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**WEST VIRGINIA INFORMATIONAL LETTER**

**NO. 195**

**TO: All Insurance Companies Doing Business in the State of West Virginia, Insurance Trade Associations, Insurance Media Publications and Other Interested Persons**

**RE: Medical Procedure Coding**

The purpose of this Informational Letter is to address the federally mandated transition to the tenth edition of the International Classification of Diseases (“ICD-10”). Starting October 1, 2015, ICD-10 will officially replace the ninth edition (“ICD-9”) for all entities covered by the Health Insurance Portability and Accountability Act (“HIPAA”).

ICD-10 is the commonly used term to refer to the International Classification of Diseases, Tenth Revision, Clinical Modification (“ICD-10-CM”) and the International Classification of Diseases, Tenth Revision, Procedure Coding System (“ICD-10-PCS”). ICD-10-CM is the diagnosis code set and is the updated version of ICD-9-CM Volumes 1 and 2. ICD-10-PCS is the code set of inpatient procedure codes and is the updated version of ICD-9-CM Volume 3. Like ICD-9, ICD-10 was developed by the World Health Organization. The National Center for Health Statistics under the Centers for Disease Control and Prevention is responsible for the development and maintenance of ICD-10-CM. The Centers for Medicare and Medicaid Services is responsible for the development and maintenance of the ICD-10-PCS code set.

ICD-9 has been used widely in the United States since 1978. The World Health Organization endorsed ICD-10 in 1990 and many countries have adopted versions of it. It has been argued that the age of ICD-9 has resulted in a coding system that is unable to accurately reflect the recent advances in medical technology and knowledge. Another purported reason for replacing ICD-9 is the increased specificity that ICD-10 will provide. It is believed that the more specific codes will offer better data for identifying diagnosis trends, public health needs, epidemic outbreaks and bioterrorism events. Furthermore, the more precise codes are supported by some as providing potential benefits through fewer rejected claims, improved benchmarking data and advanced care management.

In April 2014, Congress enacted the Protecting Access to Medicare Act of 2014 (Pub. L. No. 113-93) requiring the United States Department of Health and Human Services (“HHS”) to adopt ICD-10 no sooner than October 1, 2015. In July 2014, HHS published a final rule, 45 CFR 162, setting October 1, 2015, as the initial compliance date.



ICD-10 codes will affect diagnosis and inpatient procedure coding for all HIPAA-covered entities, not just those who submit Medicare or Medicaid claims. Entities such as health care providers, clearinghouses, billing services, health plans and health insurance companies must be prepared to comply with the federally-mandated transition to ICD-10.<sup>1</sup> Moreover, Responsible Reporting Entities (“RREs”) under the Medicare/Medicaid system will be required to report ICD-10 diagnosis codes on claim reports with a date of incident on or after October 1, 2015.<sup>2</sup> RREs include liability insurers and workers’ compensation carriers.

Medical providers are an integral part of West Virginia’s insurance marketplace. Appropriate and timely reimbursements to our provider community must remain a priority. It is thus imperative that ICD-10 be accepted by payers of claims that involve medical procedure coding in order to avoid conflicting obligations for HIPAA-covered entities such as physicians. On or after October 1, 2015, the Offices of the Insurance Commissioner (“OIC”) may deem the rejection of a medical service claim due to a provider’s use of ICD-10 as an unfair trade practice pursuant to the Unfair Trade Practices Act, W. Va. Code § 33-11-1 *et seq.*

With respect to workers’ compensation, the OIC, a private carrier or a self-insured employer is expected to accede to the use of certain “nationally-accepted standardized code sets for reporting medical conditions and treatment,” by which ICD-9 is specifically referenced as such a code set. W. Va. Code of State R. § 85-20-9.3. However, the rule provides that a workers’ compensation payer “may adopt successor code sets without amendment to this rule[.]” *Id.* Accordingly, in relation to workers’ compensation claims of which the OIC is responsible for processing and any accompanying reporting requirements, the OIC shall sanction the use of ICD-10 where the date of service or discharge date is on or after October 1, 2015. Private workers’ compensation carriers and self-insured employers should likewise be appropriately prepared for the October 1, 2015, compliance date faced by HIPAA-covered entities.

Please e-mail any questions concerning this Informational Letter to [Informational.Letters@wvinsurance.gov](mailto:Informational.Letters@wvinsurance.gov) or call (304) 558-0401.

  
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Insurance Commissioner

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<sup>1</sup> The change to ICD-10 will not affect Common Procedure Terminology (“CPT”) coding for outpatient procedures.

<sup>2</sup> See <https://www.cms.gov/Medicare/Coordination-of-Benefits-and-Recovery/Mandatory-Insurer-Reporting-For-Non-Group-Health-Plans/Downloads/New-Downloads/Technical-Alert-Reminder-regarding-ICD-10-CM-diagnosis-code-reporting-for-Liability-Insurance-12-28-15.pdf>.