

## CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)

### TRADING PARTNER AGREEMENT

For Use of the Medicare HIPAA Eligibility Transaction System (HETS) to Conduct the Health Care Eligibility Benefit Inquiry and Response

This Trading Partner Agreement (“Agreement”) is made as of \_\_\_\_\_ between the Centers for Medicare & Medicaid Services and \_\_\_\_\_.

The Trading Partner (also known as the Submitter), intends to conduct eligibility transactions with CMS in electronic form. Both parties acknowledge and agree that the privacy and security of data held by or exchanged between them is of utmost priority. Each party agrees to take all steps reasonably necessary to ensure that all electronic transactions between them conform to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations promulgated thereunder. Unless defined herein, all terms have the same meaning as in the regulations promulgated to implement the Administrative Simplification provisions of HIPAA at 45 CFR Parts 160-164.

### PAPERWORK REDUCTION ACT (PRA) DISCLOSURE STATEMENT

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is **0938-0960**. The time required to complete this information collection is estimated to average 15 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850. **Please do not send applications, claims, payments, medical records or any documents containing sensitive information to the PRA Reports Clearance Office. Please note that any correspondence not pertaining to the information collection burden approved under the associated OMB control number listed on this form will not be reviewed, forwarded, or retained. If you have questions or concerns regarding where to submit your documents, please contact the MCARE Help Desk at 1-866-324-7315 or [mcare@cms.hhs.gov](mailto:mcare@cms.hhs.gov).**

#### I. BACKGROUND

The Centers for Medicare & Medicaid Services (CMS) is committed to maintaining the integrity and security of health care data in accordance with applicable laws and regulations. Disclosure of Medicare beneficiary eligibility data is restricted under the provisions of the Privacy Act of 1974 (Privacy Act) and HIPAA. The Medicare beneficiary eligibility transaction is to be used for conducting Medicare business only.

In its administration of the Medicare Fee-For-Service (FFS) program, CMS is a covered entity under the HIPAA rules. This Trading Partner Agreement serves to identify entities external to CMS that will exchange HIPAA compliant electronic transactions with CMS software applications. The HIPAA Eligibility Transaction System (HETS) supports the ASC X12 270/271. The information collected by the HETS system will enable CMS and the Trading Partner to establish connectivity, define the data exchange requirements, and stipulate the responsibilities of the entities receiving CMS-supplied beneficiary eligibility information.

## **II. AUTHORIZED USES**

Medicare eligibility data are only to be used for Medicare business done on behalf of Medicare FFS providers, including preparing accurate Medicare claims or determining eligibility for specific services. Authorized and unauthorized uses are provided in the HETS Rules of Behavior referenced in Appendix A, available on the CMS website, and incorporated by reference herein.

Trading Partners cannot electronically store or reuse Medicare beneficiary protected health information (PHI) obtained from HETS, except for the following purposes expressly authorized by CMS:

- To maintain an historical account of processing activity
- In accordance with procedures (e.g., routine system backups) to support data restoration in the event of a disaster
- To update patient account records in the record management system of the FFS Medicare provider requesting the data

Any data storage by Trading Partner or its Business Associates, as defined by 45 CFR §160.103, must be compliant with the HETS Rules of Behavior.

## **III. System Integrity**

CMS monitors beneficiary eligibility inquiries. Submitters demonstrating behavior that suggests improper use of the data (e.g., high inquiry error rate or, for provider submitters, high ratio of eligibility inquiries to claims submitted) may be suspended, placed on a corrective action plan (CAP) or, when appropriate, be referred for investigation. Civil and/or criminal enforcement may be pursued where appropriate.

## **1. HIPAA Violation**

The U.S. Department of Health and Human Services (HHS) may impose civil money penalties on a covered entity of up to \$50,000 per failure to comply with a Privacy Rule requirement, up to an annual calendar year limit of \$1,500,000 for multiple violations of the identical Privacy Rule requirement. A person who knowingly obtains or discloses individually identifiable health information in violation of HIPAA faces criminal penalties ranging from \$50,000 and up to one-year imprisonment to, in circumstances where the wrongful conduct involves the intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, up to \$250,000 and up to ten years imprisonment. Criminal enforcement is conducted by the Department of Justice.

## **2. Civil False Claims Act Violation and Criminal Violations**

The False Claims Act, [31 U.S.C. §§ 3729-3733](#), provides that one who knowingly submits, or causes another person or entity to submit, false claims for payment of government funds is liable for three times the government's damages plus civil penalties of \$5,500 to \$11,000 per false claim.

Various federal criminal provisions authorize imposition of criminal penalties, including fines and imprisonment, against individuals who, with respect to Government or health care benefit programs, engage in conduct including, but not limited to, falsifying or concealing a material fact or making materially false, fictitious, or fraudulent statement.

## **IV. CONNECTIVITY**

Connectivity to CMS eligibility systems is supported by the use of the Extranet and/or the Internet. A Trading Partner may submit a request using the 270 standard to HETS using Transmission Control/Internet Protocol (TCP/IP) for Extranet access and/ or Simple Object Access Protocol (SOAP) + Web Services Description Language (WSDL) or Hypertext Transfer Protocol (HTTP)/Multipart Internet Mail Extensions (MIME) Multipart communication protocols for public Internet access. Trading Partners are allowed to use both forms of connectivity, but must select a primary approach. For additional information, including connectivity options, refer to the HETS Rules of Behavior. All Submitters shall submit the information required in Appendix B to request connectivity and be compliant with the guidance referenced in Appendix A.

## **V. ASSURANCES**

Provision by CMS of access to HETS, both Extranet and Internet, is subject to Submitter's assurances as set forth below. Access to HETS may be terminated by CMS, without prior notice to the Submitter, in the event that CMS determines based on information from the Submitter or otherwise, that Submitter has not complied with one or more of the assurances hereafter provided by Submitter.

In consideration of the foregoing, and in order to obtain access to the HETS system, the Submitter hereby agrees and assures as follows:

### **All Submitters**

1. Submitter agrees to abide by all applicable federal laws, regulations, and guidance governing access to, and use and disclosure of, CMS data, Protected Health Information (PHI) as defined in 45 CFR §160.103, and Personally Identifiable Information (PII) as defined in OMB Memorandum M-07-16 (May 22, 2007) and understands that individuals or entities may be subject to civil and/or criminal penalties for failing to abide by such provisions.
2. Before initiating any transmission in HIPAA standard 270/271 transaction format, and thereafter through the term of this Agreement, the Trading Partner will cooperate with CMS and any contractors representing CMS in testing of the transmission and processing systems used in connection with CMS as deemed appropriate to ensure the accuracy, timeliness, completeness, and security of each data transmission.
3. Submitter will take reasonable care to ensure that the information submitted in each electronic transaction is timely, complete, accurate, and secure, and will take reasonable precautions to prevent unauthorized access of the party's transmission and processing systems. The Submitter will ensure that each electronic transaction submitted to CMS conforms with the requirements applicable to the transaction.
4. Every Submitter must be an active enrolled Medicare provider or a Business Associate working on behalf of active enrolled Medicare providers before any submission of electronic transactions is allowed. The Submitter agrees to notify CMS when its relationship with a Medicare provider both begins and terminates. Business Associate Submitters are responsible for providing current information about the providers for whom they are submitting transactions in accordance with the HETS Rules of Behavior. CMS reserves the right to confirm the status of a Business Associate relationship with a provider directly.
5. Submitters shall notify CMS of a change in Business Associate representation consistent with the HETS Rules of Behavior.

6. All Submitters must comply with and follow the HETS Rules of Behavior, referenced in Appendix A, in all areas not specifically listed in this Agreement, including how to address making changes to the information supplied in Appendix B.
7. This Agreement shall take effect and be binding on the Trading Partner and CMS when signed by the Trading Partner and reviewed and signed by an authorized CMS representative.
8. Termination or expiration of this Agreement or any other contract between the parties does not relieve either party of its obligations under this Agreement and under federal and state laws and regulations pertaining to the privacy and security of PHI and PII, nor its obligations regarding the confidentiality of CMS proprietary information.

The Authorized Representative whose name is supplied below is authorized to bind the Trading Partner as a HETS Submitter to the undertakings of this Agreement. By completing the section below, you are agreeing that your organization will be in compliance with the provisions of this Agreement.

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Trading Partner Authorized Representative Signature

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Title

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Printed Name of Trading Partner Authorized Signer

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Date Signed

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Telephone Number

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E-Mail Address

## **APPENDIX A**

### **REFERENCES**

#### **HETS Rules of Behavior**

This document details the Submitter's responsibilities in obtaining, disseminating, and using beneficiary's Medicare eligibility data. It further explains the expectations for using HETS. Compliance with these HETS Rules of Behavior is necessary in order to gain and maintain continued access to the system.

<http://cms.gov/Research-Statistics-Data-and-Systems/CMS-Information-Technology/HETSHelp/Downloads/EligibilityTransactionSystemInquiriesRulesofBehavior.pdf>

#### **HETS Companion Guide**

This document defines the Medicare eligibility request sent from Medicare-authorized Trading Partners and the corresponding response from the Medicare Health Insurance Portability and Accountability Act (HIPAA) Eligibility Transaction System (HETS) 270/271 application.

<http://cms.gov/Research-Statistics-Data-and-Systems/CMS-Information-Technology/HETSHelp/Downloads/HETS270271CompanionGuide5010.pdf>

**APPENDIX B**

**INFORMATION REQUIRED TO REQUEST ACCESS FOR THE CONNECTIVITY TO  
THE HIPAA ELIGIBILITY TRANSACTION SYSTEM**

Security Officer Contact Information (Optional):  
(fields marked with \* are optional, all others are required)

\*Name: (Optional) \_\_\_\_\_

\*Title: (Optional) \_\_\_\_\_

\*Telephone number: (Optional) \_\_\_\_\_

\*E-mail address: (Optional) \_\_\_\_\_

Submitter's Information:

Name: \_\_\_\_\_

Legal Business Name: \_\_\_\_\_

Medicare Provider's Name: \_\_\_\_\_

Billing Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Physical Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Technical Representative Name: \_\_\_\_\_

Technical Representative Telephone Number: \_\_\_\_\_

Technical Representative E-mail Address: \_\_\_\_\_

*NPI(s): Note: only one NPI for an active enrolled Medicare provider must be indicated on this form. Any additional NPIs for whom the trading partner submits transactions must be shared with CMS in accordance with item 4 in the Assurances section of the Agreement.*

Please indicate the primary and secondary (if appropriate) forms of connectivity used by the Trading Partner.

Extranet: Yes \_\_\_ No \_\_\_ If yes, Primary \_\_\_ Secondary \_\_\_

If yes, Name of Network Service Vendor (NSV) used \_\_\_\_\_

Internet: Yes \_\_\_ No \_\_\_ If yes, Primary \_\_\_ Secondary \_\_\_

If yes, Message Envelope Used SOAP + WSDL \_\_\_ HTTP MIME Multipart \_\_\_

Trading Partner IP Address (es) for SOAP/MIME transactions:

X.509 Digital Certificate Issuer Name: \_\_\_\_\_

X.509 Digital Certificate Type: \_\_\_\_\_

X.509 Digital Certificate Serial Number: \_\_\_\_\_

**For Disproportionate Share Hospital Information Trading Partners:**

CMS has developed a limited view of the HIPAA Eligibility Transaction System (HETS) to allow hospitals that receive Medicare Disproportionate Share Hospital (DSH) payments to view Medicare enrollment information for their hospital inpatients. This data assists hospitals verify CMS' determination of the hospital's SSI ratio (i.e., the total number of Medicare days compared to the number of Medicare/SSI days). This information may be disclosed to Medicare HETS DSH Trading Partners under routine use of the 'Medicare Provider Analysis and Review (MEDPAR), HHS/CMS/OIS, 09-70-0514' Privacy Act system of records, published at 71 Fed. Reg. 17470 (April 06, 2006).

Eligible Trading Partners must have a separate Submitter ID in order to request this view.

Is the Trading Partner requesting a Submitter ID for the limited DSH view? Yes \_\_\_ No\_\_\_