

Medicaid Tamper Resistant Prescription Pad Law – Pharmacist FACT SHEET

A new law, effective on April 1, 2008, requires that written prescriptions for covered outpatient drugs that are paid for by Medicaid be executed on a tamper-resistant prescription.

The law applies only to written prescriptions for covered outpatient drugs; prescriptions that are transmitted from the prescriber to the pharmacy verbally, by fax, or through an e-prescription are not impacted by the statute, and so those methods may be used as alternatives to a written prescription. The law applies whenever Medicaid pays any portion of the cost of a prescription.

To be considered tamper resistant on April 1, 2008, a prescription pad must contain at least one of the following three characteristics:

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 pad by the prescriber;
3. one or more industry recognized **features designed to prevent the use of counterfeit prescription forms.**

By October 1, 2008, a prescription pad must contain all three of the above characteristics to be considered tamper-resistant.

WHAT CAN YOU DO IF YOU ARE NOT SURE IF A PRESCRIPTION MEETS THE REQUIREMENTS?

Call the prescribing practitioner to obtain verbal confirmation of the prescription and document the confirmation appropriately. (NOTE: the pharmacy does not need to speak to the prescriber directly; a nurse or administrative staff person who is authorized to act on behalf of the prescriber may confirm the prescription.) You can also suggest that the prescriber fax prescriptions to you until he/she obtains compliant prescription paper. Additionally, if you are presented with a prescription for a controlled substance that is not written on tamper-resistant paper but otherwise complies with Federal and State law, your pharmacy may obtain verbal or faxed confirmation from the prescriber in order to satisfy the tamper-resistant requirement

- **Fill the prescription and obtain documentation within 72 hours.** A pharmacy may fill prescriptions on an emergency basis, provided that the pharmacy obtains a compliant prescription within 72 hours after the fill date. The compliant prescription may be in the form of a written prescription on tamper-resistant paper or may be obtained by verbal communication with the prescriber, by facsimile, or by e-prescription.

WHAT ABOUT PRESCRIPTIONS FILLED BEFORE A BENEFICAIRY IS ELEGIBLE FOR MEDICAID?

When a Medicaid recipient is retroactively eligible for Medicaid after a pharmacy has already filled the recipient's prescription, CMS will presume that the prescription is compliant with the tamper-resistant requirements. In this circumstance, the pharmacy is *not* required to obtain a compliant prescription in order to submit a Medicaid claim to receive reimbursement for the period of retroactive eligibility.

However, for any refills after the date of eligibility, the pharmacy must obtain a tamper-resistant prescription.

WHAT ABOUT REFILLS OF PRESCRIPTIONS THAT WERE WRITTEN AND PRESENTED PRIOR TO APRIL 1ST?

If the original prescription was presented to your pharmacy for filling prior to April 1st, the refills of that prescription do not need to be on tamper-resistant prescriptions.

ARE THERE ANY CIRCUMSTANCES WHEN I CAN FILL A NON-COMPLIANT PRESCRIPTION WRITTEN IN AN OUTPATIENT HOSPITAL SETTING, AN INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED, OR SOME OTHER INSTITUTIONAL SETTING?

Yes. When you are presented with a prescription from such a facility that is not tamper-resistant, you may still fill it **IF** the doctor or medical assistant wrote the order into the medical record, and the order was then given by medical staff directly to your pharmacy. Such a prescription is considered tamper resistant so long as the patient never had the opportunity to handle that written order.

Each State Medicaid Agency has issued its own guidance on this requirement. If you have any questions about when the tamper-resistant law is applicable, or for additional information about the rules in your State, please contact your State Medicaid Agency. The contact information for each State is listed on the following pages.