

## **CMS Requires Tamper- Resistant Prescription Pad Use For All Medicaid Scripts**

### **Enforcement targets pharmacists not prescribers**

A recent federal law, effective Oct. 1, states **payment will not be made** for hand-written Medicaid prescriptions that are not on a tamper-resistant pad. The payment limitation does not apply to phone, fax or e-prescriptions.

CMS issued some guidance Sept. 6 on the law to the state Medicaid agencies:

- Applies to all outpatient drugs and covered over-the-counter drugs.
- Does not apply when a managed care entity pays for the prescription.
- A tamper resistant pad must include one or more of the following as determined by your state Medicaid program :
  - an industry-recognized feature to prevent unauthorized copying, or
  - an industry-recognized feature to prevent erasure or modification, or
  - an industry-recognized feature to prevent use of counterfeit forms.
- By Oct. 1, 2008, a prescription pad must meet all three requirements.
- States may follow current laws and regulations regarding record retention.
- All existing state laws with tamper-resistant pad requirements are deemed to meet or exceed the new baseline. (CMS does not provide a list of those state laws.)
- States can be reimbursed if they provide pads to prescribers at little or no cost.
- States do not have to file a state plan amendment to comply with the law.
- CMS does not restrict emergency fills when a prescriber gives the pharmacy a verbal, faxed, electronic or compliant written prescription within 72 hours.

The guidance left the following decisions to the states:

- They can adopt guidelines that exceed the baseline requirements.
- They can make their own determination whether to allow pharmacists to accept out-of-state prescriptions that meet the tamper-resistant requirements of another state.
- They must establish an enforcement plan to ensure compliance or risk the loss of Federal financial participation.

### **Outstanding issues for pharmacists:**

- Prescribers are not required to use tamper-resistant pads in the majority of states.
- **Only pharmacists can be penalized for noncompliance.**
- **CMS has not identified the state laws that it considers compliant.**
- CMS may perform an audit and reverse payment; however, audit procedures have not been disclosed.
- No required notification to prescribers, patients or pharmacists.