PROPOSED RULE

13 CSR 70-20.042 Automatic Refill Programs and Medication Synchronization Programs

PURPOSE: This rule establishes the regulatory basis to prohibit automatic refill of prescriptions by providers for MO HealthNet participants. This rule also establishes policies for Medication Synchronization Programs in the MO HealthNet Pharmacy program.

(1) Definitions.
   (A) Automatic Refill Program. Whereby providers automatically refill prescribed medications, devices, and supplies at regular intervals without an explicit request from the participant, or the participant’s responsible party, for each refill.
   (B) Medication Synchronization Program. Designed to allow a participant to receive all maintenance medications on the same day of the month or quarter. Before refilling any medications, the provider contacts the participant or the participant’s responsible party to detect any new, discontinued, or changed medications. The provider only refills those medications requested by the participant or the participant’s responsible party and coordinates pickup or delivery. Maintenance medications shall be as defined in 13 CSR 70-20.060.

(2) Automatic Refill Program.
   (A) MO HealthNet does not allow automatic refills or automatic shipments of medications, devices, and supplies. MO HealthNet does not pay for any prescription without an explicit request from a participant or the participant’s responsible party, such as a caregiver, for each refilling event.
   (B) The pharmacy provider shall not contact the participant to initiate a refill unless it is part of a good faith clinical effort to assess the participant’s medication regimen including but not limited to the Medication Synchronization Program. The good faith clinical effort contact must be documented and available to the Department upon request. The possession, by a provider, of a prescription with remaining refills authorized, does not in itself constitute a request to refill the prescription. Participants and providers cannot waive the explicit refill request requirement and enroll in an automatic refill program.
   (C) A nurse or other authorized agent of the facility may initiate a request for a refill for a participant residing in a skilled nursing facility, group home, or assisted living arrangement.
   (D) Any prescription filled without a request from a participant or the participant’s responsible party may be subject to recoupment. Any provider who pursues an automatic refill policy may be subject to audit, claim recovery, suspension, or termination of their provider agreement.

(3) Medication Synchronization Program.
   (A) The provider shall have written policies and procedures describing the Medication Synchronization Program which shall set forth, at a minimum, how the provider will comply with this section. The provider’s written policies and procedures for the medication synchronization program shall be provided to the Department of Social Services upon request. Providers that do not provide the written policies and procedures within three (3) business days of the Department’s request may be subject to recoupment of any payments made to the provider by MO HealthNet for medications filled through the provider’s medication synchronization program.
(B) Before a participant enrolls, and annually thereafter, the provider shall provide a written or electronic notice summarizing the program to the participant or participant’s responsible party. Such notice shall include, at a minimum, instructions about how to withdraw a medication from refill through the program or to disenroll entirely from the program. The participant or participant’s responsible party shall enroll by written, online, or electronic informed consent to participate in the program for each new medication wherein there is a change in the medication, strength, dosage form, or directions for use. The pharmacy shall keep a copy of the informed consent to enroll on file for three (3) years from the date of dispensing.

(C) Medication Synchronization Programs shall only include maintenance medications and are not allowed to include controlled substances or medications for acute or as-needed treatments. Providers may fill new maintenance medications for less than a full supply for the first fill to synchronize with the participant’s maintenance medication fill date if requested by the participant or the participant’s responsible party.

(D) Providers with a medication synchronization program must contact the participant or the participant’s responsible party before refilling any medication and confirm each medication to be refilled to ensure an accurate medication list. The contact shall be via the telephone, video chat, or in person. The contact shall include a review of all medication(s) to reduce potential therapeutic duplication, fraud, waste, and abuse. Medication Synchronization Programs which generate or contribute to fraud, waste, or abuse will be subject to potential recoupment of claims and potential sanction of the provider. Records of the medication synchronization program contact with the participant or the participant’s responsible party must be kept for audit purposes, including the date and time of contact.

E) Any prescriptions filled without a request from a participant or the participant’s responsible party may be subject to recoupment. Any provider who pursues a policy that includes refilling prescriptions on a regular date or any type of cycle fill, without meeting the specifications herein, may be subject to audit, claim recovery, or possible suspension or termination of their provider agreement.


PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Division of Legal Services-Rulemaking, P.O. Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.