

Tamper-Resistant Prescription Policy for Medicaid

(Effective October 1, 2007)

The Centers for Medicare and Medicaid Services (CMS) released on Friday, August 17 a guidance statement regarding the Medicaid tamper-resistance prescription pad requirement that will be implemented on October 1, 2007. This new regulation will require all handwritten (and non-electronic) prescriptions for Medicaid patients to be on tamper-resistant prescription paper, unless they meet an exception that is indicated in the regulation. The Federal government will not allow its funds to be used for payment of drugs that do not abide by this regulation. The specifics regarding these exceptions and a statement of the requirements for an approved tamper-resistant prescription pad are outlined below:

- **The tamper resistant pad regulation applies to all outpatient drugs, including over-the-counter drugs in States that reimburse for prescriptions for such items.**
- **The regulation provides an exception for drugs provided in nursing facilities, intermediate care facilities for the mentally retarded, and other specified institutional and clinical settings.**
- **The regulation does not apply to refills of written prescriptions presented at a pharmacy before October 1, 2007.**
- **The regulation does not apply to e-prescriptions transmitted to the pharmacy, prescriptions faxed to the pharmacy, or prescriptions communicated to the pharmacy by telephone by a prescriber. Note, however, that Drug Enforcement Administration regulations regarding controlled substances may require a written prescription.**
- **The regulation does not apply to dual eligibles---beneficiaries receiving both Medicaid and Medicare.** (This exception is from a previous communication from CMS.)
- **The regulation provides an exception to items or services furnished and amounts expended by or through a managed care entity. Therefore, the requirement for the use of a tamper-resistant prescription pad does not apply when a managed care entity pays for the prescription.**
- **The regulation, to the extent permissible under State and Federal law and regulation, 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.**

- **On October 1, 2007, a prescription pad must contain at least one of the following three characteristics to be considered tamper resistant:**
 - 1) **One or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form;**
 - 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 prescription forms.**

- **No later than October 1, 2008, to be considered tamper resistant, a prescription pad must contain all of the foregoing three characteristics.**

- **States are free to exceed the above baseline standard as to what constitutes a tamper-resistant prescription pad. States should make their own determination whether to allow pharmacists to accept an out-of-State prescription that meets the tamper-resistant requirements of another State**

The College recommends that physicians contact their State Medicaid Directors to determine the specific requirements of a tamper-resistant prescription pad for their State, to learn whether there are preferred vendors for these pads in their particular state, and to learn whether their State has plans to purchase these pads and provide them to Medicaid participating physicians at no cost or at a discounted rate. A list of State Medicaid Directors and related contact information is available at http://www.nasmd.org/about/NASMD_Member_List.rtf

The full CMS guidance letter is available at:
<http://www.cms.hhs.gov/SMDL/downloads/SMD081707.pdf>