

**Title 114A Series 03
Department of Health and Human Resources
All-Payer Claims Database Submission Manual**

Summary of the Rule:

The All-Payer Claims Database (APCD) Submission Manual sets forth the required data file format, data elements, code tables, edit specifications, thresholds required for a submission to be deemed complete, methods for submitting data, submission schedules, and other information associated with the data submitters' submission and reporting duties.

Summary of the Public Comments and Agency Responses:

Comment:

By aligning data submission to the CDL, West Virginia ensures the data it collects will maintain a high degree of integrity in a format accepted by payers, researchers, and providers across the country. National payers have familiarity with this format which has the potential to reduce onboarding time, ease administrative burden, and mitigate the risk of data submission errors. Further, the APCD Council and several states, including Colorado, draw from the CDL as their standard data submission guide ensuring that West Virginia will have a substantial support network should issues arise. Lastly, when states are collecting comparable data in a similar manner, multi-state analyses become possible, illuminating opportunities for improvement which may not be apparent at the individual state level.

The APCD Council applauded the decision to incorporate the APCD-CDL® as the core structure with field names, definitions, and formats. The decision to use APCD-CDL® will align West Virginia's data collection with other states and the effort to improve data collection and use.

Using a common layout has two primary benefits: 1) reducing the burden on data suppliers and making data submission more efficient, and 2) increasing the usefulness of the data for multi-state comparisons, including regional or multi-state benchmarking and research projects.

Response:

DHHR agrees that use of the Common Data Layout (CDL) format for standardization of West Virginia's APCD data collection is important. Uniform data formats enable WV to compare analysis results with those of other states. Use of standard data definitions contributes to improved data quality, and lastly, standardization reduces APCD compliance costs for insurance carriers who operate and must submit data in multiple states.

Comment:

While ensuring data privacy, the creation of a unique "Person ID" allows for longitudinal analysis both over time and across payers, which is critical to ensuring West Virginia can accurately track cost of care, condition prevalence, utilization trends and more. Creating unique Person IDs will also improve West Virginia's ability to assess the APCD's completeness and is critical for common analytics. Further, this data will allow for West Virginia to better evaluate access to care based on the geographic location of patients and the providers they seek services from.

Another commenter stated that they were encouraged to see direct identifiers included, with appropriate protections. The primary value of an APCD is longitudinal analysis, including inpatient, ambulatory, pharmacy, and other services. Consistent internal identifiers are necessary to unlock the full potential of APCDs, especially considering many patients change enrollment coverage and providers over time.

The creation of robust internal identifiers depends on the ability to differentiate among patients, such as through the creation of a master person index (MPI) or hashed identification numbers. The internal

identifier (index number) does not necessarily need to identify the person directly, but does need to be able to connect all records for each patient internally in a consistent way. We believe the proposed approach accomplishes that objective in a way that can conceal the identity of individuals.

Response:

DHHR agrees that person IDs are important for efficient utilization of the data. An important strength in use of claims data is the ability to observe trends over time; however, unique identifiers are needed for many types of studies because individual addresses change, insurance coverage changes and (for a subset of women) names change over time. Without unique IDs it is difficult to conduct analyses on the health needs of persons with conditions with long term effects such as long COVID, diabetes and neonatal abstinence syndrome. An encrypted person ID allows analyses of care over time and across payer types providing a more complete understanding of existing treatment and opportunities for improvement.

Comment:

A recommendation was made that the APCD data collection be designed to accommodate West Virginia's unique data needs through intentional and appropriate collaboration and engagement with a variety of potential users and partners.

Response:

DHHR agrees with this and in 2021 established a multi-stakeholder APCD Advisory Board.

Comment:

Establishing review committees and other process controls can help limit the use and release of any and all data, ensuring sensitive data is only used when proven to be compliant with state and federal privacy laws. This approach enforces strict requirements for use of the data without sacrificing analytic capabilities that are unique to APCDs.

Response:

DHHR agrees and will work with the APCD Advisory Board to further refine processes for the control of APCD data use and compliance with state and federal privacy laws.

Comment:

I am 100% opposed to the All-Payer Claims Database. This is an overreach of government. Do not implement this program in any form. My personal health information (PHI) does not belong in the hands of the government.

Response:

DHHR has reviewed this and a similar comment and disagrees. APCD data collections are created for secondary use of information from claims (not medical records) already created by public and private health plans for the payment of health care services. In West Virginia, approximately 60% of APCD claims are created by government entities paying for services through the Medicaid and Medicare programs. Many other states have already demonstrated that this valuable resource of health information can be safely and responsibly used for the public good.

Comment:

The law requires that the APCD Submission Manual include "Specifications based on existing standards for claims transaction developed and maintained by standards development organizations, the NAHDO, or the APCD Council."

The proposed regulation calls for using the APCD-CDL where claims data is reported at the line level and does not have a response file to acknowledge acceptance/rejections of claims. The better format for West Virginia to use would be NCPDP's Post Adjudication History and the suite of X12 transactions:

Post Adjudication Claims Data Reporting (PACDR) 837P, 837I, 837D
Plan Member Reporting 834
Data Reporting Acknowledgement 277
Health Care Claim Payment/Advice 835 (HIPAA)

The Post Adjudication Claims Data Reporting (PACDR) 837P, 837I, 837D align very well and directly with the HIPAA Standard Transactions 837s and 835s that payers who will be the submitters already use. This makes it very easy to understand the data definitions and makes mapping easy. This can also be said for the NCPDP Post Adjudication History which aligns with the submitted claims PBMs receive.

The Plan Member Reporting 834 was mainly created for data submission to reporting agencies like All Payer Claim Databases. A nice feature of this guide is that very large submissions can be broken into multiple files which can make processing easier on both the sender and the receiver. I have heard from someone at the New York All Payer Database that it was much easier, and quicker, for them to process smaller files than very large files, even if the very large files were within their 50MB file size max.

The Data Reporting Acknowledgement 277 is based upon the 277CA which many payers and clearinghouses currently use. It was created to allow for acknowledging (accepting or rejecting) at a claim level. It also has a concept which the 277CA does not have, being able to report warnings or soft edits where a claim is accepted but does not pass an edit which is not enough for the claim to be rejected. The New York All Payer Database has used these warnings or soft edits for a period of time before rejecting claims to allow submitters to know which claims would be rejected in the future so that they can address the cause of the future rejection before it is turned on. I believe that the proposed regulation talks about files being accepted or rejected for 'correct format', not claims within a file which could be accepted or rejected for data requirement including business edits. X12 also has the 999 Implementation Acknowledgement for Health Care Insurance which can report problems in format.

X12 has announced that the above guides will be recommended to NCVHS to be adopted as Standard Transactions (<https://x12.org/news-and-events/x12-recommendations-to-ncvhs>). New York's All Payer Database and Ohio Medicaid are using these guides.

The Health Care Claim Payment/Advice 835 could be used for reporting of non-claim based payments from payers to providers. Payers already are using the HIPAA 835 to report non-claim based payments to providers for things such as capitation, interest, bonus payments, etc. This type of reporting is currently a gap of the APCD-CDL. NAHDO is currently working with X12 to see if there are ways to improve the HIPAA 835 to better facilitate using the 835 for reporting non-claim based payments to APCDs.

Each of the above guides, for both X12 and NCPDP, can be run against off the shelf commercial validation software to ensure compliance with the published standards. There is also commercially available mapping software for these. Also, each of these guides would meet the legal requirement as they are existing standards by SDOs.

Response:

DHHR has reviewed the comment and disagrees. The suggested transactional formats are helpful for managing transactions between payers and providers, e.g., billing, verifying eligibility, making payments, etc. However, only one state uses information in this format as the input for their APCD. Payers often don't maintain historical data in original transactional formats, and once processed, they store data in alternative formats that are easier to analyze. The 835 and 837 notifications do not have a one-to-one

relationship and are processed and matched by payers in different ways. Submission of already matched data in a common format (APCD-CDL) reduces the potential for error, work required to standardize data across payers in the APCD, and the cost of compliance for payers. All APCDs except one collect post adjudicated claims data from payers in a standard flat file format similar to the APCD-CDL. This includes commercial payers/insurance plans, state Medicaid agencies, and Medicare Advantage plans. CMS does not offer or make Medicare FFS claims data available to states in the original transactional formats cited in the comment.

Comment:

We advocate for data submission guide changes no more than once a year. States should consider significant updates (including expansion of data collection activity, new data elements, etc.) through statutory changes as opposed to regulatory or sub-regulatory guidance.

Response:

DHHR agrees with the comment limiting data submission changes to no more than once a year, which would sync up with the Legislative schedule for amending statutes and rules.

Comment:

We support the requested quarterly reporting frequency. However, we think the CSV file format preference will make this overly cumbersome.

Response:

DHHR has reviewed the comment and disagrees that the CSV file format will make data submissions overly cumbersome. National insurance carriers routinely submit APCD files using CSV or similar formats in many states.

Comment:

We appreciate that DHHR is not expecting ethnicity data to be reported and has intentionally left that field blank on the furnished CDL. Payers along with providers, consumers, patients, and other state and federal policymakers all play an important role in collecting and sharing demographic data. Payers are frequently challenged in collecting ethnicity data due to statutory and regulatory restrictions/prohibitions; the reluctance by employers to share employee demographic data; and due to the voluntary, self-identification and disclosure of the data by consumers. The insurance industry is currently working with health care system partners on developing approaches for the collection, and the standardization, of race, ethnicity, and language (REL) data. We welcome the opportunity to keep you informed and updated on that work.

Response:

DHHR acknowledges this helpful and informative comment.

Comment:

One comment expressed concerns regarding the unknown potential uses of data submitted for the APCD. Also, that a portion of the APCD statute (W. Va. Code §33-4A-4(d)) seem to suggest there may be instances where identifiable data could be released to third parties, and the decision to release this data would be at the sole discretion of the Secretary and the Commissioner. Further, the last sentence states that any use by the Secretary or Commissioner would not constitute a "disclosure."

Response:

The WV APCD statute specifies that the data be used broadly and for the general benefit of the public to conduct public health analyses, conduct program analyses, review health care utilization, evaluate health

care delivery and expenditures in West Virginia, conduct academic research, and enhance the ability of consumers to make informed and cost-effective health care decisions.

The WV APCD statute prohibits DHHR from disclosing information that includes personal identifiers (for example names, addresses, or Social Security numbers). The last part of the section in the Code referenced in the comment states “*Use of the data by the secretary and commissioner shall not constitute a disclosure.*” DHHR does not interpret this to mean that the secretary or commissioner are allowed to disclose identifiable information contained in the APCD.

Comment:

The Submission Manual was not developed by the Secretary prior to the initial request for data as required by W. Va. Code Rule §114A-1-4.

Response:

The dataset requested in December 2020 was specifically to study the effects of COVID-19 on the state population. While the dataset was similar to the data described in the APCD statute, it was not requested pursuant to, nor as part of, the APCD submission manual under development at the time. Updating the APCD statute and subsequently updating the APCD rules has followed the rule-making cycle established by the Legislature.

Comment:

Administrative burden will result if insurers have to discard their existing data sets and/or convert them into the CDL format as outlined in the proposed Rule.

Response:

DHHR agrees that conversion to the CDL format may result in a one-time administrative burden to commercial insurance plans in WV. After the initial conversion to this format subsequent costs for submission of data will be greatly reduced. All states with APCD data collections go through the initial costs of implementing a standard format at the start of the program because each insurance carrier uses somewhat different data formats. Standardization of data across public and private insurance carriers is an important step toward creation of an APCD data collection. In fact, it is what makes use of data from different sources possible. The CDL was developed by the APCD Council (<https://www.apcd-council.org/apcd-common-data-layout-apcd-cdl%20%84%20>) with input from an advisory committee of volunteer state agencies, payers, and vendors. On a biennial cycle requests for changes are accepted and reviewed, and corrections made as needed.

Use of the national CDL format reduces the burden on insurance carriers that are submitting data to APCDs in multiple states, and increases the usefulness of the data for multi-state comparisons, including regional or multi-state benchmarking and research projects. Existing, older data will either continue to be used in its current format or converted into the CDL format by DHHR, but the burden for conversion of older data will not be placed on WV insurance carriers.

Comment:

One commenter expressed concern about under what circumstances identifiable data could be released and that this creates a risk for the disclosure of identifiable information that could drive the development of policies that may have discriminatory or disparate impact on West Virginians.

Response:

DHHR disagrees that there may be circumstances when identifiable APCD data could be released or that disclosure of identifiable information could drive the development of policies that may have discriminatory or disparate impact on West Virginians.

The WV APCD statute prohibits DHHR from disclosing information that includes personal identifiers (for example names, addresses, or Social Security Numbers). Many states have utilized APCD data to identify disparities in health care delivery and identify disparate health outcomes in vulnerable populations that would not otherwise been recognized. This information can be utilized to guide state efforts toward programs to improve the health of all West Virginians.

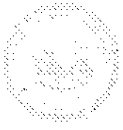
Comment:

Concern was expressed that the minimum necessary requirements under the HIPAA Privacy Rule cannot be satisfied when an insurer is required to provide an almost unlimited data set containing identifiable data without a clear and specific explanation of the purpose(s) for which the data will be used.

Response:

The “minimum necessary” component of the HIPAA Privacy Rule requires that covered entities take reasonable steps to limit the use or disclosure of protected health information to the minimum necessary to accomplish the intended purpose. DHHR disagrees that the submission of data for the WV APCD data are subject to the federal HIPAA Privacy Rule’s “minimum necessary” requirement because that standard does not apply to uses or disclosures that are required by law. (Guidance from the DHHS Office of Civil Rights at [Minimum Necessary Requirement HHS.gov](http://www.hhs.gov/minimum-necessary-requirement)) DHHR recognizes that general restrictions on use of protected health information to the minimum necessary is an accepted good practice. DHHR is responsible for the stewardship of large collections of protected health information from multiple public programs administered by the agency, and policies have been in place for decades to limit access and use of all sensitive data to the minimum necessary required.

The WV APCD statute specifies that the data be used broadly and for the general benefit of the public to conduct public health analyses, conduct program analyses, review health care utilization, evaluate health care delivery and expenditures in West Virginia, conduct academic research, and enhance the ability of consumers to make informed and cost-effective health care decisions.



Robertson, April L. <april.l.robertson@wv.gov>

114A-03 Comments

1 message

Christopher Gracon <Christopher.Gracon@independenthealth.com>
To: "april.l.robertson@wv.gov" <april.l.robertson@wv.gov>

Thu, Jul 21, 2022 at 12:13 PM

I would like to submit comments on 114A-03 All-Payer Claims Database – Submission Manual based upon my experience as a submitter to the New York All Payer Database.

The law requires that the Submission Manual include "Specifications based on existing standards for claims transaction developed and maintained by standards development organizations, the NAHDO, or the APCD Council."

The proposed regulation calls for using the APCD-CDL where claims data is reported at the line level and does not have a response file to acknowledge acceptance/rejections of claims. The better format for West Virginia to use would be NCPDP's Post Adjudication History and the suite of X12 transactions:

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If you have any questions or clarifications needed about my comment please do not hesitate to contact me.

Christopher Gracon

Solution Architect

Independent Health

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Robertson, April L. <april.l.robertson@wv.gov>

I am opposed to the All-Payer Claims Database

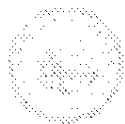
1 message

Anthony Hammer <adhammer94@gmail.com>

Mon, Jul 25, 2022 at 11:19 PM

To: april.l.robertson@wv.gov

I am 100% opposed to the All-Payer Claims Database. This is an overreach of government. Do not implement this program in any form. My personal health information (PHI) does not belong in the hands of the government.



Robertson, April L. <april.l.robertson@wv.gov>

I am opposed to the All-Payer Database

1 message

John Holstein <johnholstein@gmail.com>

Mon, Jul 25, 2022 at 11:20 AM

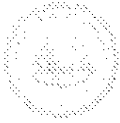
To: april.l.robertson@wv.gov

Cc: Steve Connolly <steve.conn70@yahoo.com>

I am 100% opposed to the All-Payer Claims Database. I feel this is an overreach of government. Please do not implement this program in any form. My personal health information (PHI) should not be in the hands of the government.

Respectfully,

—
John Holstein



Robertson, April L <april.l.robertson@wv.gov>

CIVHC Comments Re: Title 114 A, Legislative Rule Department of Health and Human Services and Office of the Insurance Commissioner - Series 3 All-Payer Claims Database Submission Manual

1 message

Dustin Moyer <DMoyer@civhc.org>
To: "april.l.robertson@wv.gov" <april.l.robertson@wv.gov>
Cc: Paul McCormick <PMcCormick@civhc.org>

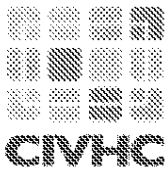
Tue, Jul 26, 2022 at 1:20 PM

April Robertson
General Counsel
West Virginia Department of Health and Human Services

Ms. Robertson,

Please find attached Center for Improving Value in Healthcare's comment letter in response to West Virginia Department of Health and Human Services All-Payer Claims Database Submission Manual.

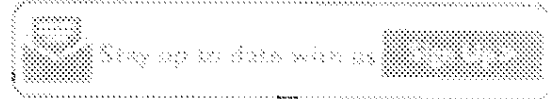
Please don't hesitate to reach out with any questions. Thank you.



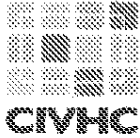
CENTER FOR IMPROVING
VALUE IN HEALTH CARE



Dustin Moyer (he/him)
Director of State Initiatives
C: 785.865.8111 O: 303.268.6403
Center for Improving Value in Health Care



CIVHC_WV Proposed Data Submission Manual Comments_July 26, 2022.pdf
152K



CENTER FOR IMPROVING
VALUE IN HEALTH CARE

4500 CHERRY CREEK DRIVE S., STE. 350 | DENVER, COLORADO 80246
PHONE 720.589.2095 | FAX 720.549.3189 | WWW.CIVHC.ORG

Bill J. Crouch
Cabinet Secretary
West Virginia Department of Health and Human Services

Re: Title 114 A, Legislative Rule Department of Health and Human Services and Office of the Insurance Commissioner - Series 3 All-Payer Claims Database Submission Manual

Secretary Crouch,

Center for Improving Value in Health Care (CIVHC) is pleased to submit the following comments on West Virginia's proposed All-Payer Claims Database (APCD) Data Submission Manual (DSM). The manual and technical specifications are a critical foundation for collecting and using statewide claims-based data and these comments are based on CIVHC's decade of experience in APCD development, enhancement, and analytics.

CIVHC is an objective, not-for-profit organization that works to advance the Triple Aim through services, health data collection, and analytics. In 2010, the Executive Director of the Colorado Department of Health Care Policy and Financing (HCPF), Colorado's Medicaid office, appointed CIVHC the Administrator of the Colorado All Payer Claims Database (CO APCD). Today, the CO APCD is the state's most comprehensive claims data set representing the majority of insured lives in Colorado and including all major commercial payers, Medicaid and Medicare.

As an organization, CIVHC believes the expanded prevalence of state APCDs, and ability to analyze and benchmark information across states in a standardized way is an important step in realizing our mission to advance the Triple Aim of better health, better care, and lower costs. As such, CIVHC supports the proposed Data Submission Manual with Technical Specifications for West Virginia's All-Payer Claims Database, including two specific provisions of the proposed Manual:

1. Alignment with the Common Data Layout (CDL)

By aligning data submission to the CDL, West Virginia ensures the data it collects will maintain a high degree of integrity in a format accepted by payers, researchers, and providers across the country. National payers have familiarity with this format which has the potential to reduce onboarding time, ease administrative burden, and mitigate the risk of data submission errors. Further, the APCD Council and several states, including Colorado, draw from the CDL as their standard data submission guide ensuring that West Virginia will have a substantial support network should issues arise. Lastly, when states are collecting comparable data in a similar manner, multi-state analyses become possible, illuminating opportunities for improvement which may not be apparent at the individual state level.

2. Tracking health claims data to the individual level

While ensuring data privacy, the creation of a unique “Person ID” allows for longitudinal analysis both over time and across payers, which is critical to ensuring West Virginia can accurately track cost of care, condition prevalence, utilization trends and more. Creating unique Person IDs will also improve West Virginia’s ability to assess the APCD’s completeness and is critical for common analytics. Further, this data will allow for West Virginia to better evaluate access to care based on the geographic location of patients and the providers they seek services from.

Finally, CIVHC recommends that APCD data collection be designed to accommodate West Virginia’s unique data needs through intentional and appropriate collaboration and engagement with a variety of potential users and partners. For example, in Colorado, CIVHC works with legislators, state agencies, researchers, providers, payers and more to understand their needs, and on an annual basis, we update the CO APCD Data Submission Guide accordingly to be able to conduct analyses that will directly support their work. Some recent examples include collection of drug rebate and Alternative Payment Model information to support legislation to reduce prescription drug spending and to enhance access to primary care services.

Lastly, establishing review committees and other process controls can help limit the use and release of any and all data, ensuring sensitive data is only used when proven to be compliant with state and federal privacy laws. This approach enforces strict requirements for use of the data without sacrificing analytic capabilities that are unique to APCDs. CIVHC provides data on both a public and non-public basis and would be happy to share learnings with West Virginia on models that have been successful in our state.

If you have any questions or would like to connect, please contact my colleague, Dustin Moyer, Director of State Initiatives at CIVHC. You can reach him at dmoyer@CIVHC.org.

Paul McCormick
Vice President of Data Operations
Center for Improving Value in Health Care





Robertson, April L. <april.l.robertson@wv.gov>

Public Comment: All-payer Claims Database - Submission Manual

1 message

barry.holstein@gmail.com <barry.holstein@gmail.com>

Wed, Jul 27, 2022 at 11:42 PM

To: april.l.robertson@wv.gov

Ms. Robertson

Please record my opposition to the DHHR submitted rule titled, "All-payer Claims Database – Submission Manual".

I believe the description of data collected exceeds the statutory authority provided in 33-4A-4(d) by collecting and utilizing personal identifiers as part of the implementation and execution of the activities described in this rule.

Data such as social security number, name, address, and member ID should not be collected and utilized in this fashion and violates the intent of the WV code cited.

Thanks

Barry Holstein

5006 Ann Lee Drive

Cross Lanes, WV 25313



Robertson, April L <april.l.robertson@wv.gov>

Comments on WV APCD Submission Guide

1 message

Norm Thurston <nthurston@nahdo.org>

Thu, Jul 28, 2022 at 2:14 PM

To: april.l.robertson@wv.gov

Cc: Charles Hawley <charles@nahdo.org>, "Porter, Josephine" <jo.porter@unh.edu>, "Costello, Amy" <Amy.Costello@unh.edu>, Jonathan Mathieu <jmathieu@freedmanhealthcare.com>

The APCD Council is a National Association of Health Data Organizations (NAHDO) program in partnership with the Institute for Health Policy and Practice (IHPP) at the University of New Hampshire. We are pleased to comment on West Virginia's proposed data submission guide for its All-Payer Claims Database (APCD).

The APCD Council applauds the decision to incorporate the APCD-CDL® as the core structure with field names, definitions, and formats. The decision to use APCD-CDL® will align West Virginia's data collection with other states and the effort to improve data collection and use.

Using a common layout has two primary benefits: 1) reducing the burden on data suppliers and making data submission more efficient, and 2) increasing the usefulness of the data for multi-state comparisons, including regional or multi-state benchmarking and research projects.

The APCD Council is also encouraged to see direct identifiers included, with appropriate protections. The primary value of an APCD is longitudinal analysis, including inpatient, ambulatory, pharmacy, and other services. Consistent internal identifiers are necessary to unlock the full potential of APCDs, especially considering many patients change enrollment coverage and providers over time.

The creation of robust internal identifiers depends on the ability to differentiate among patients, such as through the creation of a master person index (MPI) or hashed identification numbers. The internal identifier (index number) does not necessarily need to identify the person directly, but does need to be able to connect all records for each patient internally in a consistent way. We believe the proposed approach accomplishes that objective in a way that can conceal the identity of individuals.

Norm Thurston & Jo Porter
Co-Chairs of the APCD Council

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*Norman K Thurston, Ph.D.**Executive Director**National Association of Health Data Organizations**801-477-5348 nthurston@nahdo.org**www.nahdo.org*

Robertson, April L <april.l.robertson@wv.gov>



APCD Submission Manual - Written Comment

1 message

Keith Lake <klake@ahip.org>

Thu, Jul 28, 2022 at 2:38 PM

To: "april.l.robertson@wv.gov" <april.l.robertson@wv.gov>

Dear Ms. Robertson,

Attached please find written comments from AHIP on DHHR's APCD Submission Manual Proposed Rule 114A-03. AHIP is a national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day.

I would appreciate it if you could acknowledge receipt of this email and attachment. Thank you.

Sincerely,

Keith Lake

Regional Director, Great Lakes

c 220.212.8008 (Ohio)

AHIP – Guiding Greater Health

ahip.org | Twitter | Facebook | LinkedIn | Instagram



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WV APCD Submission Manual Letter 7_28_22.pdf
132K



601 Pennsylvania Avenue, NW
South Building, Suite 500
Washington, D.C. 20004

t 202.778.3200
f 202.331.7487
ahip.org

July 28, 2022

Ms. April Robertson
General Counsel
West Virginia Department of Health and Human Resources
One Davis Square, Suite 100E
Charleston, WV 25301

Via email: april.l.robertson@wv.gov

RE: AHIP Comments on APCD Submission Manual Proposed Rule 114A-03

Dear Ms. Robertson,

On behalf of AHIP, I write today in response to the West Virginia Department of Health and Human Resources' (DHHR) Proposed Rule 114A-03 on the All-Payer Claims Database (APCD) Submission Manual.

Health insurance providers have long appreciated the value that data, both clinical and claims, can play in enhancing the quality, affordability, and availability of health care. In fact, health plan leadership in price transparency has resulted in the development of cost calculators and price transparency tools to help members choose providers and services based on value.

We appreciate DHHR's consideration of our following comments on the proposed rule.

Database Availability Group Update Frequency

For sub-regulatory guidance updates and changes we advocate for data submission guide changes no more than once a year. States should consider significant updates (including expansion of data collection activity, new data elements, etc.) through statutory changes as opposed to regulatory or sub-regulatory guidance.

Reporting Frequency

We support the requested quarterly reporting frequency. However, we think the CSV file format preference will make this overly cumbersome.

Member Eligibility (ME) File



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We appreciate that DHHR is not expecting ethnicity data to be reported and has intentionally left that field blank on the furnished CDL. Payers along with providers, consumers, patients, and other state and federal policymakers all play an important role in collecting and sharing demographic data. Payers are frequently challenged in collecting ethnicity data due to statutory and regulatory restrictions/prohibitions; the reluctance by employers to share employee demographic data; and due to the voluntary, self-identification and disclosure of the data by consumers. The insurance industry is currently working with health care system partners on developing approaches for the collection, and the standardization, of race, ethnicity, and language (REL) data. We welcome the opportunity to keep you informed and updated on that work.

Medical Claim (MC) Files

The DHHR has requested MC files to contain a header record. Creating a new header record for medical claims is unnecessary, as the current MC file is already at a line level and contains all the fields at header and line levels. If fields are removed from the current layout or the selection criteria is updated to select a fewer number of claims, the current file size can be reduced. The requested header record change would represent a substantial increase in administrative effort and burden.

Additionally, the DHHR is not requesting PC070 – Prescriber Specialty and PC071 – Pharmacy City on the Pharmacy Claims layout. We are unsure if this is intentional as these are common data points.

Thank you for your consideration of our comments. Please do not hesitate to contact me at klake@ahip.org should you have any questions.

Keith Lake
Regional Director, State Affairs
America's Health Insurance Plans
klake@ahip.org

AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit www.ahip.org to learn how working together, we are Guiding Greater Health.



Robertson, April L <april.l.robertson@wv.gov>

All-Payer Claims Database - Submission Manual 114-A03 Comments

1 message

Sawyer, Amy M (Highmark Inc) <Amy.WallaceSawyer@highmark.com>
To: "april.l.robertson@wv.gov" <april.l.robertson@wv.gov>
Cc: "Rogers, Courtney N (Highmark West Virginia Inc)" <Courtney.Rogers@highmark.com>

Thu, Jul 28, 2022 at 4:41 PM

Ms. Robertson,

Please find Highmark WV's comments in the attached documents. The second PDF is the enclosure referenced within the first PDF. Please feel free to contact me with any additional questions or concerns.

Regreifully, we experienced some computer/power outages this afternoon, so my apologies for the delay.

Many thanks,

*Amy M. Sawyer***Health Policy Director**

Highmark Inc.



120 5th Avenue

Pittsburgh, PA 15222-3099

Work 412.544.2455

Call 860.798.9247

Fax 412.544.5318

2 attachments **APCD Proposed Rule - Submission Manual - HWV Comment 72822.pdf**
200K **DHHR to HWV 20201218_APCD Data_Request.pdf**
271K



July 28, 2022

Ms. April Robertson
General Counsel
West Virginia Department of Health and Human Resources (DHHR)
One Davis Square
Suite 100E
Charleston, WV 25301
Via email: April.l.robertson@wv.gov

RE: Highmark West Virginia Inc. Comments on APCD Submission Manual Proposed Rule 114A-03

Dear Ms. Robertson,

I write on behalf of Highmark West Virginia Inc. ("Highmark WV") in response to the West Virginia Department of Health and Humans Resources' ("DHHR") Proposed Rule 114A-03 on the All-Payer Claims Database ("APCD)" Submission Manual (the "Rule").

Highmark WV appreciates the DHHR's consideration of the following comments and concerns with the proposed Rule.

On December 15, 2020, Highmark WV received a letter from Secretary Bill Crouch seeking the submission of a dataset for the years 2013-2019, noting that the requested data was of a "similar type to that described under legislation passed in West Virginia Senate Bill No. 350 concerning development of an All-Payer Claims Database (APCD)."¹ The letter also provided a "data elements/fields" listing. The stated purpose of the data request was to examine population health trends predating the COVID-19 pandemic to develop statistical models to measure the effects of COVID-19. The initial analysis, while focused on pre-pandemic data, was expected to be expanded to include data from 2020 once available. Of note, carriers were advised that "[N]o direct identifiers such as name, address or phone numbers are being requested for this work."

Highmark WV immediately began working with the DHHR's designated contact, Dr. Carol Stocks, to prepare the requested dataset. Highmark WV secured internal resources to assess risks related to Privacy and data management, and prepared and worked with DHHR to execute the necessary data usage and disclosure agreements. Highmark WV engaged the services of its vendor, HMHS, for purposes of designing

¹ See *DHHR Letter to Highmark WV*, dated 12/15/2020.

and then building a database customized to standards provided by DHHR and met regularly with Dr. Stocks and representatives from DHHR.

In the months following there were discussions regarding how the APCD data may be used in the future, which included purposes beyond the initial COVID-related data request. However, no additional data requests were made to Highmark WV and such discussions appeared to be more aspirational in nature and secondary to the task of completing the data set being built by Highmark WV and HMHS. What became clear, though, as time went on was that the DHHR was no longer focused on just the COVID-related data set and associated time period, and instead the DHHR was expecting insurers to provide regular, quarterly data that would comprise the APCD and that the DHHR would utilize this data for research initiatives, the focus of which have not been clearly communicated to Highmark WV. So, it was Highmark WV's understanding since early 2021 that it was building a data set that would flow into the APCD, rather than building a data set responsive to the initial COVID-related request.

As will be noted later, Highmark WV has a substantial interest in ensuring its member and provider data are protected and only used for legitimate purposes notwithstanding the fact that said data is being requested pursuant to a statutorily-created authority in favor of a state entity. Accordingly, Highmark WV has significant concerns regarding the unknown potential uses of any data it is expected to provide in this instance.

It is important to note that since Highmark WV began implementation measures to satisfy the initial data request and despite requests from Highmark WV for a submission manual or other formal guidance related to submission of data, a "Submission Manual" was never developed by the Secretary as required by W.Va. Legislative Rule § 114A-1-4 prior to the initial request for data or in the months following.² Highmark was advised that a manual did not exist and was not expected to be created in the near future. Thus, Highmark WV's sources of truth for what the dataset should include and how to submit said data was the previously mentioned "data elements/fields" listing and discussions with various representatives from DHHR. The data elements/fields listing has been modified frequently over the course of the last nineteen months.³ Essentially, the parties have been "building the plane"

² "Submission Manual" is defined in the Legislative Rule as follows: "Submission Manual" or "Manual" means the legislative rule promulgated pursuant to subsection 4.2. of this rule that sets forth the required data file format, data elements, code tables, edit specifications, thresholds required for a submission to be deemed complete, methods for submitting data, submission schedules, and other information associated with the data submitters' submission and reporting duties. W.Va. Leg. R. § 114A-1-2.20 (2022).

³ The "data elements/fields listing" document is now part of a Business Requirements Document ("BRD") that details the expectations of the parties and relevant requirements as they relate to scope and submission of the data.

as we were flying it, with Highmark WV and its vendor, HMHS expending significant effort, time, and costs to build a satisfactory data set. While the working relationship of the parties has always been very collaborative and positive, the implementation process has not been without frustration which could have been minimized had there been a Submission Manual *prior to* the commencement of the existing data set build. That the Submission Manual is coming at such a late date further complicates the ongoing efforts and risks causing additional delay.

Highmark WV's first notification of the existence of the proposed Rule was on June 30, 2022. The undersigned immediately reviewed the Rule with internal stakeholders and determined it made no accounting of, nor provided any consideration for, the nearly two years of work Highmark WV had expended which raises more questions than it answers, as will be addressed in the following paragraphs.

Highmark WV's Existing Data Set as Compared to the Proposed Rule's Requirements:

A comparison of the parties' existing business requirements document ("BRD") with the proposed Rule reveals many significant differences. As such, it raises concerns the DHHR is expecting insurers to submit an entirely different data set and/or discard its existing data set and ongoing efforts to now shift focus to the standards outlined in the proposed Rule. If this is the expectation, it is indisputable that the building of a new data set will create a significant burden for all insurers, both operationally and financially.

The existing Highmark WV data set has been in the testing phase for a several weeks. Highmark WV and HMHS have extensively coordinated with IBM and DHHR representatives to resolve data field issues and to ensure IBM's systems can receive and digest the test data. Highmark WV is very close to completing the implementation phase and will soon be able to provide regular, quarterly data to IBM for use in the APCD. Again, Highmark WV's existing data set is not limited to just COVID-related CPT Codes and associated member and provider data, and instead will be inclusive of all relevant claim fields, including service lines, irrespective of the services rendered as agreed per the BRD.

To illustrate the administrative burden that will result if insurers have to discard their existing data sets and/or modify them as outlined in the proposed Rule, only three (3) of the proposed Rule's fourteen (14) appendices match Highmark WV's existing data set. The proposed Rule also includes data that was deemed out of scope per the BRD, such as membership, provider data and claims data for Medicare, Medicaid and dental products. File formatting requirements and naming conventions are also different. It would require a huge effort and significant resources to modify the existing data set and to add new categories of data.

While Highmark WV's existing data set does contain a lot of the information being sought in the proposed Rule, significant modification will nonetheless still be required. Further, it appears that the proposed Rule ignores the existence of this data set and the potential for it to satisfy the APCD Statute's stated purpose and goals. Accordingly, Highmark WV seeks clarification as to whether the DHHR, in drafting the proposed Rule, accounted for the already-expended efforts of insurers, and how the DHHR will utilize their existing data sets, if at all, including the categories of data, and submission guidelines previously agreed to by DHHR and the parties' respective vendors. Highmark WV would recommend incorporating previous work into this new proposal to reduce the administrative work and implementation timeline to essentially redo what has already been done.

Uses for APCD Data:

As noted above, Highmark WV has not been given a clear understanding of the potential uses or purposes for which submitted data shall be used. While Highmark WV understands the general intended purpose of the APCD is to "support public health improvement, evaluate the performance of state programs, review health care utilization, expenditures and performance in the state, support academic research, and enhance the ability of consumers to make informed and cost-effective decisions," Highmark WV has a substantial interest in ensuring its member and provider data are protected and only used for legitimate purposes. Highmark WV has concerns that the lack of clarity offered to-date as to potential uses and under what circumstances identifiable data could be released creates a risk for the disclosure of identifiable information that could drive the development of policies that may have discriminatory or disparate impact on West Virginians. Additionally, if the APCD data is to be used to support public health, evaluate the performance of state programs, while also reviewing utilization and cost, it is unclear why the collection of personally identifiable information is warranted since such information is not necessary for these purposes. Rather, it creates the risk of personal information along with the individual's health status being exposed.

Highmark WV does not believe that the minimum necessary requirements under the HIPAA Privacy Rule are satisfied when an insurer is required to provide an almost unlimited data set containing identifiable data without a clear and specific explanation of the purpose(s) for which the data will be used. Members and providers are accustomed to certain federal privacy protections with regard to the data generated in the course of their relationship with the insurer; while there is an exception under HIPAA for research, this does not confer a blanket exemption to permit all manner of uses that may potentially fit under the umbrella of the APCD's general intended purpose.⁴ Highmark WV would suggest insurers be provided with a

⁴ The Department of Health and Human Services (HHS), in the Common Rule (Exemption 5), has stated the applicable research is to study, evaluate, improve, or otherwise examine public benefit or public service programs if the research is conducted by a federal department or agency or is

schedule of planned research inquiries rather than have a general submission requirement, with an option to request its data not be used for a particular inquiry, subject to the APCD Board and/or DHHR and OIC approval, which shall not be unreasonably withheld.

Lastly, W.Va. Code § 33-4A-4(d) provides in pertinent part,

"(d) Notwithstanding any other provision of law to the contrary, the APCD may not disclose any data that contain personal identifiers. The secretary, in accordance with procedures and standards set forth in legislative rule, may approve access to data elements not prohibited from disclosure by the APCD, as well as synthetic or created unique identifiers, for use by researchers, including government agencies, with established protocols for safeguarding confidential or privileged information. Use of the data by the secretary and commissioner shall not constitute a disclosure." (Emphasis added).

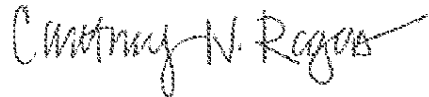
The last two sentences seem to suggest there may be instances where identifiable data could be released to third parties, and the decision to release this data would be at the sole discretion of the Secretary and the Commissioner. Further, the last sentence states that any use by the Secretary or Commissioner would not constitute a "disclosure" which raises concerns for Highmark WV that these uses, which otherwise are likely to be subject to the HIPAA Privacy Rule, as an example, may not be afforded appropriate protections guaranteed under various federal and/or other state statutes.

Highmark WV suggests the proposed Rule be modified to include additional provisions to clarify what is meant by these two sentences and to provide insurers with a level of comfort that any data disclosed or used as part of the APCD and any research initiatives, regardless of the party initiating the research, will always be de-identified. Again, insurers have a significant interest in ensuring member and provider data is appropriately safeguarded and utilized only for legitimate purposes.

supported by a federal department or agency (such as through a grant). See the Revised Common Rule, 45 CFR § 46.104(d)(5) (2022). In April 2021, the undersigned inquired as to whether there was funding available to offset the costs of preparing data for submission to the APCD. I was advised that there may be funding available through the No Surprises Act, but it was uncertain as to how it would be distributed and when. The Departments of Labor and HHS were noted to be managing this potential source of funding and guidance would hopefully be released in the coming months. Highmark WV was further advised that it was the goal of the APCD to make participation sustainable for insurers. However, Highmark WV is unaware of the status of any guidance and whether such monies remain available or were in fact earmarked for the West Virginia APCD to alleviate some of the financial burden for insurers.

Highmark WV thanks you for your consideration of its comments. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Courtney N. Rogers". The signature is written in a cursive style with a long horizontal stroke at the end.

Highmark West Virginia Inc.
WVSB No. 11616
(304) 424-7187
courtney.rogers@highmark.com

Enclosure



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Bill J. Crouch
Cabinet Secretary

December 15, 2020

James L. Fawcett
Market President
Blue Cross Blue Shield of West Virginia,
Highmark Inc.
614 Market Street
Parkersburg, West Virginia 26101

Dear Mr. Fawcett,

The West Virginia Department of Health and Human Resources (DHHR) respectfully requests the submission of a Highmark Health (Highmark) dataset for the years 2013-2019. The data requested is of similar type to that described under legislation passed in West Virginia Senate Bill No. 350 concerning development of an All-Payer Claims Database (APCD). A list of the requested data elements/fields is enclosed with this letter.

The requested Highmark dataset will be used to study the effects of COVID-19 on the West Virginia population. Initial analyses will examine population health trends (2013-2019) leading up to the introduction of COVID-19 into the West Virginia population, and facilitate development of statistical models to measure COVID-19 effects. This work will make it possible to begin immediately when a full year of 2020 data becomes available. The data may also be used for evaluation of policies implemented in response to COVID-19 (e.g., utilization of telehealth technology). No direct identifiers such as name, address or phone numbers are being requested for this work.

Dr. Carol Stocks from my staff is the DHHR designated contact for this initiative and I respectfully request you provide an appropriate contact with whom she can correspond. I appreciate your attention to this request. Should you have any questions or concerns, please do not hesitate to contact Dr. Stocks at Carol.L.Stocks@wv.gov.

Sincerely,

A handwritten signature in black ink that reads "Bill J. Crouch".

Bill J. Crouch