SOCIAL SECURITY

The Commissioner
March 26, 2003

To: Health Care Providers, Health Information Managers, and Medical Records Administrators

From: Jo Anne B. Barnhart

Subject: Requests for Medical Evidence by the Social Security Administration and its Affiliated State Agencies--INFORMATION

I want to take this opportunity to tell you about our new medical authorization form, redesigned to meet the requirements of the **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**. Starting April 14, 2003, health care providers are required to comply with the privacy regulations under HIPAA, including the requirement for an authorization for disclosure of protected health information. I also want to encourage your continued cooperation with the Social Security Administration (SSA) and the State agencies (disability determination services) acting on our behalf.

In HIPAA, Congress directed the Department of Health and Human Services to set standards to both protect the privacy of medical information and enable increased efficiency in health care operations. The privacy regulations (Privacy Rule, 45 CFR parts 160 and 164) under HIPAA require compliance by health care providers, and are applicable when we seek information for claims under the Social Security (Title II of the Social Security Act) and Supplemental Security Income (SSI, Title XVI) programs.

SSA has a legal obligation to collect evidence necessary to determine whether individuals are eligible for benefits. Our process and new form allow you to disclose information to us as you always have. I want to briefly note how the Privacy Rule and other laws affect our requests:

- You are permitted to disclose an individual's records to SSA and the State agencies when we supply an appropriate authorization from the individual. Note that the Privacy Rule permits the individual to authorize release from a "class" of health care providers.

- Under the Privacy Rule, the "minimum necessary" standard does not apply to disclosures when you have an authorization. Therefore, you are *not* required to make a "minimum necessary" assessment when we request information. You can rely on the wording of our request.

- SSA and the State agencies are not covered entities under the Privacy Rule when processing Social Security or SSI claims. However, the personal information we obtain is protected under the Privacy Act of 1974, as amended.

To provide our claimant's authorization to you, we use a standard authorization form, Form SSA-827, "Authorization to Disclose Information to the Social Security Administration (SSA)". We have revised this form to meet the requirements under HIPAA.

- Our redesigned Form SSA-827 permits disclosure of the named individual's entire medical record, including information created after the date the authorization is signed. If an individual desires to have less than his or her full medical record disclosed, this will be noted on the form. This authorization has also been revised to accommodate variations in State law.

- Form SSA-827 includes specific language to permit disclosure of very sensitive information, and has been designed to comply with existing Federal and State laws, including 42 CFR part 2, which concerns alcohol and substance abuse information. Note that we do not ask for or need "psychotherapy notes" as that term is defined by the Privacy Rule. However, it is important that we obtain other mental health information as permitted by the Privacy Rule.

- The regulations have a transition provision. You are permitted to honor authorizations signed before April 14, 2003, with respect to information created or received before April 14.

We and our associated State agencies look forward to working with you to ensure that all of us can meet our legal obligations regarding the privacy of information. Thank you for your understanding and assistance.

cc:
Secretary, Department of Health and Human Services
Under Secretary for Health, Department of Veterans Affairs
American Academy of Child and Adolescent Psychiatry
American Academy of Family Physicians
American Academy of Ophthalmology
American Academy of Pediatrics
American Academy of Physical Medicine and Rehabilitation
American Association of Orthopedic Surgeons
American College of Occupational and Environmental Medicine
American College of Physicians-American Society of Internal Medicine
American College of Surgeons
American Health Information Management Association
American Hospital Association
American Medical Association
American Osteopathic Association
American Psychiatric Association
American Psychological Association
American Speech-Language-Hearing Association
Healthcare Information and Management Systems Society
National Association of Social Workers