

Medicaid Tamper-Resistant Prescription Requirements FAQs for Pharmacists

On April 1, 2008, all hand-written or computer-generated/printed Medicaid prescriptions were required to have at least one approved tamper-resistant feature to prevent: copying; modification or erasure; or counterfeiting. Starting October 1, 2008, all hand-written or computer generated/printed Medicaid prescriptions must contain at least one feature from all three of the previously mentioned categories.

1. Does this requirement pertain to prescriptions received by fax, telephone or electronically?

No. Since fax, telephone, and electronic prescriptions are sent directly to the pharmacy, they are excluded from the new Federal requirements. The direct communication from the physician/prescriber to the pharmacist is considered tamper-resistant.

2. Does this requirement pertain to prescriptions that are written using a computer (Electronic Medical Record - EMR) and printed on paper?

Yes. Any prescription that is entered into a computer, printed on paper and given to the patient/personal representative for filling must contain the required tamper-resistant features.

3. Do prescriptions printed from a computer (EMR) have to be printed on special tamper resistant paper to be compliant?

No. CMS has clarified that while special tamper resistant paper can be used to achieve copy resistance, it is not necessary. Copy resistance may also be achieved with plain paper; as long as certain features are used and meet your state's requirements (see Appendix 1 for examples).

4. Does the Federal requirement affect written Medicaid prescriptions for managed care recipients?

This requirement does not apply to written outpatient prescriptions for those managed care Medicaid recipients whose pharmacy benefits are paid by a Managed Care Organization (MCO). However, there are exceptions to this rule in Illinois and in few plans in California. This is subject to change – check with your State Medicaid program for specific MCO exceptions.

5. Does the tamper-resistant requirement apply to over-the-counter (OTC) products?

Yes. OTC products that require a prescription for reimbursement under Medicaid must be tamper-resistant.

6. Does the tamper-resistant requirement apply to durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) supplies, such as diabetic testing strips?

No. The tamper-resistant requirement only applies to medications.

7. How does this provision apply to discharge prescriptions for a Medicaid patient when they leave an inpatient setting with prescriptions to be filled at an outpatient pharmacy?

If the prescription is written or printed, then it must be tamper-resistant.

8. Does the action of a pharmacist calling back a prescriber and making appropriate documentation on the original non-compliant prescription count as a compliant prescription during a Medicaid audit?

Yes. CMS clarified that documentation by the pharmacist of verbal confirmation of a non-compliant written prescription satisfies the requirement for a compliant prescription. As a best practice you should document the name of the person contacted at the prescriber's office, the date the prescription was confirmed and the name of the pharmacist who confirmed the prescription. However, it is recommended that pharmacists check with their state Medicaid agency to confirm this policy. CMS' clarification can be found in the Frequently Asked Questions on the Tamper-Resistant Law document available on its Web site at: <http://www.cms.hhs.gov/DeficitReductionAct/Downloads/MIPTRPFAQs9122007.pdf>.

9. What do I do if I receive a hand-written or printed Medicaid prescription from another state?

You must first determine which state Medicaid program is going to pay for the prescription and then make sure that the prescription meets that state's tamper-resistant requirements. The National Association of State Medicaid Directors has state-specific materials available on its Web site at: www.nasmd.org/issues/TRPP.asp.

10. If my pharmacy receives a transfer prescription, does the transferred prescription need to be tamper-resistant?

Your pharmacy only needs to obtain a phone call or fax from the other pharmacy to confirm the authenticity of the tamper-resistant prescription that was previously delivered to the other pharmacy. You do not need to obtain confirmation of the original prescription from the prescriber. If the fax comes across with Void/Illegal/Copy wording across the prescription, see Question #11 below on how to handle.

This information was compiled by American College of Physicians, American Pharmacists Association, Centers for Medicare & Medicaid Services (CMS), Computer Sciences Corporation, JenKare, LLC; HP Labs; Medical Group Management Association, MedStar Health, National Association of Chain Drug Stores, National Community Pharmacists Association, National Council for Prescription Drug Programs, North Carolina Division of Medical Assistance, Promex Group – Medi Scripts Services, Standard Register, and Wyoming Department of Health.

This document is provided as a courtesy for informational purposes. It is based on our review of the law and CMS guidance. If you have any questions about your responsibilities, we urge you to contact your state Medicaid agency for clarification and guidance.



11. What do I do if I receive a faxed Medicaid prescription that has Void/Illegal/Copy wording across the prescription?

Prescriptions written on tamper-resistant paper that has the word Void/Illegal/Copy as a background pantograph security feature used to prevent photocopying, may also display Void/Illegal/Copy when faxed. Because it says Void/Illegal/Copy you will need to call the prescriber to verify the prescription and thus reclassify the prescription as a prescription received via telephone. The Drug Enforcement Agency (DEA) and several state Boards of Pharmacy do not recognize prescriptions with the Void/Illegal/Copy wording. Contact your state Board of Pharmacy if you need additional information. You should also educate the prescriber that this particular tamper-resistant paper should not be used to fax prescriptions because of the pantograph – the prescriber should either: write the prescription on plain paper and fax using a cover sheet; call the pharmacy with the prescription; or send an electronic prescription.

12. Sometimes my patients become Medicaid eligible retroactively. If not originally tamper-resistant, will their original prescriptions need to be updated to become tamper-resistant?

Once you are aware of a patient's retroactive eligibility for Medicaid, all prescriptions, including refills, dispensed on or after that date will need to be compliant with the tamper-resistant requirements. This can be accomplished by verifying with the prescriber the prescription is tamper-resistant, obtaining a new written prescription that is fully compliant with the tamper-resistant requirement, or by obtaining a fax, telephone or electronic prescription.

13. What can I do if a Medicaid patient brings in a prescription that is not tamper-resistant?

Pharmacists can dispense emergency fills of non-controlled or controlled substances when appropriate, for example when the pharmacist is unable to reach the prescriber. The pharmacy must obtain a compliant prescription in writing or by telephone, fax, or e-prescription within 72 hours. Since there is no mandate for prescribers to reply to compliance requests, the pharmacy will be at a financial risk for the amount of the emergency fill. In most states, compliant prescriptions are required within 72 hours of an emergency fill but check with your state if you are unsure of its emergency fill requirement. CMS' clarification can be found in the Frequently Asked Questions on the Tamper-Resistant Law document on its Web site at: <http://www.cms.hhs.gov/DeficitReductionAct/Downloads/MIPTRFQA9122007.pdf>.

14. How can I determine if a prescription is compliant with tamper-resistant requirements for my state?

Contact your state Medicaid agency to determine the specific requirements for your state. The National Association of State Medicaid Directors also has state-specific materials available on its Web site at: www.nasmd.org/issues/TRPP.asp. Guidance documents to help pharmacists identify tamper-resistant features and determine if they are compliant were developed by national pharmacy organizations and the National Council for Prescription Drug Programs (NCPDP). In addition, it has been strongly recommended that states require vendors to list the security features on the prescription. This feature will also help pharmacists identify tamper-resistant prescriptions. These documents are available on the NCPDP Web site at: www.ncpdp.org/pdf/Tamper_resistant_07-18-08.zip. Click on Identifying Tamper-Resistant Prescription Pad Features (see attachment) and Best Practices for Medicaid Tamper-Resistant Prescriptions.

15. What can a pharmacist do when a prescriber is routinely issuing non-compliant prescriptions for Medicaid recipients?

After first notifying the prescriber, contact your State Medicaid office for additional direction. Some states request that you report prescribers who fail to comply with the tamper-resistant requirements on a routine basis.

16. Could my pharmacy be audited by State Medicaid for compliant prescriptions?

Yes. This requirement will be one of the auditable categories that could be documented during a State Medicaid audit. The pharmacist is accountable for ensuring that the Medicaid prescription is compliant with the tamper-resistant requirements.

17. What are the audit penalties for non-compliance?

Non-compliance with the new Federal tamper-resistant requirements may result, at a minimum, in the recoupment of the Medicaid reimbursement for the non-compliant prescription.

18. Does the Federal requirement change state requirements regarding record keeping?

No.

19. What if my state already has pre-existing requirements?

The Centers for Medicare & Medicaid Services (CMS) has recognized certain states with existing requirements (California, Florida, Indiana, Kentucky, Maine, Massachusetts, New Jersey, New York, Texas, and Wyoming) and, with one exception, has deemed them to already meet the new Federal requirements. CMS has noted that the existing Idaho requirements comply with the April 1, 2008 deadline only.

20. Where can I view samples of tamper-resistant prescriptions?

Samples of tamper-resistant prescription features are available on the NCPDP Web site at: www.ncpdp.org/pdf/Final_itr_to_medicare_directors.pdf. Click on Identifying Tamper-Resistant Prescription Pad Features (see attachment) and Best Practices for Tamper-Resistant Prescriptions.

21. Where can I go to find out more information?

For more information about the tamper-resistant requirements, contact your state Medicaid agency, visit CMS' Web site at www.cms.hhs.gov/DeficitReductionAct/30_GovtInfo.asp (click on Medicaid Tamper-Resistant Prescription Information, Top Questions about Tamper-Resistant Prescriptions (FAQs), and Medicaid Prescription Resistant Prescription Pad Law - Pharmacist Fact Sheet), or contact your national, state or local pharmacy association. The National Association of State Medicaid Directors also has state specific materials available on its Web site at www.nasmd.org/issues/TRPP.asp.

Appendix I

Examples of Tamper-Resistant Printed Prescriptions (Generated by an EMR/ePrescribing Application)

Example A

Washington Medical Group
555 Pennsylvania Ave, Washington DC 20001
202-222-2222 (Fax) 202-222-1111

Name Jane Q Public **Date** 06/29/2008
Addr 123 Main Street **DOB** 07/04/1960
City Washington, DC 20001 **Ph:** 202-555-5555

HYDROCHLOROTHIAZIDE 12.5 MG CAPS One (1) tab by mouth each morning
Generic: HYDROCHLOROTHIAZIDE
Disp ***30*** THIRTY (2)
Refill ***3*** THREE

Security features: (C) boxed & spelled quantities, microprint signature line visible at 5x or > magnification that mistook THIS IS AN ORIGINAL PRESCRIPTION & the description of features (3)

(1) John Smith, MD
NPI# 1111111111

- Category 1:** ✓ Copy Resistance: Microprint signature line*
- Category 2:** ✓ Modification / Erasure Resistance: Border characteristics (dispense and refill # bordered by asterisks AND spelled out)
✓ Modification / Erasure Resistance: Printed on "toner-lock" paper
- Category 3:** ✓ Counterfeit Resistance: Listing of security features

* Microprint Line viewed at 5x magnification – when copied this will be illegible to the pharmacist

THIS IS AN ORIGINAL PRESCRIPTION-THIS IS AN ORIGINAL PRESCRIPTION-THIS IS AN ORIGINAL PRESCRIPTION-THIS IS AN ORIGINAL PRESCRIPTION

Appendix I (continued)

Example B

Washington Medical Group
555 Pennsylvania Ave, Washington DC 20001
202-222-2222 (Fax) 202-222-1111

Name Jane Q Public
Addr 123 Main Street
City Washington, DC 20001

Date 06/29/2008
DOB 07/04/1960
Ph: 202-555-5555

HYDROCHLOROTHIAZIDE 12.5 MG CAPS One (1) tab by mouth each morning
Generic: HYDROCHLOROTHIAZIDE
Disp: ***30*** THIRTY (2)
Refill: ***3*** THREE

Security features include: (*) bordered and spelled quantities, a void pantograph and reverse Rx (when copied -- the prescription will say "COPY" and the "Rx" in the upper right corner will NOT be visible), and this description of features.

John Smith, MD
NPI# 1111111111

- Category 1:** ✓ Void/Illegal/Copy Pantograph with or without Reverse Rx
- Category 2:** ✓ Modification / Erasure Resistance: Border characteristics (dispense and refill # bordered by asterisks AND spelled out)
- ✓ Modification / Erasure Resistance: Printed on "toner-lock" paper
- Category 3:** ✓ Counterfeit Resistance: Listing of security features

Identifying Tamper-Resistant Prescription Pad Features

Front

Void or Copy Pantograph: displays "VOID" or "ILLEGAL" on a color copy of an Rx. It will appear on a wide range of copier settings. (Cat. 1)

Back

Chemically-Protected Paper: Invisible coating causes "VOID" or a stain to appear on a handwritten Rx when altered by a wide range of chemicals. Toner receptor coating protects laser-printed Rx data from being removed or altered. (Cat. 2) Recommended for use with Preprinted Text Fields

SPRINGHAVEN MEDICAL PRACTICE
1234 HEALTH CENTER DRIVE
DAYTON, OH 45408
PHONE 1-937-221-1234 • FAX 1-937-434-5678

JOHN R. SMITH, M.D.
Lic: 123456 • DEA: XX1234567
NPI: 2222222222

HELEN C. DOE, M.D.
Lic: 123456 • DEA: XX1234567
NPI: 2222222222

PATIENT'S FULL NAME	SEX	DATE OF BIRTH
ADDRESS	DATE	

Rx 00000001

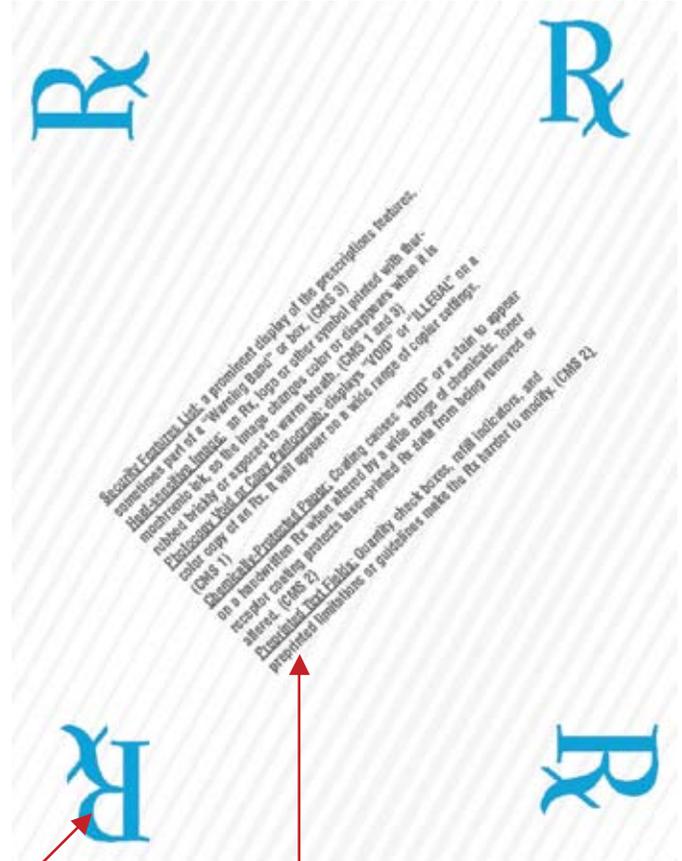
1-24
 25-49
 50-74
 75-100
 101-150
 151 and over

PRESCRIBER'S SIGNATURE _____

TEST AREA Refills 1 2 3 4 _____ DEA # _____
No Refills Void After _____ **VALID FOR CONTROLLED SUBSTANCES**

Preprinted Text Fields: Quantity check boxes, refill indicators, and preprinted limitations or guidelines make the Rx harder to modify. (Cat.2)

Heat-sensitive Image: An Rx, logo, or other symbol printed with Thermochromic ink, so the image changes color or disappears when it is rubbed briskly or exposed to warm breath. (Cat. 1 and 3)



Security Features List: a prominent display of the prescriptions features, sometimes part of the "Warning Band" or box. (Cat. 3)

Example of a Color Copied Prescription

SPRINGHAVEN MEDICAL PRACTICE
1234 HEALTH CENTER DRIVE
DAYTON, OH 45408
PHONE 1-937-221-1234 • FAX 1-937-434-5678

JOHN R. SMITH, M.D.
Lic: 123456 • DEA: XX1234567
NPI: 2222222222

HELEN C. DOE, M.D.
Lic: 123456 • DEA: XX1234567
NPI: 2222222222

PATIENT'S FULL NAME	SEX	DATE OF BIRTH
ADDRESS	DATE	

Rx 00000001

1-24
 25-49
 50-74
 75-100
 101-150
 151 and over

PRESCRIBER'S SIGNATURE _____

TEST AREA Refills 1 2 3 4 _____ DEA # _____
No Refills Void After _____ **VALID FOR CONTROLLED SUBSTANCES**

Hollow Pantograph: VOID or ILLEGAL is designed to not obscure or block vital information. Often showing strongest intensity at the "top" or the document. These pantographs generally do not "pop" on a black and white fax