

107TH CONGRESS  
1ST SESSION

# H. R. 3323

To ensure that covered entities comply with the standards for electronic health care transactions and code sets adopted under part C of title XI of the Social Security Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2001

Mr. HOBSON (for himself, Mr. SAWYER, Mr. STARK, Ms. PRYCE of Ohio, Mr. GILLMOR, Mr. BURR of North Carolina, Mr. BLUNT, Mrs. JOHNSON of Connecticut, Mr. UPTON, Mr. THOMAS, Mr. MCDERMOTT, Mr. BACHUS, Mr. RANGEL, Mr. TIBERI, Mr. OSE, Mr. REGULA, Mr. LATOURETTE, Mr. GREENWOOD, Mr. WHITFIELD, Mrs. THURMAN, Mr. STRICKLAND, Mr. PORTMAN, and Mr. BECERRA) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To ensure that covered entities comply with the standards for electronic health care transactions and code sets adopted under part C of title XI of the Social Security Act, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. EXTENSION OF DEADLINE FOR COVERED ENTI-**  
2 **TIES SUBMITTING COMPLIANCE PLANS.**

3 (a) IN GENERAL.—

4 (1) EXTENSION.—Subject to paragraph (2),  
5 notwithstanding section 1175(b)(1)(A) of the Social  
6 Security Act (42 U.S.C. 1320d–4(b)(1)(A)) and sec-  
7 tion 162.900 of title 45, Code of Federal Regula-  
8 tions, a health care provider, health plan (other than  
9 a small health plan), or a health care clearinghouse  
10 shall not be considered to be in noncompliance with  
11 the applicable requirements of subparts I through R  
12 of part 162 of title 45, Code of Federal Regulations,  
13 before October 16, 2003.

14 (2) CONDITION.—Paragraph (1) shall apply to  
15 a person described in such paragraph only if, before  
16 October 16, 2002, the person submits to the Sec-  
17 retary of Health and Human Services a plan detail-  
18 ing how the person will come into compliance with  
19 the requirements described in such paragraph not  
20 later than October 16, 2003. Such plan shall include  
21 a summary of the following:

22 (A) An analysis reflecting the extent to  
23 which, and the reasons why, the person is not  
24 in compliance.

25 (B) A budget, schedule, work plan, and im-  
26 plementation strategy for achieving compliance.

1 (C) Whether the person plans to use or  
2 might use a contractor or other vendor to assist  
3 the person in achieving compliance.

4 (D) A specific period of testing that begins  
5 not later than April 16, 2003.

6 (3) ELECTRONIC SUBMISSION.—Plans described  
7 in paragraph (2) may be submitted electronically.

8 (4) MODEL FORM.—Not later than March 31,  
9 2002, the Secretary of Health and Human Services  
10 shall promulgate a model form that persons may use  
11 in drafting a plan described in paragraph (2). The  
12 promulgation of such form shall be made without re-  
13 gard to chapter 35 of title 44, United States Code  
14 (commonly known as the “Paperwork Reduction  
15 Act”).

16 (5) ANALYSIS OF PLANS; REPORTS ON SOLU-  
17 TIONS.—

18 (A) ANALYSIS OF PLANS.—

19 (i) IN GENERAL.—The National Com-  
20 mittee on Vital and Health Statistics shall  
21 analyze a representative sample of the  
22 compliance plans submitted under para-  
23 graph (2).

24 (ii) CONSULTATION.—In carrying out  
25 such analysis, the National Committee on

1 Vital and Health Statistics shall consult  
2 with each organization—

3 (I) described in section  
4 1172(e)(3)(B) of the Social Security  
5 Act (42 U.S.C. 1320d–1(c)(3)(B)); or

6 (II) designated by the Secretary  
7 of Health and Human Services under  
8 section 162.910(a) of title 45, Code of  
9 Federal Regulations.

10 (iii) FURNISHING OF PLANS.—Subject  
11 to subparagraph (C), the Secretary of  
12 Health and Human Services shall furnish  
13 the National Committee on Vital and  
14 Health Statistics with all of the compliance  
15 plans submitted under paragraph (2), from  
16 which such committee shall select the sam-  
17 ple for analysis.

18 (B) REPORTS ON SOLUTIONS.—The Na-  
19 tional Committee on Vital and Health Statistics  
20 shall regularly publish, and widely disseminate  
21 to the public, reports containing effective solu-  
22 tions to compliance problems identified in the  
23 compliance plans analyzed under subparagraph  
24 (A). Such reports shall not relate specifically to  
25 any one plan but shall be written for the pur-

1           pose of assisting the maximum number of per-  
2           sons to come into compliance by addressing the  
3           most common or challenging problems encoun-  
4           tered by persons submitting such plans.

5           (C) PROTECTION OF CONFIDENTIAL IN-  
6           FORMATION.—The Secretary of Health and  
7           Human Services shall ensure that any material  
8           provided under subparagraph (A) to the Na-  
9           tional Committee on Vital and Health Statistics  
10          or any organization described in subparagraph  
11          (A)(ii) is redacted so as to prevent the disclo-  
12          sure of any—

13                   (i) trade secrets;

14                   (ii) commercial or financial informa-  
15                   tion that is privileged or confidential; and

16                   (iii) other information the disclosure  
17                   of which would constitute a clearly unwar-  
18                   ranted invasion of personal privacy.

19          (6) ENFORCEMENT THROUGH EXCLUSION FROM  
20          PARTICIPATION IN MEDICARE.—

21           (A) IN GENERAL.—In the case of a person  
22           described in paragraph (1) who fails to submit  
23           a plan in accordance with paragraph (2), and  
24           who is not in compliance with the applicable re-  
25           quirements of subparts I through R of part 162

1 of title 45, Code of Federal Regulations, on or  
2 after October 16, 2002, the person is subject  
3 to exclusion from participation (including under  
4 part C or as a contractor under sections 1816,  
5 1842, and 1893) in title XVIII of the Social  
6 Security Act (42 U.S.C. 1395 et seq.).

7 (B) PROCEDURE.—The provisions of sec-  
8 tion 1128A of the Social Security Act (42  
9 U.S.C. 1320a–7a) (other than the first and sec-  
10 ond sentences of subsection (a) and subsection  
11 (b)) shall apply to an exclusion under this para-  
12 graph in the same manner as such provisions  
13 apply with respect to an exclusion or proceeding  
14 under section 1128A(a).

15 (C) CONSTRUCTION.—The availability of a  
16 exclusion under this paragraph shall not be con-  
17 strued to affect the imposition of penalties  
18 under section 1176 of the Social Security Act  
19 (42 U.S.C. 1320d–5).

20 (D) NONAPPLICABILITY TO COMPLYING  
21 PERSONS.—The exclusion under subparagraph  
22 (A) shall not apply to a person who—

23 (i) submits a plan in accordance with  
24 paragraph (2); or

1                   (ii) who is in compliance with the ap-  
2                   plicable requirements of subparts I  
3                   through R of part 162 of title 45, Code of  
4                   Federal Regulations, on or before October  
5                   16, 2002.

6           (b) SPECIAL RULES.—

7                   (1) RULES OF CONSTRUCTION.—Nothing in  
8                   this section shall be construed—

9                           (A) as modifying the October 16, 2003,  
10                          date for compliance of small health plans with  
11                          subparts I through R of part 162 of title 45,  
12                          Code of Federal Regulations; or

13                           (B) as modifying—

14                                   (i) the April 14, 2003, date for com-  
15                                   pliance of a health care provider, a health  
16                                   plan (other than a small health plan), or a  
17                                   health care clearinghouse with subpart E  
18                                   of part 164 of title 45, Code of Federal  
19                                   Regulations; or

20                                   (ii) the April 14, 2004, date for com-  
21                                   pliance of a small health plan with subpart  
22                                   E of part 164 of title 45, Code of Federal  
23                                   Regulations.

1           (2) APPLICABILITY OF PRIVACY REQUIREMENTS  
2 TO CERTAIN TRANSACTIONS PRIOR TO STANDARDS  
3 COMPLIANCE DATE.—

4           (A) IN GENERAL.—Notwithstanding any  
5 other provision of law, during the period that  
6 begins on April 14, 2003, and ends on October  
7 16, 2003, a health care provider or, subject to  
8 subparagraph (C), a health care clearinghouse,  
9 that transmits any health information in elec-  
10 tronic form in connection with a transaction de-  
11 scribed in subparagraph (B) shall comply with  
12 the requirements of subpart E of part 164 of  
13 title 45, Code of Federal Regulations, without  
14 regard to whether the transmission meets the  
15 standards required by part 162 of such title.

16           (B) TRANSACTIONS DESCRIBED.—The  
17 transactions described in this subparagraph are  
18 the following:

19                   (i) A health care claims or equivalent  
20 encounter information transaction.

21                   (ii) A health care payment and remit-  
22 tance advice transaction.

23                   (iii) A coordination of benefits trans-  
24 action.

1 (iv) A health care claim status trans-  
2 action.

3 (v) An enrollment and disenrollment  
4 in a health plan transaction.

5 (vi) An eligibility for a health plan  
6 transaction.

7 (vii) A health plan premium payments  
8 transaction.

9 (viii) A referral certification and au-  
10 thorization transaction.

11 (C) APPLICATION TO HEALTH CARE  
12 CLEARINGHOUSES.—For purposes of this para-  
13 graph, during the period described in subpara-  
14 graph (A), an entity that would otherwise meet  
15 the definition of health care clearinghouse that  
16 processes or facilitates the processing of infor-  
17 mation in connection with a transaction de-  
18 scribed in subparagraph (B) shall be deemed to  
19 be a health care clearinghouse notwithstanding  
20 that the entity does not process or facilitate the  
21 processing of such information into any stand-  
22 ard formats required by part 162 of title 45,  
23 Code of Federal Regulations.

24 (c) DEFINITIONS.—In this section—

1           (1) the terms “health care provider”, “health  
2           plan”, and “health care clearinghouse” have the  
3           meaning given those terms in section 1171 of the  
4           Social Security Act (42 U.S.C. 1320d) and section  
5           160.103 of title 45, Code of Federal Regulations;

6           (2) the terms “small health plan” and “trans-  
7           action” have the meaning given those terms in sec-  
8           tion 160.103 of title 45, Code of Federal Regula-  
9           tions; and

10          (3) the terms “health care claims or equivalent  
11          encounter information transaction”, “health care  
12          payment and remittance advice transaction”, “co-  
13          ordination of benefits transaction”, “health care  
14          claim status transaction”, “enrollment and  
15          disenrollment in a health plan transaction”, “eligi-  
16          bility for a health plan transaction”, “health plan  
17          premium payments transaction”, and “referral cer-  
18          tification and authorization transaction” have the  
19          meanings given those terms in sections 162.1101,  
20          162.1601, 162.1801, 162.1401, 162.1501,  
21          162.1201, 162.1701, and 162.1301 of title 45, Code  
22          of Federal Regulations, respectively.

1 **SEC. 2. ESTABLISHMENT OF MEDICARE ADMINISTRATIVE**  
2 **FEE FOR SUBMISSION OF PAPER CLAIMS.**

3 (a) IMPOSITION OF FEE.—Notwithstanding any  
4 other provision of law, the Secretary of Health and  
5 Human Services shall establish (in the form of a separate  
6 fee or reduction of payment otherwise made under the  
7 medicare program under title XVIII of the Social Security  
8 Act) an administrative fee of \$1 for the submission of a  
9 claim in a paper or non-electronic form for items or serv-  
10 ices for which payment is sought under such title.

11 (b) EXCEPTION AUTHORITY.—The Secretary—

12 (1) shall waive the imposition of a fee under  
13 subsection (a) in cases in which—

14 (A) there is no method available for the  
15 submission of claims other than in a written  
16 form; or

17 (B) the person submitting the claim is a  
18 small provider of services or supplier; and

19 (2) may waive the imposition of such a fee in  
20 such unusual cases as the Secretary finds appro-  
21 priate.

22 (c) EFFECTIVE DATE.—Subsection (a) applies to  
23 claims submitted on or after October 16, 2003.

24 (d) USE OF FEES.—Amounts equivalent to the fees  
25 collected under this section are hereby appropriated, and  
26 shall remain available until expended, to the Secretary of

1 Health and Human Services for technical assistance and  
2 enforcement activities related to subparts I through R of  
3 part 162 of title 45, Code of Federal Regulations.

4 (e) DEFINITION.—For purposes of this section, the  
5 term “small provider of services or supplier” means—

6 (1) an institutional provider of services (as de-  
7 fined in section 1861(u) of the Social Security Act  
8 (42 U.S.C. 1395x(u))) with fewer than 25 full-time  
9 equivalent employees; or

10 (2) a physician, practitioner, or supplier with  
11 fewer than 10 full-time equivalent employees.

12 **SEC. 3. CLARIFICATION WITH RESPECT TO APPLICABILITY**  
13 **OF ADMINISTRATIVE SIMPLIFICATION RE-**  
14 **QUIREMENTS TO MEDICARE+CHOICE ORGA-**  
15 **NIZATIONS.**

16 Section 1171(5)(D) of the Social Security Act (42  
17 U.S.C. 1320d(5)(D)) is amended by striking “Part A or  
18 part B” and inserting “Parts A, B, or C”.

19 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR IMPLE-**  
20 **MENTATION OF REGULATIONS.**

21 (a) IN GENERAL.—Subject to subsection (b), and in  
22 addition to any other amounts that may be authorized to  
23 be appropriated, there are authorized to be appropriated  
24 a total of \$44,200,000, for—

1           (1) technical assistance, education and out-  
2 reach, and enforcement activities related to subparts  
3 I through R of part 162 of title 45, Code of Federal  
4 Regulations; and

5           (2) adopting the standards required to be  
6 adopted under section 1173 of the Social Security  
7 Act (42 U.S.C. 1320d-2).

8 (b) REDUCTIONS.—

9           (1) MODEL FORM 14 DAYS LATE.—If the Sec-  
10 retary fails to promulgate the model form described  
11 in section 1(a)(4) by the date that is 14 days after  
12 the deadline described in such section, the amount  
13 referred to in subsection (a) shall be reduced by 25  
14 percent.

15           (2) MODEL FORM 30 DAYS LATE.—If the Sec-  
16 retary fails to promulgate the model form described  
17 in section 1(a)(4) by the date that is 30 days after  
18 the deadline described in such section, the amount  
19 referred to in subsection (a) shall be reduced by 50  
20 percent.

21           (3) MODEL FORM 45 DAYS LATE.—If the Sec-  
22 retary fails to promulgate the model form described  
23 in section 1(a)(4) by the date that is 45 days after  
24 the deadline described in such section, the amount

1 referred to in subsection (a) shall be reduced by 75  
2 percent.

3 (4) MODEL FORM 60 DAYS LATE.—If the Sec-  
4 retary fails to promulgate the model form described  
5 in section 1(a)(4) by the date that is 60 days after  
6 the deadline described in such section, the amount  
7 referred to in subsection (a) shall be reduced by 100  
8 percent.

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