Does HIPAA require electronic claims submissions?

Q: I received a letter from (a managed care company) stating that all claims must be submitted electronically. They cited HIPAA regulations as the reason.

A: We have not heard that HIPAA (the Health Insurance Portability and Accountability Act) mandates electronic billing, nor could we find any regulation requiring this when reviewing HIPAA's website (hipaa.org/).

We also contacted Aetna's provider relations and were told the company does not currently mandate electronic billing. We likewise called the managed care company you mentioned in your question. Its provider relations representative told us the company is urging all providers to bill online either through its website, the provider's billing program or an electronic clearinghouse.

The representative would not state that submitting claims electronically is a HIPAA requirement. So, as far as we can tell, no such mandate from HIPAA is in effect.

We have begun to use electronic billing ourselves and outlined four ways for counselors to bill electronically in a past column. Our bulletin on electronic billing is available in the “Private Practice Pointers” section of the ACA website at counseling.org/Counselors/PrivatePracticePointers.aspx. We also acknowledge that many insurance and managed care companies may eventually require electronic claims submission to hold down health care costs.

We hope that ACA’s information on the subject will help our members in filing electronically. Members who have additional information on this topic are encouraged to e-mail us at walshgasp@aol.com.

Q: I have a signed agreement with another professional counselor to comply with the “Counselor Incapacitation or Termination of Practice” standard (Standard C.2.h.) found in the ACA Code of Ethics. Now what?

A: Feel good about yourself. You are complying with your professional organization’s ethical code to have a procedure in place in the event you cannot continue to provide services to your clients. Although we certainly hope you don’t have to employ that procedure, should it become necessary, your clients and their records will be in competent hands. Now make sure that you include the name and contact information of the records custodian in your informed consent document (which the ACA Code of Ethics also requires).

In our informed consent, we have the following clause: “In the unlikely event that I am unable to provide ongoing services, Jane Doe, LPC, will provide those services and will maintain your records for a period of seven years. Jane Doe, LPC, may be contacted at (include phone number).”

Q: My solo private practice has expanded, and I am considering hiring another therapist. What is the difference between an employee and an independent contractor?

A: Your question is more appropriate for an attorney or a certified public accountant. However, professional counselors need to be aware of how the Internal Revenue Service can make
ACA members can e-mail their questions to Robert J. Walsh and Norman C. Dasenbrook at walshgasp@aol.com and access a series of “Private Practice Pointers” on the ACA website at counseling.org.

Letters to the editor: ct@counseling.org

a determination one way or another. According to the IRS website (irs.gov/businesses/small/article/0,,id=99921,00.html), “The keys are to look at the entire relationship, consider the degree or extent of the right to direct and control and, finally, to document each of the factors used in coming up with the determination.”

The IRS has developed a list of 20 factors used to classify individuals either as an employee or an independent contractor. According to accountingpartners.com, “This list is commonly referred to as the ’20 factors’ test. This 20-point checklist is only a guideline; it does not guarantee that a person is correctly classified.” For the complete list, go to webster.edu/about/policy/independent_contractor_checklist.pdf.

The IRS will also help in determining if your potential new hire is an employee or an independent contractor. You can go to irs.gov/pub/irs-pdf/fss8.pdf and fill out the form. However, even the IRS admits it could take up to six months to get a determination. So you might just want to call an attorney or a CPA.

We will be presenting our private practice workshop, sponsored by the Illinois Mental Health Counselors Association, on Dec. 5 in Deerfield, Ill. Visit imhca.org and click on “Workshops” for more information.

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