000, unless otherwise noted.

#### Subpart A—General Provisions

##### § 160.101 Statutory basis and purpose.

The requirements of this subchapter implement sections 1171 through 1179 of the Social Security Act (the Act), as added by section 262 of Public Law 104-191, and section 264 of Public Law 104-191.

##### § 160.102 Applicability.

(a) Except as otherwise provided, the standards, requirements, and implementation specifications adopted under this subchapter apply to the following entities:

- (1) A health plan.
- (2) A health care clearinghouse.
- (3) A health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter.

(b) To the extent required under the Social Security Act, 42 U.S.C. 1320a-7c(a)(5), nothing in this subchapter shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978, as amended (5 U.S.C. App.).

[65 FR 82798, Dec. 28, 2000, as amended at 67 FR 53266, Aug. 14, 2002]

### § 160.103 Definitions.

Except as otherwise provided, the following definitions apply to this subchapter:

*Act* means the Social Security Act.

*ANSI* stands for the American National Standards Institute.

*Business associate*: (1) Except as provided in paragraph (2) of this definition, *business associate* means, with respect to a covered entity, a person who:

(i) On behalf of such covered entity or of an organized health care arrangement (as defined in §164.501 of this subchapter) in which the covered entity participates, but other than in the capacity of a member of the workforce of such covered entity or arrangement, performs, or assists in the performance of:

(A) A function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and re-pricing; or

(B) Any other function or activity regulated by this subchapter; or

(ii) Provides, other than in the capacity of a member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation (as defined in §164.501 of this subchapter), management, administrative, accreditation, or financial services to or for such covered entity, or to or for an organized health care arrangement in which the covered entity participates, where the provision of the service involves the disclosure of individually identifiable health information from such covered entity or arrangement, or from another business associate of such covered entity or arrangement, to the person.

(2) A covered entity participating in an organized health care arrangement that performs a function or activity as described by paragraph (1)(i) of this definition for or on behalf of such organized health care arrangement, or that provides a service as described in paragraph (1)(ii) of this definition to or for such organized health care arrangement, does not, simply through the performance of such function or activity or the provision of such service, become a business associate of other covered entities participating in such organized health care arrangement.

(3) A covered entity may be a business associate of another covered entity.

*CMS* stands for Centers for Medicare & Medicaid Services within the Department of Health and Human Services.

*Compliance date* means the date by which a covered entity must comply with a standard, implementation specification, requirement, or modification adopted under this subchapter.

*Covered entity* means:

(1) A health plan.

(2) A health care clearinghouse.

(3) A health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter.

*Disclosure* means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information.

*EIN* stands for the employer identification number assigned by the Internal Revenue Service, U.S. Department of the Treasury. The EIN is the taxpayer identifying number of an individual or other entity (whether or not an employer) assigned under one of the following:

(1) 26 U.S.C. 6011(b), which is the portion of the Internal Revenue Code dealing with identifying the taxpayer in tax returns and statements, or corresponding provisions of prior law.

(2) 26 U.S.C. 6109, which is the portion of the Internal Revenue Code dealing with identifying numbers in tax returns, statements, and other required documents.

*Electronic media* means:

(1) Electronic storage media including memory devices in computers (hard