

Tamper Proof Prescriptions Informational Fact Sheet

Background Information regarding Use of Tamper Proof Prescriptions

On May 5, 2007, a law was passed requiring the use of temper-resistant prescription pads for prescriptions written for Medicaid recipients. This requirement stems from amendments made to section 1903(i) of the Social Security Act (42 U.S.C. section 1936b(i) paragraph (23) stating that payment shall not be made for “..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.” A tamper-resistant prescription must meet three industry recognized features to prevent fraud. The first phase of implementation of this regulation was to have taken effect by October 1, 2007; however, implementation was delayed until April 1, 2008. In order to meet requirements for the first phase of implementation, the prescription must meet at least one industry recognized fraud prevention feature. By October 1, 2008, prescriptions must meet three industry recognized standards for fraud prevention.

Will the regulation effect DDA community provider agencies?

Initially DDA was thought to be exempt from these regulations. However, after further exploration and direct discussion with the Centers for Medicare and Medicaid Services (CMS), it appears that DDA will need to comply with these regulations for individuals receiving Medical Assistance benefits.

How can DDA community provider agencies comply with this regulation?

At this time suggestions for compliance include:

There are two ways in which to be compliant with the law at the present time.

- A. The HCP would send the prescription or PMOF directly to the pharmacy by fax, electronic email or by calling in the prescriptions to the pharmacy.
 - B. The HCP would utilize a computer-generated prescription that:
 - a. Is border-filled
 - b. Has other mechanisms to prevent tampering
 - i. Place asterisks on either side of the order (*20mg Prozac BID*)
 - ii. Use check-box system with amount of medication (1-25mg or 30-50 mg)
- In scenario A, utilization of the preprinted PMOFs that are currently being used and do not meet the tamper-proof standard could be continued, if the hard copy of the orders is given to staff/client after being sent or called to the pharmacy. Once faxed, called or sent by email to the pharmacy by the HCP, a copy of the PMOF could be given to the staff accompanying the individual on the appointment. In doing so, compliance with COMAR 10.22, COMAR 10.27.11, and the tamper-resistant regulations could be met with little cost in time and energy by the prescriber.
 - In scenario B, the agency may need to discuss with the HCP and the pharmacy how to ensure that this computer generated PMOF is tamper proof. There is tamper proof computer paper (“compliant paper”) available on the market. There may be additional cost to the pharmacy or agency to use or create this type of PMOF.

What will we do in October 2008?

The above mechanisms may be used until October 1, 2008 when all 3 elements of the law take effect meaning that prescriptions after that date have to be on “compliant paper”. Scenario A would continue to be able to be utilized and be compliant. Scenario B would require computer-generated “compliant paper” that can be obtained through specific companies.