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Centers for Medicare & Medicaid Services

45 CFR Part 162

[CMS-0040-CN]

RIN 0938-AQ13

Administrative Simplification: Adoption of a Standard for a Unique Health Plan Identifier; Addition to the National Provider Identifier Requirements; and a Change to the Compliance Date for the International Classification of Diseases, 10th Edition (ICD-10-CM and ICD-10-PCS) Medical Data Code Sets; Corrections

AGENCY: Office of the Secretary, HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors in the final rule titled "Administrative Simplification: Adoption of a Standard for a Unique Health Plan Identifier; Addition to the National Provider Identifier Requirements; and a Change to the Compliance Date for the International Classification of Diseases, 10th Edition (ICD-10-CM and ICD-10-PCS) Medical Data Code Sets" that appeared in the September 5, 2012 **Federal Register**.

EFFECTIVE DATE: November 5, 2012.

FOR FURTHER INFORMATION CONTACT:

Kari Gaare (410) 786-8612.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2012-21238 of September 5, 2012 (77 FR 54664), there were a number of technical errors that are identified and corrected in the Correction of Errors section. The provisions in this correction document are effective as if they had been

included in the final rule published on September 5, 2012. Accordingly, the corrections are effective on November 5, 2012.

II. Summary of Errors

A. Summary of Errors in the Preamble

In FR Doc. 2012-21238 of September 5, 2102, there were the following errors:

On page 54674, in our discussion of the adoption of the International Organization for Standardization (ISO) Standard, we inadvertently mischaracterized a public comment. In the final rule, we used the phrase "capacity but was concerned" instead of "capacity and was concerned."

On page 54708, in our discussion of HPID savings, we referenced Table 14, which provides the cost in 2014 of a 1-year delay in the compliance date of ICD-10, rather than Table 10, which provides annual costs savings for providers from an increase in the volume of three electronic transactions due to the use of HPID.

On page 54714, in our discussion of the net cost avoidance associated with a 1-year delay of ICD-10, we inadvertently referenced Table 17, which provides a summary of the cost avoidance and costs in 2014 of a 1-year delay in the compliance date of ICD-10 rather than Table 18, which provides the cost avoidance less cost (net) of a 1-year delay in the compliance date of ICD-10.

B. Summary of Errors in the Regulations Text

On page 54719, in §162.504, we made the following errors:

- In paragraph (a), we inadvertently stated that the compliance date for covered entities to comply with the implementation specification in §162.510 is no later than November 5, 2014 instead of November 7, 2016.

- In paragraph (b)(1), we inadvertently omitted language describing the type of health plan subject to the regulatory requirement.

- In paragraph (b)(2), we inadvertently stated that the compliance date for small health plans was no later than November 5, 2014 instead of November 5, 2015.

On page 54679, in the HPID effective date and compliance requirements section of the September 5, 2012 final rule, we describe and discuss our final policy for HPID compliance. While we inadvertently inserted incorrect dates in the regulation text, the HPID effective date and compliance requirements are clearly stated in the preamble, as well as Chart 1 (see 77 FR 54679). The final policy, which is clearly reflected in the preamble discussion, is that health plans that are not small health plans must obtain HPIDs by November 5, 2014. Small health plans must obtain HPIDs by November 5, 2015. All covered entities must comply with the implementation requirements in §162.510 by November 7, 2016. We are correcting the regulation text so that it accurately reflects our final policy.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive these notice and comment procedures if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

In our view, this correcting document does not constitute a rule that would be

subject to the APA notice and comment procedures. This correcting document corrects technical and typographical errors in the preamble and regulations text of the September 5, 2012 final rule and does not make substantive changes to the policies that were adopted. As a result, this correcting document is intended to ensure that the final rule accurately reflects the policies adopted in that rule.

In addition, even if this were a rule to which the notice and comment procedures applied, we find that there is good cause to waive such procedures. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule would be unnecessary, as we are not altering the policies that were already subject to comment and finalized in our final rule, but simply conforming our regulation text to our final policies. Therefore, we believe we have good cause to waive the notice and comment procedures.

IV. Correction of Errors

In FR Doc. 2012-21238 of September 5, 2012 (77 FR 54664), make the following corrections:

A. Correction of Errors in the Preamble

1. On page 54674, third column, second full paragraph, lines 15 and 16, the phrase "capacity but was concerned" is corrected to read "capacity and was concerned".
2. On page 54708, lower quarter of the page (after Table 9), third column, first partial paragraph, line 1, the reference "Table 14" is corrected to read "Table 10".
3. On page 54714, third column, fourth full paragraph, line 1, the reference "Table 17" is corrected to read "Table 18".

B. Correction of Errors to the Regulations Text

1. On page 54719, in the second column--
 - a. Sixth full paragraph (§162.504(a)), line 4, the date "November 5, 2014 "is corrected to read "November 7, 2016".
 - b. Eighth paragraph (§162.504(b)(1)), the sentence "A health plan that November 5, 2014." is corrected to read "A health plan that is not a small health plan-- November 5, 2014."
 - c. Ninth paragraph (§162.504(b)(2)), last line, the date "November 5, 2014" is corrected to read "November 5, 2015".

Dated: September 27, 2012

Oliver Potts,

Deputy Executive Secretary to the

Department,

Department of Health and Human

Services.

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