

Office of E-Health Standards and Services

September 22, 2006

Melinna Giannini
Board Chair and Founder
Alternative Link, Inc.
6121 Indian School Road, Suite 131
Albuquerque, New Mexico, 87110

Dear Ms. Giannini:

Thank you for your letter again requesting the adoption of the ABC code set under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and an additional five year extension of the 2003 HIPAA exception which allows the use of the code set by a select group of pilot participants.

The exception procedures in §162.940(b) of the HIPAA regulations state that an initial exception may not exceed three years. We have already approved an extension to your original pilot request, and the three year period ends on October 16, 2006. Section §162.940(e), authorizes the Secretary to grant an additional extension only in cases where the report submitted in accordance with paragraph (d) indicates that a modification to the standard is warranted.

As has been communicated in prior correspondence, your original report, submitted in October 2004, did not contain sufficient empirical data of the type described in your original petition, and that was required to demonstrate that the use of the code set met the ten criteria set out in the regulation and would provide significant improvement over the existing standard. In general, the report failed to provide credible quantitative data showing significant use of the codes in HIPAA transactions, and to demonstrate quantifiable benefits associated with use of the codes in those transactions.

In October 2005, you submitted supplemental data to address the unmet criteria. You documented submission of 500,000 claims for 12 behavioral health codes in the Alaska Medicaid program, as well as other data related to training and implementation costs for Alaska and New Mexico's programs, and other exhibits submitted to address the unmet or partially met criteria. We reviewed the codes submitted on the Alaska behavioral health services claims, and determined that appropriate codes already exist in HIPAA code sets for each of the 12 behavioral health codes, and that those existing codes for the same services could be modified to reflect time frame modifications (e.g. 15 minute increments vs. 30 or 60 minute increments). Therefore, we were unable to identify any benefit the use of these 12 codes presented as an alternative to the current HIPAA standards. Moreover, no data was submitted regarding the actual use of other ABC codes, of which there are approximately 4,000 in HIPAA transactions, or of ABC code use in other plans expected to participate in the study. These findings have also been communicated to you in prior correspondence. Finally, you make comparisons between your study and the cost

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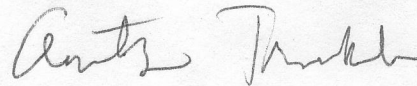
benefit analysis for ICD-10. We again remind you that unlike ICD-10, the ABC code set has been reviewed as a pilot and is governed by the provisions of §162.940 of the Transaction rule.

I can assure you that the review committee conducted a thorough and unbiased assessment of the data you provided. The committee members were selected from a variety of HHS agencies, including the National Center for Complementary and Alternative Medicine at the National Institutes of Health. Their charge was to assess whether the data you submitted supports the adoption of an additional HIPAA code set as opposed to addressing code gaps on a service-by-service basis by modifying the existing code sets using the current update process. The data you have submitted to date, including the supplemental data, does not support such a conclusion. Therefore, we are unable to accommodate your request for an additional extension under the regulations.

As we have pointed out in prior correspondence, the HIPAA code set standards are applicable only to the conduct of transactions between HIPAA covered entities for which the Secretary has adopted standards. Thus, ABC codes can be freely used for all other purposes, and entities and practitioners not covered by HIPAA may use the ABC code set for any business purposes appropriate to their need.

Please be assured that if you wish to submit additional data it will receive thorough consideration. If you need additional information, please contact Lorraine Doo of my office at 410-786-4160.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anthony Trenkle".

Anthony Trenkle
Director