THE OPINION OF X12N TG8 ON SITUATIONAL DATA ELEMENTS NOT SPECIFICALLY PROHIBITED
February 7, 2002

X12N Task Group 8 Architecture Review has been given the responsibility by X12N, the Insurance Subcommittee of ASC X12 for conducting technical reviews of all Data Maitenance (additions or changes to the X12 standards) originating within X12N, and also for conducting technical reviews of all implementation guides published by X12N to evaluate compliance of the guide with X12 standards.

X12N TG8 has been requested to provide its opinion on an issue surrounding implementation guide situational data conditions. This is the opinion of X12N TG8 only. Unless it is endorsed specifically by a vote of X12N, it remains the opinion of X12N TG8 and not necessarily the official opinion of X12.

Issue

Situational data elements and segments have data conditions expressing when the data element or segment is to be used. In some places, the data condition states when the item is required but is silent about any other occurrence. For such items, if the requirement situation is not met, would the inclusion of that data element be compliant with the implementation guide?

Facts Bearing On the Issue

Examples of items where there is a requirement but no other restriction:
837P Page 404 SV105
Required if value is different than value carried in CLM05-1 in Loop ID-2300.

Page 475 837P
CLINICAL LABORATORY IMPROVEMENT AMENDMENT (CLIA) IDENTIFICATION
Loop: 2400 — SERVICE LINE
Usage: SITUATIONAL
Repeat: 1
262 0 Notes: 1. Required for all CLIA certified facilities performing CLIA covered laboratory services and if number is different than CLIA number reported at claim level (Loop ID-2300).

FACT 1

In many places, the guides clearly state the data conditions for both requirement and restrictions for situational items.
Examples:
Extract from 835 guide Page 112
If NM102 is a “2" this element is not used.
Used when NM102=1 and the information is known.

Extract from 835 guide AMT01 Page 136
ZZ Mutually Defined
NOT ADVISED
Use this number for the operational cost or day outlier amount. (Used exclusively by Medicare Part A.)

FACT 2
In some places the guide states a requirement, then states other permitted but not required uses.
Example:
From 837I guide
INSTITUTIONAL CLAIM CODE
Loop: 2300 — CLAIM INFORMATION
Usage: SITUATIONAL
Repeat: 1
Notes: 1. This segment is required when reporting hospital based admission and Medicare outpatient registrations on claims/encounters. It may be used when provider wishes to communicate this information on non-Medicare outpatient claims/encounters.

FACT 3
In the front matter of all implementation guides, there is a statement about the definition of “situational” and the use of situational items:
Extract from Section 3
Situational The use of this item varies, depending on data content and business context. The defining rule is generally documented in a syntax or usage note attached to the item.* The item should be used whenever the situation defined in the note is true; otherwise, the item should not be used

FACT 4
Webster’s Dictionary defines “should” as:
Should: used to express duty or obligation or used to express probability or expectation or used to express conditionality or contingency

FACT 5
In some implementation guides, the front matter uses terms like “must” when the guide wishes to impose a compliance mandate.
Example 1: 270/271 guide, section 1.3.7
270
An information source must support a generic request for Eligibility. This is accomplished by submitting a Service Type Code of “30" (Health Benefit Plan Coverage) in the ”EQ" loop of the transaction.
271

An information source must respond with either an acknowledgment that the individual has active or inactive coverage or that the individual was not found in their system.

Example 2: 835 guide
2.2.1 Balancing
The amounts reported in the 835, if present, MUST balance at three different levels - the service line, the claim, and the transaction

FACT 6
The task group charged with coordinating implementation guide development has recognized that the wording for data conditions in the existing guides does not always provide complete guidance for all probable users and has issued a revised handbook providing guidance on wording for situational data conditions.

Extract from New Imp Guide handbook 3.1.4
The first note for each situational loop, segment, or data element must clearly and unambiguously describe the situation for its use. Explicitly describe the situation(s) in which the loop, segment, or data element is required. If appropriate, explicitly describe the situation(s) in which the loop, segment, or data element is not used. Do not change or repeat X12 semantic or syntax notes.
• Do not preface the situation description with “use when”, “should be used”, or “may be used”. Use “required” or “not used” to avoid interpretation inconsistency.
Bad Example This data element should be sent when the information in this loop is different from the information sent at the claim level.
Preferred This data element is required when the information in this loop is different from the information sent at the claim level.
This data element is not used when the information in this loop is the same as the information sent at the claim level.

FACT 7
For the most part, the wording in the implementation guides adopted under HIPAA is the wording in the draft guides that were sent for public comment. Also, the current wording is the wording available to users who could have submitted requests for guide changes through the DSMO process during the time the current addenda (“fast track”) were being processed.

FACT 8
Under HIPAA, there is a requirement that users not modify the data conditions or compel a sender to add data not required by the guide.
For example, the Federal Register page 25280, says:

"It does mean that the health plan would not be able to require additional information, and it does mean that the health plan would not be able to reject a transaction because it contains information the health plan does not want. This principle applies to the data elements of all transactions proposed for adoption in this proposed rule."

Opinion of X12N TG8

Since the guides named under HIPAA were subject to public comment through the rulemaking process, the interpretation of the use of situational data elements must be based on the actual wording as published in the guide, not the unpublished intent of authors or writers or members of X12N who voted on the guides.

In cases where there is a requirement, but no specific prohibition on use in other situations, the reader of the guide is led to the front matter, where other use is covered by the words "should" and "should not". While one part of the definition of the word "should" includes a mandate, the other parts of the definition make this word one of encouragement rather than mandate.

Also in the front matter of some guides, readers find clear use of mandating words such as "must" when a mandate is to be imposed. Also, in some data conditions, inclusion of the data item beyond the requirement is clearly prohibited.

Thus, a reasonable reader would expect that the word "should" only carries the meaning of encouragement, because the authors clearly stated mandates when they intended mandates to apply. This interpretation is also reinforced by the fact that the new Implementation Guide Handbook has been changed to require wording that clearly states a mandate if a mandate applies to a data item.

Therefore, TG8 concludes that in the absence of specific prohibition, a voluntary inclusion of a data element by the creator of a transaction when a requirement does not apply is compliant with the implementation guide. If sent voluntarily by the creator of the transaction, the receiver cannot reject the transaction as non-compliant even if the receiver chooses to ignore or not use the data item.

TG8 also notes the following caution for use under HIPAA:
The HIPAA rules for covered transactions between covered entities prohibit a receiver from requiring the sender to include a situational data element if the requirement does not apply. In our opinion, a receiver cannot in any way communicate to a sender that such a data item is required to allow the transaction to be processed. This does not mean that a payer, for example, cannot issue bulletins about the adjudication process or beneficiary terms of coverage under contracts, provided such information is normally made available

to providers and this notice is not tied to the electronic submission of transactions.

This opinion of TG8 was adopted by vote of TG8 on February 7, 2002.