

## Tamper-Resistant Prescription Pads - Updated

President George W. Bush signed the "Extenders Law" Saturday, September 29, 2007. This will delay the implementation date for the requirement of all paper Medicaid prescriptions to be written on tamper-resistant paper. Under this new law, all written MO HealthNet prescriptions must be on tamper-resistant prescription pads **effective April 1, 2008**. No other provisions of the original bill regarding tamper-resistant paper were impacted. This is a federal requirement, if any other advisories are forthcoming from the Centers for Medicare and Medicaid (CMS) Missouri HealthNet will publish those as well.

The original federal legislation is intended to reduce Medicaid prescription fraud and requires physicians to begin using tamper-resistant prescription pads for MO HealthNet patients. The law was part of the U.S. Troop Readiness Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 and is aimed at saving state Medicaid programs money by preventing patients from obtaining drugs illegally. The law will deny federal reimbursement to states for Medicaid patients' prescriptions that are not written on tamper-resistant prescription pads.

The purpose of this notice is to clarify the MO HealthNet Division's (MHD), formerly Division of Medical Services, interpretation and implementation of the federal requirements for MO HealthNet medical assistance payment "...amounts expended for medical assistance for covered outpatient drugs (as defined in section 1927(k)(2)) for which the prescription was executed in written (and non-electronic) form unless the prescription was executed on a tamper-resistant pad." This provision would have become effective on October 1, 2007 now becomes effective April 1, 2008.

To be compliant with the rule, a prescription pad must contain at least one of the characteristics listed below:

<b>One or more industry-recognized features designed to:</b>	<b>Examples include (but are not limited to):</b>
<ul style="list-style-type: none"><li>• Prevent unauthorized copying of a completed or blank prescription form</li></ul>	<ul style="list-style-type: none"><li>• High security watermark on reverse side of blank</li><li>• Thermochromic ink</li></ul>
<ul style="list-style-type: none"><li>• Prevent erasure or modification of information written on the prescription by the prescriber</li></ul>	<ul style="list-style-type: none"><li>• Tamper-resistant background ink that shows erasures or attempts to change written information</li></ul>
<ul style="list-style-type: none"><li>• Prevent the use of counterfeit prescription forms</li></ul>	<ul style="list-style-type: none"><li>• Sequentially numbered blanks</li><li>• Duplicate or triplicate blanks</li></ul>

Effective for dates of service on and after **October 1, 2008**, a prescription pad must contain all three of the listed characteristics.

This requirement applies to all non-electronic prescriptions, legend and over-the-counter, written for fee-for-service MO HealthNet participants, when MO HealthNet is the primary or secondary payer. Drug Enforcement Administration and Missouri Board of Pharmacy laws and regulations pertaining to all written and electronic prescriptions still apply.

### **Exceptions to Tamper-Resistant Rx Pads Requirement**

Exempt from the tamper-resistant requirement are MO HealthNet:

- Prescriptions, items, or services furnished and amounts expended by or through a MO HealthNet managed care entity (MC+)
- Prescriptions provided in specified institutional and clinical settings for which the drug is not separately reimbursed, but is reimbursed as part of a total service
  - Institutional and clinical settings defined as: nursing facilities, intermediate care facilities for the mentally retarded (ICF/MR), inpatient and outpatient hospital, hospice, dental, laboratory, x-ray and renal dialysis services
- Prescriptions e-prescribed, faxed to the pharmacy from the provider's office, or telephoned to the pharmacy by the provider
- Refills for which the original prescription was filled before April 1, 2008

### **Emergency Fills**

Emergency fills for prescriptions written on non-tamper resistant pads are 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. In an emergency situation, this allows a pharmacy to telephone a prescriber to obtain a verbal order for a prescription written on a non-compliant prescription pad. The pharmacy must document the call on the face of the written prescription.

### **Computer Generated Prescriptions**

CMS is offering additional clarification on computer generated prescriptions, including those generated from an Electronic Medical Record (EMR). It has been determined that computer generated prescriptions may meet CMS guidance for the first phase of implementation between April 1, 2008 and October 1, 2008, by containing one or more industry-recognized features designed to prevent erasure or modification of information contained on the prescription. CMS does **not** believe computer generated prescriptions printed on plain paper will meet all three outlined industry-recognized characteristics. Therefore, beginning

October 1, 2008, computer generated prescriptions must be printed on paper that meets the requirement.

CMS recently issued further guidance on this policy. Specifically, on whether a provider can add a feature, such as gel or indelible ink, calligraphy, or embossed logos to a prescription to make it compliant with the requirements. After policy review CMS has determined that features added to the prescription after they are printed do **not** meet the requirement of the statute. Features that would make the prescription tamper-resistant include certain types of paper as well as certain items that can be pre-printed on the paper. These features include, but are not limited to: watermarks, micro-printing, and paper on which the word "void" appears when copied.

### **Additional Resources**

1. U.S. Troop Readiness, Veterans' Care, Katrina Recover, and Iraq Accountability Appropriations Act of 2007 (H.R. 2206), section 7002(b).
2. Centers for Medicare & Medicaid Services (CMS) Letter to State Medicaid Director (SMDL #07-012, 08/17/2007).
3. Centers for Medicare & Medicaid Services (CMS) Tamper-Resistant Prescriptions Policy Update, February 2008.  
[www.cms.hhs.gov/DeficitReductionAct/30\\_GovtInfo.asp](http://www.cms.hhs.gov/DeficitReductionAct/30_GovtInfo.asp).