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MLN Matters Number: SE0736 **Revised**

Related Change Request (CR) #: N/A

Related CR Release Date: N/A

Effective Date: April 1, 2008

Related CR Transmittal #: N/A

Implementation Date: N/A

Required Use of Tamper-Resistant Prescription Pads for Outpatient Drugs Prescribed to Medicaid Recipients on or After April 1, 2008

Note: This article was revised on October 2, 2007, to change the effective date from October 1, 2007, to April 1, 2008. This change was a result of the “Extenders Law”, which was signed September 29, 2007, delaying the implementation date for all paper Medicaid prescriptions to be written on tamper-resistant paper. Under the new law, all written Medicaid prescriptions must be on tamper-resistant prescription pads as of April 1, 2008. CMS will issue additional guidance on this implementation delay as it becomes available. All other information remains the same.

Provider Types Affected

This issue impacts all physicians, practitioners, and other providers who prescribe Medicaid outpatient drugs, including over-the-counter drugs, in States that reimburse for prescriptions for such items. Pharmacists and pharmacy staff especially should be aware of this requirement as it may affect reimbursement for prescriptions. The requirement is applicable regardless of whether Medicaid is the primary or secondary payer of the prescription being filled.

Background

Section 7002(b) of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 was signed into law on May 25,

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2007. Section 7002 (b) of that Act addresses the use of tamper-resistant prescription pads and offers guidance to State Medicaid agencies.

On August 17, 2007, the Centers for Medicare & Medicaid Services (CMS), issued a letter to State Medicaid Directors with guidance on implementing the new requirement.

Key Points of the CMS Letter to Your State Medicaid Director

- As of April 1, 2008, in order for outpatient drugs to be reimbursable by Medicaid, all written, non-electronic prescriptions must be executed on tamper-resistant pads.
- CMS has outlined three baseline characteristics of tamper-resistant prescription pads, but each State will define which features it will require to meet those characteristics in order to be considered tamper-resistant. **To be considered tamper resistant on April 1, 2008, a prescription pad must have at least one of the following three characteristics:**
 - One or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form;
 - One or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription by the prescriber;
 - 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, States will require that the prescription pad have all three characteristics.
- Several States have laws and regulations concerning mandatory, tamper-resistant prescription pad programs, which were in effect prior to the passage of section 7002(b). CMS deems that the tamper-resistant prescription pad characteristics required by these States' laws and regulations meet or exceed the baseline standard, as set forth above.
- Your State is free to exceed the above baseline standard.
- Each State must decide whether they will accept prescriptions written in another state with different tamper proof standards.
- CMS believes that both e-prescribing and use of tamper-resistant prescription pads will reduce the number of unauthorized, improperly altered, and counterfeit prescriptions.

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Situations in Which the New Requirement Does Not Apply

The requirement does not apply:

- When the prescription is electronic, faxed, or verbal; (CMS encourages the use of e-prescribing as an effective means of communicating prescriptions to pharmacists.)
- When a managed care entity pays for the prescription;
- To refills of written prescriptions presented to a pharmacy before April 1, 2008; or
- In most situations when drugs are provided in nursing facilities, intermediate care facilities for the mentally retarded, institutions for mental disease, and certain other institutional and clinical facilities.

Note: The letter issued by CMS to State Medicaid Directors states that emergency fills are allowed as long as a prescriber provides a verbal, faxed, electronic, or compliant prescription within 72 hours after the date on which the prescription is filled. PLEASE NOTE also that Drug Enforcement Administration (DEA) regulations regarding controlled substances may require a written prescription.

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