

Comparison of House and Senate Health Care Reform Bills as they relate to Administrative Simplification and HIPAA Electronic Standards

House Bill - H.R. 3962 Affordable Health Care for America Act (Engrossed as Agreed to or Passed by House)	Senate Bill - H.R. 3590 Patient Protection and Affordable Care Act (Amendment in Senate)	Comments
<p>SEC. 115. ADMINISTRATIVE SIMPLIFICATION AMENDMENTS</p> <ul style="list-style-type: none"> • Definition of Operating Rules -Section 1171 of the Social Security Act (42 U.S.C. 1320d) • Expansion of Electronic Transactions in Medicare - Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) <ul style="list-style-type: none"> ➤ in paragraph (23), by striking ‘or’ at the end; ➤ in paragraph (24), by striking the period and inserting ‘; or’; and ➤ by inserting after paragraph (24) a new paragraph: • Standardizing Electronic Administrative Transactions (1) IN GENERAL- Part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) is amended by inserting new sections after section 1173: <ul style="list-style-type: none"> ➤ Sec. 1173A. Standardize Electronic Administrative Transactions ➤ Sec. 1173B. Interim Companion Guides, Including Operating Rules • Conforming Amendment - Section 1179(a) (42 U.S.C. 1320d-8(a)) is amended, in the matter before paragraph (1) by inserting: <ul style="list-style-type: none"> ➤ ‘on behalf of an individual’ after ‘1978’; and ➤ ‘on behalf of an individual’ after ‘for a financial institution’. 	<p>SEC. 1104. ADMINISTRATIVE SIMPLIFICATION AMENDMENTS</p> <ul style="list-style-type: none"> • Definition of Operating Rules – Section 1171 of the Social Security Act (42 U.S.C. 1320d) • Expansion of Electronic Transactions in Medicare - Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) <ul style="list-style-type: none"> ➤ in paragraph (23), by striking ‘or’ at the end; ➤ in paragraph (24), by striking the period and inserting ‘; or’; and ➤ by inserting after paragraph (24) a new paragraph: • Transaction Standards; Operating Rules and Compliance Section 1173 of the Social Security Act (42 U.S.C. 1320d-2) is amended by adding: <ul style="list-style-type: none"> ➤ Electronic Funds Transfers ➤ Requirements for Financial and Administrative Transactions • Purpose of Administrative Simplification - Section 261 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d note) is amended by inserting: <ul style="list-style-type: none"> ➤ ‘Uniform’ before ‘standards’; and ➤ To reduce the clerical burden on patients, health care providers, and health plans’ 	<p>Will need to review new paragraph to determine what the implications are.</p> <p>Senate Bill does not mention companion guides or interim companion guides.</p>

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<ul style="list-style-type: none"> • Expansion of Penalties - Section 1176 (42 U.S.C. 1320d-5) is amended by adding at the new subsection: <ul style="list-style-type: none"> ➤ Expansion of Penalty Authority • Revision in Processing Payment Transactions By Financial Institutions- IN GENERAL- Section 1179 of the Social Security Act (42 U.S.C. 1320d-8) is amended by; <ul style="list-style-type: none"> ➤ striking `or is engaged' and inserting `and is engaged'; and ➤ inserting `(other than as a business associate for a covered entity)' after `for a financial institution'. 		
<p>SEC. 1173A. STANDARDIZE ELECTRONIC ADMINISTRATIVE TRANSACTIONS</p> <ul style="list-style-type: none"> • General Standards for Financial and Administrative Transactions - The Secretary shall adopt and regularly update standards consistent with the goals to the extent practicable: <ol style="list-style-type: none"> 1. Be comprehensive, efficient and robust, requiring minimal augmentation by paper transactions or clarification by further communications; 2. Describe all data elements (such as reason and remark codes) in unambiguous terms; not permit optional fields, require that data elements be either required or conditioned upon set values in other fields, and prohibit additional conditions except where required by (or to implement) State or Federal Law or to protect against fraud and abuse. 	<p>(4) REQUIREMENTS FOR FINANCIAL AND ADMINISTRATIVE TRANSACTIONS</p> <ul style="list-style-type: none"> • General Requirements for Financial and Administrative Transactions - The standards and associated operating rules adopted by the Secretary shall: <ol style="list-style-type: none"> 1. Be comprehensive, requiring minimal augmentation by paper or other communications; 2. Describe all data elements (including reason and remark codes) in unambiguous terms, require that such data elements be required or conditioned upon set values in other fields, and prohibit additional conditions (except where necessary to implement State or Federal law, or to protect against fraud and abuse). 	<p style="text-align: center;">Senate Bill does not explicitly prohibit optional fields – leaves that aspect open to interpretation.</p>

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<ol style="list-style-type: none"> 3. Enable the real-time (or near real-time) determination of an individual's financial responsibility at the point of service and to the extent possible, prior to service including whether the individual is eligible for a specific service with a specific physician at a specific facility, on a specific date or range of dates, include utilization of a machine-readable health plan beneficiary identification care or similar mechanism; 4. Provide for timely acknowledgment, response, and status reporting applicable to any electronic transaction deemed appropriate by the Secretary; 5. Enable, where feasible, near real-time adjudication of claims; 6. Be unique with no conflicting or redundant standards; 7. Be authoritative, permitting no additions or constraints for electronic transactions, including companion guides; 8. Harmonize all common data elements across administrative and clinical transaction standards. 	<ol style="list-style-type: none"> 3. To the extent feasible and appropriate, enable determination of an individual's eligibility and financial responsibility for specific services prior to or at the point of care. 4. Provide for timely acknowledgment, response, and status reporting that supports a transparent claims and denial management process (including adjudication and appeals). 	<p>Senate Bill does not specify Real Time.</p> <p>Senate Bill does not call for harmonization of data elements.</p>
<ul style="list-style-type: none"> • Reduction of Clerical Burden 	<ul style="list-style-type: none"> • Reduction of Clerical Burden- In adopting standards and operating rules for the transactions referred to under paragraph (1), the Secretary shall seek to reduce the number and complexity of forms (including paper and electronic forms) and data entry required by patients and providers.' 	<p>House Bill mentions paper work reduction in other sections.</p>

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<ul style="list-style-type: none"> • Time for Adoption - Not later than 2 years after the date of the enactment of this section, the Secretary shall adopt standards under this section by interim, final rule. • Requirements for Specific Standards – The standards under this section shall be developed, adopted, and enforced as to: <ol style="list-style-type: none"> 1. Clarify, refine, complete, and expand, as needed, the standards required under section 1173; 2. Require paper versions of standardized transactions to comply with the same standards as to data content such that a fully compliant, equivalent electronic transaction can be populated from the data from a paper version; 3. Enable electronic funds transfers, in order to allow automated reconciliation with the related health care payment and remittance advice; 4. Require timely and transparent claim and denial management processes, including uniform claim edits, uniform reason and remark denial codes, tracking, adjudication, and appeal processing; 5. Require the use of a standard electronic transaction with which health care providers may quickly and efficiently enroll with a health plan to conduct the other electronic transactions provided for in this part; and 6. Provide for other requirements relating to administrative simplification as identified by the Secretary, in consultation with stakeholders 	<ul style="list-style-type: none"> • Time For Adoption • Requirements for Specific Standards 	<p>Senate Bill does not identify the timeframe for adopting Requirements for Financial and Administrative Transactions.</p> <p>House Bill – requirement for paper transactions to comply with standards for data content will make it harder to be non-compliant and “drop to paper.”</p> <p>Senate Bill does not identify Requirements.</p>
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<ul style="list-style-type: none"> • Building on Existing Standards - In adopting the standards under this section, the Secretary shall consider existing and planned standards. • Implementation and Enforcement – Not later than 6 months after the date of the enactment of this section, the Secretary shall submit to the appropriate committees of Congress a plan for the implementation and enforcement, by not later than 5 years after such date of enactment, of the standards under this section. Such plan shall include: <ol style="list-style-type: none"> 1. A process and timeframe with milestones for developing the complete set of standards; 2. A proposal for accommodating necessary changes between version changes and a process for upgrading standards as often as annually by interim, final rulemaking; 3. Programs to provide incentives for, and ease the burden of, implementation for certain health care providers, with special consideration given to such providers serving rural or underserved areas and ensure coordination with standards, implementation specifications, and certification criteria being adopted under the HITECH Act; 4. Programs to provide incentives for, and ease the burden of, health care providers who volunteer to participate in the process of setting standards for electronic transactions; 5. An estimate of total funds needed to 	<ul style="list-style-type: none"> • Building on Existing Standards Not identified • Implementation and Enforcement – 	<p>The Senate Bill does not specify implementation and enforcement of this section. The Senate Bill identifies general implementation for adopting the operating rules and expedited rule making. Specific dates and adoption requirements are identified in other sections throughout the bill.</p>
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<p>ensure timely completion of the implementation plan; and</p> <p>6. An enforcement process that includes timely investigation of complaints, random audits to ensure compliance, civil monetary and programmatic penalties for noncompliance consistent with existing laws and regulations, and a fair and reasonable appeals process building off of enforcement provisions under this part, and concurrent State enforcement jurisdiction.</p> <p>The Secretary may promulgate an annual audit and certification process to ensure that all health plans and clearinghouses are both syntactically and functionally compliant with all the standard transactions mandated pursuant to the administrative simplification provisions of this part and the Health Insurance Portability and Accountability Act of 1996.</p> <ul style="list-style-type: none"> • Limitations on Use of Data - Nothing in this section shall be construed to permit the use of information collected under this section in a manner that would violate State or Federal law. • Protection of Data - The Secretary shall ensure (through the promulgation of regulations or otherwise) that all data collected pursuant to subsection (a) are used and disclosed in a manner that meets the HIPAA privacy and security law (as defined in section 3009(a)(2) of the Public Health Service Act), including any 	<ul style="list-style-type: none"> • Limitations on Use of Data • Protection of Data 	<p>Senate Bill does not identify Limitations on Use of Data.</p> <p>Senate Bill does not identify Protection of Data.</p>
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<p style="text-align: center;">privacy or security standard adopted under section 3004 of such Act.</p> <p>SEC. 1173B. INTERIM COMPANION GUIDES, INCLUDING OPERATING RULES</p> <ul style="list-style-type: none"> • In General - The Secretary shall adopt a single, binding, comprehensive companion guide that includes operating rules for each X12 Version 5010 transaction described in section 1173, to be effective until the new version of these transactions which comply with section 1173A are adopted and implemented. • Companion Guide and Operating Rules Development - In adopting such interim companion guide and rules, the Secretary shall comply with section 1172, except that a nonprofit entity that meets the following criteria shall also be consulted: <ol style="list-style-type: none"> 1. The entity focuses its mission on administrative simplification; 2. The entity uses a multi-stakeholder process that creates consensus-based companion guides, including operating rules using a voting process that ensures balanced representation by the critical stakeholders (including health plans and health care providers) so that no one group dominates the entity and shall include others such as standards development organizations, and relevant Federal or State agencies; 	<p>(g) OPERATING RULES</p> <ul style="list-style-type: none"> • In General – The Secretary shall adopt a single set of operating rules for each transaction with the goal of creating as much uniformity in the implementation of the electronic standards as possible. Such operating rules shall be consensus-based and reflect the necessary business rules affecting health plans and health care providers and the manner in which they operate pursuant to standards issued under the Health Insurance Portability and Accountability Act of 1996. • Operating Rules Development – In adopting operating rules under this subsection, the Secretary shall consider recommendations for operating rules developed by a qualified non-profit entity that meets the following requirements: <ol style="list-style-type: none"> 1. The entity focuses its mission on administrative simplification; 2. The entity demonstrates a multi-stakeholder and consensus-based process for development of operating rules, including representation by or participation from health plans, health care providers, vendors, relevant Federal agencies, and other standard development organizations; 	<p>Senate Bill relies on Operating Rules rather than companion guides.</p>
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<p>3. The entity has in place a public set of guiding principles that ensure the companion guide and operating rules and process are open and transparent</p> <p>4. The entity allows for public reviews and comment on updates of the companion guide, including the operating rules.</p> <p>5. The entity coordinates its activities with the HIT Policy Committee, and the HIT Standards Committee (established under title XXX of the Public Health Service Act) and complements the efforts of the Office of the National Healthcare Coordinator and its related health information exchange goals.</p> <p>6. The entity incorporates the standards issued under Health Insurance Portability and Accountability Act of 1996 and this part, and in developing the companion guide and operating rules does not change the definition, data condition or use of a data element or segment in a standard, add any elements or segments to the maximum defined data set, use any codes or data elements that are either marked 'not used' in the standard's implementation specifications or are not in the standard's implementation specifications, or change the meaning or intent of the standard's implementation specifications.</p>	<p>3. The entity has a public set of guiding principles that ensure the operating rules and process are open and transparent, and supports nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory practices;</p> <p>4. The entity allows for public review and updates of the operating rules.</p> <p>5. The entity builds on the transaction standards issued under Health Insurance Portability and Accountability Act of 1996.</p>	<p>The Senate Bill does not identify coordination activities with the HIT Policy/Standards Committee or the efforts of the National Healthcare Coordinator. The Senate Bill does specify reviewing the recommendations of the National Committee on Vital and Health Statistics.</p>
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<p>7. The entity uses existing market research and proven best practices.</p> <p>8. The entity has a set of measures that allow for the evaluation of their market impact and public reporting of aggregate stakeholder impact.</p> <p>9. The entity supports nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory practices.</p> <ul style="list-style-type: none"> • Review and Recommendations 	<ul style="list-style-type: none"> • Review and Recommendations – The National Committee on Vital and Health Statistics shall- <ol style="list-style-type: none"> 1. Advise the Secretary as to whether a nonprofit entity meets the requirements under paragraph (2); 2. Review the operating rules developed and recommended by such nonprofit entity; 3. Determine whether such operating rules represent a consensus view of the health care stakeholders and are consistent with and do not conflict with other existing standards; 4. Evaluate whether such operating rules are consistent with electronic standards adopted for health information technology; and 5. Submit to the Secretary a recommendation as to whether the Secretary should adopt such operating rules. 	<p>In general the Senate Bill’s goal is to create as much as possible uniformity in the implementation of the electronic standards. It does not identify using existing market research or using set measures for evaluation criteria.</p> <p>House Bill does not identify an organization to review, evaluate and provide recommendations for the requirements or operating rules.</p>
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<ul style="list-style-type: none"> • Definitions - Section 1171 of such Act (42 U.S.C. 1320d) is amended by adding at the end the following new paragraph: 1. OPERATING RULES- The term `operating rules' means business rules for using and processing transactions, such as service level requirements, which do not impact the implementation specifications or other data content requirements.'. • Definitions - Section 1171 of such Act (42 U.S.C. 1320d) is amended by inserting: 1. `, and associated operational guidelines and instructions, as determined appropriate by the Secretary' after `medical procedure codes'; • Unique Health Plan Identifier- Not later October 1, 2012, the Secretary of Health and Human Services shall promulgate an interim final rule to establish a unique health plan identifier described in section 1173(b) of the Social Security Act (42 U.S.C. 1320d-2(b)) based on the input of the National Committee of Vital and Health Statistics and consultation with health plans, health care providers, and other interested parties. 	<ul style="list-style-type: none"> • Definitions - Section 1171 of such Act (42 U.S.C. 1320d) is amended by adding at the end the following new paragraph: 1. OPERATING RULES- The term `operating rules' means the necessary business rules and guidelines for the electronic exchange of information that are not defined by a standard or its implementation specifications as adopted by for purposes of this part.'. • Promulgation of Rules- 1. UNIQUE HEALTH PLAN IDENTIFIER- The Secretary shall promulgate a final rule to establish a unique health plan identifier (as described in section 1173(b) of the Social Security Act (42 U.S.C. 1320d-2(b))) based on the input of the National Committee on Vital and Health Statistics. The Secretary may do so on an interim final basis and such rule shall be effective not later than October 1, 2012. 	<p>These definitions seem different. The House Bill defines them as rules for using the transactions, whereas the Senate Bill defines them as rules for electronic exchanges that are not otherwise defined by a standard. The Senate Bill implies that if there is a standard transaction in place, there is no need for Operating Rules.</p> <p>Senate Bill refers to effective date of October 1, 2012, whereas the House Bill only calls for a Rule to be published by then.</p>
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<ul style="list-style-type: none"> • Implementation - The Secretary shall adopt a single, binding companion guide, including operating rules under this section, for each transaction, to become effective with the X12 Version 5010 transaction implementation, or as soon thereafter as feasible. The companion guide, including operating rules for the transactions for eligibility for health plan and health claims status under this section shall be adopted not later than October 1, 2011, in a manner such that such set of rules is effective beginning not later than January 1, 2013. The companion guide, including operating rules for the remainder of the transactions described in section 1173(a)(2) shall be adopted not later than October 1, 2012, in a manner such that such set of rules is effective beginning not later than January 1, 2014. 	<ul style="list-style-type: none"> • Implementation- <ol style="list-style-type: none"> 1. In General - The Secretary shall adopt operating rules under this subsection, by regulation in accordance with and following consideration of the operating rules developed by specific consensus view of the healthcare stakeholders and recommended by the National Committee on Vital and Health Statistics. 2. Adoption Requirements; Effective Dates- <ol style="list-style-type: none"> a. ELIGIBILITY FOR A HEALTH PLAN AND HEALTH CLAIM STATUS- The set of operating rules for eligibility for a health plan and health claim status transactions shall be adopted not later than July 1, 2011, in a manner ensuring that such operating rules are effective not later than January 1, 2013, and may allow for the use of a machine readable identification card. b. ELECTRONIC FUNDS TRANSFERS AND HEALTH CARE PAYMENT AND REMITTANCE ADVICE- The set of operating rules for electronic funds transfers and health care payment and remittance advice transactions shall-- <ol style="list-style-type: none"> i. allow for automated reconciliation of the electronic payment with the remittance 	<p>Senate Bill does not specifically call out companion guides.</p> <p>Both Bills place emphasis on eligibility and claims over other transactions.</p> <p>The Senate Bill identifies the general implementation for the adoption of the operating rules and provides specific adoption requirements and effective dates for some of the transactions.</p> <p>Senate Bill makes no mention of other transactions (other than Eligibility, Claim Status or EFT and Remittance Advice).</p> <p>Senate Bill calls for adoption of operating rules 3 months before date provided in House Bill.</p> <p>Senate Bill mentions *machine readable ID card*</p>
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	<p>advice; and</p> <p>ii. be adopted not later than July 1, 2012, in a manner ensuring that such operating rules are effective not later than January 1, 2014.</p> <p>c. HEALTH CLAIMS OR EQUIVALENT ENCOUNTER INFORMATION, ENROLLMENT AND DISENROLLMENT IN A HEALTH PLAN, HEALTH PLAN PREMIUM PAYMENTS, REFERRAL CERTIFICATION AND AUTHORIZATION- The set of operating rules for health claims or equivalent encounter information, enrollment and disenrollment in a health plan, health plan premium payments, and referral certification and authorization transactions shall be adopted not later than July 1, 2014, in a manner ensuring that such operating rules are effective not later than January 1, 2016.</p> <p>3. Expedited Rule Making – The Secretary shall promulgate an interim final rule applying any standard or operating rule by the National Committee on Vital and Health Statistics.</p>	<p>MHS has not implemented Health Plan Premium Payments, or Referrals.</p> <p>Senate Bill – 2016 is 2 years after House proposed date for other transactions.</p>
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<ul style="list-style-type: none"> • Standards for Claims Attachments and Coordination of Benefits- <ol style="list-style-type: none"> 1. Standards for Health Claims Attachments - Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate an interim, final rule to establish a standard for health claims attachment transaction described in section 1173(a)(2)(B) of the Social Security Act (42 U.S.C. 1320d-2(a)(2)(B)) and coordination of benefits. 2. Revision in Processing Payment Transactions By Financial Institutions- <ol style="list-style-type: none"> a. IN GENERAL- Section 1179 of the Social Security Act (42 U.S.C. 1320d-8) is amended, in the matter before paragraph (1)-- <ol style="list-style-type: none"> i. by striking `or is engaged' and inserting `and is engaged'; and ii. by inserting `(other than as a business associate for a covered entity)' after `for a financial institution'. <p>COMPLIANCE DATE- The amendments made by subparagraph (a) shall apply to transactions occurring on or after such date (not later than January 1, 2014) as the Secretary of Health and Human Services shall specify.</p> 	<ul style="list-style-type: none"> • Promulgation of Rules- <ol style="list-style-type: none"> 2. HEALTH CLAIMS ATTACHMENTS- The Secretary shall promulgate a final rule to establish a transaction standard and a single set of associated operating rules for health claims attachments (as described in section 1173(a)(2)(B) of the Social Security Act (42 U.S.C. 1320d-2(a)(2)(B))) that is consistent with the X12 Version 5010 transaction standards. The Secretary may do so on an interim final basis and shall adopt a transaction standard and a single set of associated operating rules not later than January 1, 2014, in a manner ensuring that such standard is effective not later than January 1, 2016. 	<p>Senate Bill calls for a Rule to publish a transaction standard and a single set of associated operating rules that are consistent with the X12 Version 5010 transaction standards by January 1, 2014 to be effective by January 1, 2016. Does not identify Coordination of Benefits.</p> <p>House Bill calls for a Rule to establish a standard for health claims attachments and coordination of benefits not later than 1 year after date published. Does not identify operating rules.</p> <p>House Bill makes no mention of revising the processing of payment transactions by financial institutions.</p>
<ul style="list-style-type: none"> • Standards for First Report of Injury- Not later than January 1, 2014, the Secretary of Health and Human Services shall promulgate an interim final rule to establish a standard for the first report of 	<ul style="list-style-type: none"> • Standards for First Report of Injury 	<p>Senate Bill does not identify Standards for First Report of Injury.</p>

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<p>injury transaction described in section 1173(a)(2)(G) of the Social Security Act (42 U.S.C. 1320d-2(a)(2)(G)).</p> <ul style="list-style-type: none"> • Compliance Not Identified 	<ul style="list-style-type: none"> • Compliance <ol style="list-style-type: none"> 1. Health Plan Certification – <ol style="list-style-type: none"> a. ELIGIBILITY FOR A HEALTH PLAN, HEALTH CLAIM STATUS, ELECTRONIC FUNDS TRANSFERS, HEALTH CARE PAYMENT AND REMITTANCE ADVICE- Not later than December 31, 2013, a health plan shall file a statement with the Secretary, in such form as the Secretary may require, certifying that the data and information systems for such plan are in compliance with any applicable standards (as described under paragraph (7) of section 1171) and associated operating rules (as described under paragraph (9) of such section) for electronic funds transfers, eligibility for a health plan, health claim status, and health care payment and remittance advice, respectively. b. HEALTH CLAIMS OR EQUIVALENT ENCOUNTER INFORMATION, ENROLLMENT AND DISENROLLMENT IN A HEALTH PLAN, HEALTH PLAN PREMIUM PAYMENTS, HEALTH 	<p>Senate Bill – this certification may have enforcement implications.</p> <p>House Bill makes no mention of Compliance for Health Plan Certification.</p> <p>MHS has not implemented Health Plan Premium Payments, Referrals, or Claims Attachments.</p>
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	<p>CLAIMS ATTACHMENTS, REFERRAL CERTIFICATION AND AUTHORIZATION- Not later than December 31, 2015, a health plan shall file a statement with the Secretary, in such form as the Secretary may require, certifying that the data and information systems for such plan are in compliance with any applicable standards and associated operating rules for health claims or equivalent encounter information, enrollment and disenrollment in a health plan, health plan premium payments, health claims attachments, and referral certification and authorization, respectively. A health plan shall provide the same level of documentation to certify compliance with such transactions as is required to certify compliance with the transactions specified in subparagraph (A).</p> <p>2. DOCUMENTATION OF COMPLIANCE - A health plan shall provide the Secretary, in such form as the Secretary may require, with adequate documentation of compliance with the standards and operating rules described under paragraph (1). A health plan shall not be considered to have provided adequate documentation and shall not be certified as being in</p>	<p>MHS would not be able to document this, as we have not implemented all the transactions listed in paragraph 1.</p>
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	<p>compliance with such standards, unless the health plan—</p> <ul style="list-style-type: none"> a. Demonstrates to the Secretary that the plan conducts the electronic transactions specified in paragraph (1) in a manner that fully complies with the regulations of the Secretary; and b. Provides documentation showing that the plan has completed end-to-end testing for such transactions with their partners, such as hospitals and physicians. <p>3 SERVICE CONTRACTS- A health plan shall be required to ensure that any entities that provide services pursuant to a contract with such health plan shall comply with any applicable certification and compliance requirements (and provide the Secretary with adequate documentation of such compliance) under this subsection.</p> <p>4 CERTIFICATION BY OUTSIDE ENTITY- The Secretary may designate independent, outside entities to certify that a health plan has complied with the requirements under this subsection, provided that the certification standards employed by such entities are in accordance with any standards or operating rules issued by the Secretary.</p> <p>5. COMPLIANCE WITH REVISED STANDARDS AND OPERATING RULES –</p> <ul style="list-style-type: none"> a. IN GENERAL- A health plan (including entities described under 	<p>Impacts MCSCs.</p>
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	<p>paragraph (3)) shall file a statement with the Secretary, in such form as the Secretary may require, certifying that the data and information systems for such plan are in compliance with any applicable revised standards and associated operating rules under this subsection for any interim final rule promulgated by the Secretary under subsection (i) that--</p> <ul style="list-style-type: none"> i. Amends any standard or operating rule described under paragraph (1) of this subsection; or ii. Establishes a standard (as described under subsection (a)(1)(B)) or associated operating rules (as described under subsection (i)(5)) for any other financial and administrative transactions. <p>b. Date of Compliance- A health plan shall comply with such requirements not later than the effective date of the applicable standard or operating rule.</p> <p>6. AUDITS OF HEALTH PLANS – The Secretary shall conduct periodic to ensure that health plans (including entities described under paragraph (3)) are in compliance with any standards and operating rules that are described under paragraph (1) or subsection (i)(5).</p>	
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	<ul style="list-style-type: none"> • Review and Amendment of Standards and Operating Rules- <ol style="list-style-type: none"> 1. ESTABLISHMENT- Not later than January 1, 2014, the Secretary shall establish a review committee (as described under paragraph (4)). 2. EVALUATIONS AND REPORTS- <ol style="list-style-type: none"> a. HEARINGS- Not later than April 1, 2014, and not less than biennially thereafter, the Secretary, acting through the review committee, shall conduct hearings to evaluate and review the adopted standards and operating rules established under this section. b. REPORT- Not later than July 1, 2014, and not less than biennially thereafter, the review committee shall provide recommendations for updating and improving such standards and operating rules. The review committee shall recommend a single set of operating rules per transaction standard and maintain the goal of creating as much uniformity as possible in the implementation of the electronic standards. 3 INTERIM FINAL RULEMAKING- <ol style="list-style-type: none"> a. IN GENERAL- Any recommendations to amend adopted standards and operating rules that have been approved by the review committee and reported to the Secretary under paragraph (2)(B) shall be adopted by the 	<p>House Bill makes no mention of reviewing or providing amendment to the standards and operating rules.</p>
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	<p>Secretary through promulgation of an interim final rule not later than 90 days after receipt of the committee's report.</p> <ul style="list-style-type: none"> b. PUBLIC COMMENT- <ul style="list-style-type: none"> i. PUBLIC COMMENT PERIOD- The Secretary shall accept and consider public comments on any interim final rule published under this paragraph for 60 days after the date of such publication. ii EFFECTIVE DATE- The effective date of any amendment to existing standards or operating rules that is adopted through an interim final rule published under this paragraph shall be 25 months following the close of such public comment period. <p>4. REVIEW COMMITTEE-</p> <ul style="list-style-type: none"> a. DEFINITION- For the purposes of this subsection, the term `review committee' means a committee chartered by or within the Department of Health and Human services that has been designated by the Secretary to carry out this subsection, including-- <ul style="list-style-type: none"> i. the National Committee on Vital and Health Statistics; or ii. any appropriate committee as determined by the Secretary. b. COORDINATION OF HIT STANDARDS- In developing recommendations under this subsection, the review committee 	
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<ul style="list-style-type: none"> • Expansion of Penalties- Section 1176 of such Act (42 U.S.C. 1320d-5) is amended by adding at the end the following new subsection: <ul style="list-style-type: none"> a. Expansion of Penalty Authority- The Secretary may, in addition to the penalties provided under subsections (a) and (b), provide for the imposition of penalties for violations of this part that are comparable-- <ul style="list-style-type: none"> i. in the case of health plans, to the sanctions the Secretary is authorized to impose under part C or D of title XVIII in the case of a plan that violates a provision of such part; or ii. in the case of a health care provider, to the sanctions the Secretary is authorized to impose 	<p style="text-align: center;">shall ensure coordination, as appropriate, with the standards that support the certified electronic health record technology approved by the Office of the National Coordinator for Health Information Technology.</p> <p style="text-align: center;">5. OPERATING RULES FOR OTHER STANDARDS ADOPTED BY THE SECRETARY- The Secretary shall adopt a single set of operating rules (pursuant to the process described under subsection (g)) for any transaction for which a standard had been adopted pursuant to subsection (a)(1)(B).</p> <ul style="list-style-type: none"> • Penalties- <ul style="list-style-type: none"> 1 PENALTY FEE- <ul style="list-style-type: none"> a. IN GENERAL- Not later than April 1, 2014, and annually thereafter, the Secretary shall assess a penalty fee (as determined under subparagraph (B)) against a health plan that has failed to meet the requirements under subsection (h) with respect to certification and documentation of compliance with-- <ul style="list-style-type: none"> i. the standards and associated operating rules described under paragraph (1) of such subsection; and ii. a standard (as described under subsection (a)(1)(B)) and associated operating rules (as described under subsection (i)(5)) for any other financial and 	<p style="text-align: center;">House Bill has no date for assessing a penalty fee, fee amount, or penalty limit.</p>
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<p>under part A, B, or D of title XVIII in the case of a health care provider that violations a provision of such part with respect to that provider.'.</p>	<p>administrative transactions.</p> <ul style="list-style-type: none"> b. FEE AMOUNT- Subject to subparagraphs (C), (D), and (E), the Secretary shall assess a penalty fee against a health plan in the amount of \$1 per covered life until certification is complete. The penalty shall be assessed per person covered by the plan for which its data systems for major medical policies are not in compliance and shall be imposed against the health plan for each day that the plan is not in compliance with the requirements under subsection (h). c. ADDITIONAL PENALTY FOR MISREPRESENTATION- A health plan that knowingly provides inaccurate or incomplete information in a statement of certification or documentation of compliance under subsection (h) shall be subject to a penalty fee that is double the amount that would otherwise be imposed under this subsection. d. ANNUAL FEE INCREASE- The amount of the penalty fee imposed under this subsection shall be increased on an annual basis by the annual percentage increase in total national health care expenditures, as determined by the Secretary. e. PENALTY LIMIT- A penalty fee assessed against a health plan under this subsection shall not 	
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	<p>exceed, on an annual basis--</p> <ul style="list-style-type: none"> i. an amount equal to \$20 per covered life under such plan; or ii. an amount equal to \$40 per covered life under the plan if such plan has knowingly provided inaccurate or incomplete information (as described under subparagraph (C)). <p>f. DETERMINATION OF COVERED INDIVIDUALS- The Secretary shall determine the number of covered lives under a health plan based upon the most recent statements and filings that have been submitted by such plan to the Securities and Exchange Commission.</p> <p>2. NOTICE AND DISPUTE PROCEDURE- The Secretary shall establish a procedure for assessment of penalty fees under this subsection that provides a health plan with reasonable notice and a dispute resolution procedure prior to provision of a notice of assessment by the Secretary of the Treasury (as described under paragraph (4)(B)).</p> <p>3 PENALTY FEE REPORT- Not later than May 1, 2014, and annually thereafter, the Secretary shall provide the Secretary of the Treasury with a report identifying those health plans that have been assessed a penalty fee under this subsection.</p> <p>4 COLLECTION OF PENALTY FEE-</p>	
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	<ul style="list-style-type: none"> a. IN GENERAL- The Secretary of the Treasury, acting through the Financial Management Service, shall administer the collection of penalty fees from health plans that have been identified by the Secretary in the penalty fee report provided under paragraph (3). b. NOTICE- Not later than August 1, 2014, and annually thereafter, the Secretary of the Treasury shall provide notice to each health plan that has been assessed a penalty fee by the Secretary under this subsection. Such notice shall include the amount of the penalty fee assessed by the Secretary and the due date for payment of such fee to the Secretary of the Treasury (as described in subparagraph (C)). c. PAYMENT DUE DATE- Payment by a health plan for a penalty fee assessed under this subsection shall be made to the Secretary of the Treasury not later than November 1, 2014, and annually thereafter. d. UNPAID PENALTY FEES- Any amount of a penalty fee assessed against a health plan under this subsection for which payment has not been made by the due date provided under subparagraph (C) shall be-- e. increased by the interest accrued on such amount, as determined pursuant to the underpayment rate established under section 6621 of 	
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<p>Promulgation of Rules</p>	<p>the Internal Revenue Code of 1986; and</p> <p>f. treated as a past-due, legally enforceable debt owed to a Federal agency for purposes of section 6402(d) of the Internal Revenue Code of 1986.</p> <p>g. ADMINISTRATIVE FEES- Any fee charged or allocated for collection activities conducted by the Financial Management Service will be passed on to a health plan on a pro-rata basis and added to any penalty fee collected from the plan.'</p> <ul style="list-style-type: none"> • Promulgation of Rules- <ol style="list-style-type: none"> 1. ELECTRONIC FUNDS TRANSFER- The Secretary shall promulgate a final rule to establish a standard for electronic funds transfers (as described in section 1173(a)(2)(J) of the Social Security Act, as added by subsection (b)(2)(A)). The Secretary may do so on an interim final basis and shall adopt such standard not later than January 1, 2012, in a manner ensuring that such standard is effective not later than January 1, 2014. 	<p>House Bill does not refer to specific dates for EFTs. EFTs are referred in the Requirements for specific standards in order to enable EFTs to allow automated reconciliation with related health care payment and remittance advice.</p>
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<ul style="list-style-type: none"> • Expansion of Electronic Transactions in Medicare- Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended-- <ol style="list-style-type: none"> 1. in paragraph (23), by striking `or' at the end; 2. in paragraph (24), by striking the period and inserting `; or'; and 3. by inserting after paragraph (24) the following new paragraph: `(25) subject to subsection (h), not later than January 1, 2015, for which the payment is other than by electronic funds transfer (EFT) so long as the Secretary has adopted and implemented a standard for electronic funds transfer under section 1173A.' 	<ul style="list-style-type: none"> • Expansion of Electronic Transactions in Medicare- Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended-- <ol style="list-style-type: none"> 1. in paragraph (23), by striking the `or' at the end; 2. in paragraph (24), by striking the period and inserting `; or'; and 3. by inserting after paragraph (24) the following new paragraph: (25) not later than January 1, 2014, for which the payment is other than by electronic funds transfer (EFT) or an electronic remittance in a form as specified in ASC X12 835 Health Care Payment and Remittance Advice or subsequent standard.' 	<p>House Bill refers to January 1, 2015 for accepting payments other than EFTs so long as an EFT standard has been adopted and implemented.</p> <p>Senate Bill refers to January 1, 2014 for accepting payments other than EFTs as specified in the X12 835 transaction advice.</p>
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