

Statement from Centers for Medicare & Medicaid Services (CMS)

CMS receives feedback from a wide range of stakeholders on an ongoing basis. The information received helps the agency understand where guidance and clarification of existing policy may be needed.

We would like to reiterate our previous responses issued to you on this topic, including that the FAQ published in August 2017 was removed from the CMS website because it was determined that the information within it did not clearly communicate the authority delegated to CMS under HIPAA.

While the National Standards Group (NSG) has the authority to ensure that a health plan *does not adversely affect* a transaction because it is a standard transaction by incentivizing or disincentivizing a HIPAA standard transaction, NSG *does not* have the authority to “price fix” or flat-out prohibit fees to conduct administrative transactions. The recent guidance letter issued in [March of 2022 and the corresponding FAQs reflect application of this authority.](#)

Since publishing Guidance Letters 2022-03 and 2022-04, NSG has successfully worked to correct health plan noncompliance related to conditioning HIPAA standard Electronic Funds Transfer (EFT) and Electronic Remittance Advice (ERA) transactions on providers’ acceptance of unwanted payment and reassociation services. Through these processes, NSG has confirmed that health plans subject to the complaints have implemented, either directly or through their business associates, a payment option that allows providers to select HIPAA standard EFT through the Automated Clearing House (ACH) network and ERA transactions without needing to pay for additional payment and/or reassociation services that the business associate may offer.

CMS takes allegations of noncompliance with HIPAA requirements seriously. Should a provider believe that a covered entity is conditioning use of the adopted standards on a provider’s acceptance of payment and/or reassociation services, the provider may file a complaint with the Centers for Medicare & Medicaid Services (CMS) National Standards Group (NSG) through the [Administrative Simplification Enforcement Testing Tool \(ASETT\)](#).

In order to protect the integrity of our complaint process, CMS does not comment on specific active or closed complaints. As a result, we have done our best to be as responsive to your requests as possible by providing general information on our policies and practices related to the questions presented and are unable to comment further.