Department of Health Care Finance

Guidance for the Use of Tamper Resistant Prescription Pads

10/8/2015

Purpose

The Department of Health Care Finance (DHCF) supports the program integrity measures set forth by the Centers for Medicare and Medicaid Services (CMS) regarding the use of e-prescribing and use of tamper-resistant prescription pads to reduce the instances of unauthorized, improperly altered and counterfeit prescriptions. The purpose of this directive is to offer guidance to DC Medicaid healthcare providers regarding the use of electronic prescribing and tamper-resistant prescription pads (TRPP).

Effective Date of the New Requirement:

Starting April 1, 2008 all hand written or computer generated prescriptions for fee-for-service DC Medicaid recipients must be on tamper-resistant paper. This requirement was included in *Section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery and Iraq Accountability Appropriations Act of 2007 (Act)*. This DHCF guidance adheres to the implementation requirements set forth by the Centers for Medicare & Medicaid Services (CMS).

New Requirement Standards for October 1, 2008

All handwritten and/or computer generated (by electronic medical records or e-prescribing applications) printed prescriptions for fee-for-service Medicaid patients, must be fully compliant with federal and/or state guidance for prescription tamper resistance.

By October 1, 2008, a handwritten or computer generated and printed prescription must contain at least one feature in **all three** categories. No feature may be used twice:

1. One or more industry recognized features designed to prevent unauthorized copying of a completed or blank prescription.
2. One or more industry recognized features designed to prevent the erasure or modification of information written on the prescription by the prescriber.
3. One or more industry recognized features designed to prevent the use of counterfeit prescriptions.

The following best practices are strongly suggested for adoption to meet the tamper-resistant requirements (See Appendix I for examples):

Best Practices for Tamper Resistant Printed Prescriptions			
	Feature		**Description**
Category 1: Copy Resistance	A. Void/Illegal/Copy Pantograph with or without Reverse Rx B. Micro print signature line for prescriptions generated by an EMR if they cannot produce Void/Illegal/Copy Pantograph with or without Reverse Rx		• *The word "Void," "Illegal," or "Copy" appears when the prescription is photocopied.* • *Very small font which is legible (readable) when viewed at 5x magnification or greater, and illegible when copied.*
Category 2: Erasure / Modification Resistance	A. An Erasure revealing background (resists erasures and alterations) for written prescriptions or printed on "toner-lock" paper for laser printed prescriptions, and on plain bond paper for inkjet printed prescriptions		• *Background that consists of a solid color or consistent pattern that has been printed onto the paper. This will inhibit a forger from physically erasing written or printed information on a prescription form.* • *Toner-lock paper is special printer paper that establishes a strong bond between laser-printed text and paper, making erasure obvious. Note – this is NOT necessary for inkjet printers – as the ink from inkjet printers is absorbed into normal "bond" paper.*
	B. Quantity check off boxes, refill indicator (circle number of refills or "NR"), or border characteristics (dispense and refill # bordered by asterisks and optionally spelled out) for prescriptions generated by an EMR		• *In addition to the written quantity on the prescription, quantities are indicated in ranges.* • *Quantities and refill # are surrounded by special characters such as an asterisks to prevent modification, e.g. QTY **50**.*
Category 3: Counterfeit Resistance	A. Security features and descriptions listed on the prescription		• *A Complete list of the security features on the prescription paper aids pharmacists in identification of features and determine compliance*

Implementation of Requirement:

The Act requires implementation of the tamper-resistant law in two phases. For the first phase, a prescription must contain at least one of the three tamper-resistant characteristics in order to be considered "tamper resistant." For the second phase, prescriptions must contain all three characteristics. At least one of the three tamper-resistant characteristics is required on April 1, 2008. All three characteristics are required on October 1, 2008.

The DHCF will require a minimum of one of the requirements for the tamper-resistant prescription pads for all non-electronic prescriptions written for the DC Medicaid fee-for-service recipients starting April 1, 2008. Full compliance with all three baseline characteristics will be required by October 1, 2008. To ensure compliance with these implementation dates, DHCF is issuing this guidance to all prescription writing providers to assure providers have adequate time to secure a quantity of tamper-resistant prescription pads for use for our recipients.

Applicability:

The tamper resistant prescription pad (TRPP) requirement of section 7002 (b) applies to all prescriptions written for outpatient drugs, including designated payable over-the-counter drugs, written for DC Medicaid fee-for-service recipients. Section 7002 (b) is applicable regardless of whether Medicaid is the primary or secondary payer of the prescription being filled. The Act does not apply if a Managed Care entity pays for the prescription

The tamper-resistant pad requirement does not apply to refills of written prescriptions presented at a pharmacy before April 1, 2008.

Exclusions:

The following types of prescriptions are excluded from this Act:

1. Prescriptions faxed to a pharmacy
2. Prescriptions communicated to a pharmacy by telephone by a prescriber
3. Prescriptions paid for by a Managed Care entity
4. Drugs provided in nursing facilities and immediate care facilities for the mentally retarded
5. Other specified institutional and clinical settings as specified by DHCF

Restrictions:

To the extent permissible under District and Federal law and regulation, this guidance does not restrict emergency fills of non-controlled or controlled dangerous substances for which a prescriber provides the pharmacy with a verbal, faxed, electronic, or compliant written prescription within 72 hours after the date on which the prescription was filled.

Emergency Prescription Fills:

A pharmacy may provide a full prescription fill of a non compliant prescription on an emergency basis but must, within 72 hours of the date filled, obtain a written prescription that complies with section 7002 (b), or obtain the prescription by verbal communication from the prescribing doctor, by facsimile, or by e-prescription. A pharmacy will be considered non-compliant with section 7002 (b) if information is documented that the pharmacist calls, faxes, or makes other efforts to obtain a compliant prescription but the pharmacy does not receive a response from the prescriber within the 72-hour period.

Prescriptions for Controlled Substances:

If a non-tamper-resistant controlled substance prescription that complies with Federal and District laws is presented to a pharmacy, the pharmacy must obtain and document, on the prescription, verbal confirmation from the prescriber in order to satisfy the tamper-resistant requirement of section 7002 (b). For Schedule II prescriptions, Federal and District laws also require that all prescriptions for Schedule II controlled substances be written and must comply with any applicable restrictions as stated above.

Retroactive Eligibility:

When a Medicaid recipient is retroactively eligible for Medicaid after a pharmacy has already filled the recipient's prescription, DHCF will presume that the prescription was compliant with section 7002(b), unless there is evidence that the prescription was non-compliant. This presumption applies to the filling of the prescription that occurred *before* the recipient became retroactively eligible for Medicaid. This presumption does *not* extend to any refills that occurred *after* the date on which the recipient is determined to be eligible for Medicaid. Such refills require that the pharmacy obtain a new, tamper-resistant prescription in compliance with section 7002(b). Alternatively, the pharmacy may obtain verbal confirmation of the prescription from the prescriber or may obtain the prescription from the prescriber by facsimile or e-prescription.

Drug Orders in Certain Institutional Settings

Section 1 927(k)(3) of the Social Security Act describes certain institutional settings, including nursing facilities, intermediate care facilities for the mentally retarded and other specified settings where outpatient drugs are not subject to section 7002(b). DHCF considers a written order prepared in institutional and clinical setting where the doctor or medical assistant writes the order into the medical record and then the order is given by medical staff directly to the pharmacy is considered "tamper resistant," so long as the patient never has the opportunity to handle that written order.

Physician Provided Drugs:

If the prescriber provides a drug directly to a Medicaid recipient, a tamper- resistant prescription is not required.

Communication between Physician/Prescriber and Pharmacy:

Section 7002(b) does not apply to non-written prescriptions, that is, it does not apply to: e-prescriptions; prescriptions transmitted to the pharmacy by facsimile; and prescriptions communicated to the pharmacy by telephone.

A nurse or administrative staff person who is authorized to act on the prescriber's behalf may phone the pharmacy with the order, send the order by facsimile, or electronically transmit the order to the pharmacy.

Documentation by the pharmacy of verbal confirmation of a non-compliant written prescription satisfies the requirements of section 7002(b).

Prescription Transfers between Pharmacies:

If a compliant prescription is transferred from one pharmacy to another via telephone, Pharmacy # 2 need only obtain a phone call or a facsimile from Pharmacy # 1 in order to confirm the authenticity of the tamper-resistant prescription that was previously delivered to Pharmacy # 1. There is no need for Pharmacy #2 to obtain direct confirmation of the original prescription from the physician/prescriber.

Record Retention:

Section 7002(b) "does not impose additional requirements regarding retention of hard copy prescriptions. Pharmacies may follow current District and Federal laws and regulations for record retention. A pharmacy may retain a scanned copy of the original tamper compliant prescription if a pharmacy notes in writing on the original prescription that it is tamper resistant and then scans the prescription for record retention.

Out-of-State Prescriptions for Medicaid Recipients:

Any out-of-state prescription for a DC Medicaid recipient that is filled by a pharmacy in the District of Columbia must comply with *Section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery and Iraq Accountability Appropriations Act of 2007 (Act)* as required in this guidance.

Electronic (E) Prescribing:

The DHCF encourages the use of e –prescriptions as an effective and efficient method of communicating prescriptions to pharmacists. The Drug Enforcement Administration (DEA) and the District of Columbia regulations require a written prescription for controlled substances.

Impact on Medicaid Patients

In order to ensure that patients do not see any adverse impact regarding their access to medications, it is critical for you to meet **all three** CMS requirements, prior to October 1. In an emergency situation, prescriptions written on non-tamper resistant pads will be permitted as long as the prescriber provides a verbal, faxed, electronic, or compliant written prescription within 72 hours after the date on which the prescription was filled.

Thank you for your efforts to comply with these new requirements.