



Medicaid Fee-for-Service Tamper Resistant Prescription Pads Requirements

BACKGROUND: As part of the Appropriations Supplemental for Fiscal Year 2007 (Public law 110-28), Congress included a provision amending the Social Security Act (42 U.S Code 1396b(i))¹ to require Medicaid Fee-for-Service prescriptions to be written on tamper-resistant pads. It is generally understood that congressional intent was to reduce instances of unauthorized, improperly altered, and counterfeit prescriptions. The Centers for Medicare and Medicaid Services (CMS) was tasked by the law to write regulations clarifying the requirements to be in effect by October 2007.

HIMSS Electronic Health Record Association, physician community members, and industry colleagues identified the potential unintended consequences including added costs; increased harm; and added barriers to clinician acceptance of Medicaid.

After considerable discussion between CMS and industry, the requirements were divided into two phases, to allow for further exploration into improvements to the regulations that would satisfy legislative requirements and be the least disruptive to clinical practice. Phase I was put in place on April 2008.² Phase I requirements were interim steps to decrease fraud and abuse in the Medicaid Fee-for-Service prescribing environment while the long-term solutions were sought.

A compromise has been achieved, which is reflected in Phase II. The compromise is intended to adhere to the legislative requirements, while recognizing clinician workflow norms. Phase II, CMS' updated guidance to industry, will begin in October 2008. The following is a synopsis of requirements and next steps associated with Phase II.

CMS IDENTIFIED SECURITY CATEGORIES

- **Copy Resistance** – Prevent unauthorized copying
- **Erasure/Modification Resistance** – Prevent erasure/ modification of Provider information
- **Counterfeit Resistance** – Prevent use of counterfeit Prescription Forms

FINAL GUIDANCE FROM CMS – PUBLISHED IN JULY 2008

- Non-electronic prescriptions **for MEDICAID Fee-for-Service** must contain 1 feature from each of three categories
- Handwritten or computer printed Medicaid prescriptions contain at least one industry recognized feature from each of the three categories of tamper resistance.
- Prescriptions for Medicaid patients that are telephoned, faxed, or E-Prescribed are exempt from the tamper resistance requirements.

¹ Cornell Law website on the U.S. Code <http://www4.law.cornell.edu/uscode/42/1396b.html>

² Information from National Council for Prescription Drug Plans (NCPDP) website http://www.ncdp.org/pdf/All_wg_mtgs_recap_2007-11.pdf

CONCERNS

- **Technology Capabilities are Available but Administrative Guidelines are not Standardized** – Medicaid Directors need to work together to improve standardization across the states before we have 50+ separate approaches
- **Many States and Territories have not published Strategies:** The deadline is coming fast, so the more time providers and information and management systems professionals have to respond, the fewer problems on change over day.

CONCLUSION:

The October 1st deadline is looming! Make sure you are working with your Medicaid staff to contact your vendor partners and the State Medicaid Office to learn about contingency plans. Several of our members have expressed frustration that they have purchased new printers or made modifications that are no longer as stringent. HIMSS is exploring ways to address the issue with the government, to include possible recourse for these facilities.

HIMSS members and industry colleagues recognize the significant amount of hard work performed by the CMS staff and industry leaders to find solutions to potential problems in the regulation. HIMSS would like to thank the HIMSS Electronic Health Record Association (EHRA) and the Association of Medical Directors of Information Systems (AMDIS) for their effort to limit the potential negative impact on clinical workflow and healthcare delivery created by the original regulation.

OTHER RESOURCES:

- [CMS Website Information](#)
- [July 17, 2008 NCPDP Letter to State Medicaid Directors](#)