

Important Update

CMS guidance regarding tamper-resistant prescription pad requirement



On August 17, the Centers for Medicare and Medicaid Services (CMS) issued a letter to State Medicaid Directors that offers guidance on the change in Section 1903(i) of the Social Security Act that states:

- The federal government will not fund Medicaid payments “for covered outpatient drugs . . . for which the prescription was executed in written (and nonelectronic) form unless the prescription was executed on a tamper-resistant pad.”

This requirement must be met whether Medicaid is the primary or secondary payer. We hope this information helps you prepare for meeting the new requirements by October 1, 2007.

What is “tamper-resistant”?

Prescriptions transmitted directly from the prescriber or medical facility to the pharmacy by fax, telephone, or electronic submission (“e-prescription”) are tamper-resistant. Except where DEA regulations require a written prescription (*i.e.*, for Schedule II controlled substances), DMAP encourages prescribers to submit prescriptions electronically, by phone, or by fax whenever possible.

For written prescriptions, CMS guidance states that beginning October 1, 2007, tamper-resistant pads must contain at least one of the following characteristics. By October 1, 2008, pads must contain **all three** of these characteristics to be considered tamper-proof:

Characteristics defined by CMS	Examples include but are not limited to:
One or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form	<ul style="list-style-type: none"> ■ Security watermark ■ Pantograph screen – Displays background graphic or “VOID” when photocopied ■ Microprinting, prismatic printing, chemical reactive paper, thermochromatic or coin-reactive ink – Features that photocopying cannot reproduce
One or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription by the prescriber	<ul style="list-style-type: none"> ■ Erasure protection, graduated background color, bleeding ink, erasable ink – Features that show erasure or modification has been attempted on the prescription ■ Diagonal lines on the back of the paper – Discourages cutting and pasting of the prescription
One or more industry-recognized features designed to prevent the use of counterfeit prescription forms	<ul style="list-style-type: none"> ■ Warning band – Identifies the tamper-resistant features of the prescription ■ Unique serial numbers

Beginning October 1, 2007, DMAP will consider “tamper-proof” any prescription pad that meets one of the characteristics defined by CMS. DMAP will file a temporary rule to enforce this requirement effective October 1, 2007.

California, Florida, Idaho, Indiana, Kentucky, Maine, New Jersey, New York, Texas, and Wyoming have already implemented similar requirements. According to CMS, the pads required by these states meet or exceed CMS requirements. DMAP will provide a summary of other states' requirements on the OHP Web site at www.oregon.gov/DHS/healthplan/.

What prescriptions need to be on tamper-resistant paper?

This requirement applies to written and computer-printed prescriptions for outpatient drugs reimbursed from DMAP on a fee-for-service basis, where Medicaid reimburses for the drug separately from any other service, and the client delivers the written prescription to the pharmacy for dispensing. This includes prescriptions written on hospital discharge orders.

- When clients become retroactively eligible for Medicaid coverage, the pharmacy must confirm that the written prescription is tamper-resistant before dispensing any current or future refills on a prescription filled before the client became retroactively eligible.

What prescriptions do not need to be on tamper-resistant paper?

The tamper-resistant pad requirement **does not** apply to prescriptions sent from the prescriber to the pharmacy by fax, telephone, or e-prescription. The following types are also exempt:

- Refills of written prescriptions that were presented at a pharmacy before October 1, 2007
- Written prescriptions paid for by a managed care entity (*i.e.*, DMAP medical plan or physician care organization)
- Written prescriptions paid for by Medicare, a Medicare Part D plan or Medicare Advantage Plan, unless Medicaid fee-for-service is a secondary payer
- Written, faxed, and telephoned orders sent from the prescriber directly to long-term care facilities, community-based facilities, or other institutional settings, that the facility's medical staff then enter into the patient's medical record and deliver to the pharmacy, so long as the patient or patient's family never has the opportunity to handle the written order

What to do when the prescription is not on tamper-resistant paper

When a pharmacy receives a non-compliant written prescription, the pharmacy may obtain confirmation from the prescriber (by fax, telephone or e-prescription) that the prescription can be dispensed as received. Documenting this confirmation on the non-compliant prescription makes the prescription compliant.

- If the prescription is an emergency fill, the pharmacy may dispense the non-compliant written prescription. However, the pharmacy must then obtain a tamper-resistant prescription from the prescriber within 72 hours from the time of dispensing.

For more information

- Letter to State Medicaid Directors: www.cms.hhs.gov/SMDL/downloads/SMD081707.pdf
- CMS Q and A: www.cms.hhs.gov/DeficitReductionAct/Downloads/MIPTRPFAQs9122007.pdf
- For questions, contact Debbie Bishop, DMAP Pharmacy Program Manager at 503-945-6291 or e-mail debbie.l.bishop@state.or.us.