



**Coalition for Community
Pharmacy Action**

September 20, 2007

RE: Public Law 110 -28 - Section 7002(b)
Use of Tamper-Resistant Pads

On behalf of the Coalition for Community Pharmacy Action (CCPA) we wanted to make sure that you are aware of a recently enacted law that will affect your Medicaid patients. The law requires that after September 30th all Medicaid fee-for-service prescriptions for legend and over-the-counter drugs be written on tamper-resistant prescription pads.

This law has great potential to negatively impact Medicaid patients, pharmacies and physicians. Due to the extremely short time period for implementation and a lack of an education campaign by any government entity, we are trying to inform as many providers as possible.

CMS Guidance

- In an August 17, 2007 CMS guidance document addressed to state Medicaid directors, CMS left the choice of the type of tamper-resistant pad to be mandated to each state Medicaid program, but said each State must require that a tamper-resistant pad include at least one of the following characteristics:
 - 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.

On and after October 1, 2007 all Medicaid prescription forms must have all three of the mandated characteristics.

CMS did say that states could have their administrative costs matched by the federal government if they provide pads to prescribers at little or no cost. CMS also allowed emergency fills if the prescriber gives the pharmacy a verbal, faxed, electronic, or compliant written prescription within 72 hours. Finally, CMS listed the following existing state tamper-resistant programs as compliant: California, Florida, Indiana, Kentucky, Maine, New Jersey, New York, Texas and Wyoming. Idaho is compliant through September 30, 2008. However, most of these state programs are not for all drugs, and physicians in these states must begin using tamper-resistant prescription pads for all Medicaid fee-for-service prescriptions, rather than only select prescriptions.

We suggest that you contact your state Medicaid Agency to:

433 N. Lee St. • Alexandria, Virginia 22314
Phone: 703-837-4660 Fax: 703-683-8555

www.RxAction.org



- Request that they provide you with an example of an approved tamper-resistant pad;
- Ask if they intend to provide your office with the pads at little or no cost and/or the names of approved suppliers;
- Ask about the state's position on the acceptance of out-of-state prescriptions that meet the tamper-resistant requirements of that other state;
- Ask how Medicaid beneficiaries were notified of this requirement and request a copy of the notification; and
- Request a ninety (90)-day discretionary enforcement period (grace period) to allow prescribers, patients, and pharmacists to understand and comply with the requirement

As a practical matter, this law places Medicaid beneficiaries and pharmacists in an awkward position if the pharmacist must delay or even deny a prescription because a prescribing provider did not use a tamper resistant pad and that prescriber cannot be contacted by the patient or pharmacist in order to correct the situation. Worse, this scenario has the potential to affect a patient's health.

We urge you to contact your state Medicaid Agency for clarification. We know that you will join us as we continue to advocate on behalf of our Medicaid patients and seek to minimize the potential for this to limit their access to prescriptions drugs. We appreciate the opportunity to share our concerns with you. Thank you for your cooperation.

Sincerely

A handwritten signature in black ink that reads "Charles B. Sewell". The signature is fluid and cursive, with a long horizontal stroke at the end.

Charles B. Sewell
Co-President
Coalition for Community Pharmacy Action

Julie Khani
Co-President
Coalition for Community Pharmacy Action

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