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B&B BULLETIN

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B&B HEALTH REFORM BULLETIN FOR PHYSICIANS

CMS Updates Medicare's Signature Guidelines

May 2010

On March 16, 2010, The Centers for Medicare & Medicaid Services (CMS) issued Transmittal 327 (Change Request 6698), which revised Chapter 3, Section 3.4.1.1 of the Medicare Program Integrity Manual (Pub. 100-08). CMS issued Transmittal 327 to clarify for providers how Medicare claims review contractors review claims and medical documentation submitted by providers.

The previous language in Section 3.4.1.1 of the Program Integrity Manual required a legible identifier in the form of a handwritten or electronic signature for every service provided or ordered. Section 3.4.1.1 now requires that services provided or ordered be authenticated by the author through a handwritten or electronic signature, and continues to state that stamp signatures are not acceptable.

In Transmittal 327, CMS has also expanded the exceptions to the signature requirement. Section 3.4.1.1, which previously recognized an exception allowing facsimiles of written or electronic signatures for terminal illness hospice certification, now also recognizes that orders for clinical diagnostic tests are not required to be signed if medical documentation showing the treating physician's intent that a clinical diagnostic test be performed is authenticated by the handwritten or electronic signature of the treating physician. In addition, Transmittal 327 notes that if specific signature requirements (such as timeliness standards) are set forth in regulations, national or local coverage determinations, or CMS manuals, those specific requirements will take precedence over the Section 3.4.1.1 guidance.

Transmittal 327 warns providers not to add signatures after the transcription process but allows signature authentication through the submission of signature logs listing the name of the author associated with initials or an illegible signature, and the submission of signature attestation statements signed by the author of the medical record entry in question. Signature logs and signature attestation statements are not required to be created on the same date as the medical record unless regulation or policy requires that the signature be in place prior to a given date. Reviewers are directed not to consider attestation statements if there is no related medical record entry or if the attestation statement is made by someone other than the author of the entry in question.

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Section 3.4.1.1 also now sets forth an acceptable form of attestation statement but notes that the use of this particular form is not required.

In addressing electronic prescribing, Transmittal 327 provides that a hardcopy signature will not be required as evidence of an order for Part B drugs, other than controlled substances, if the drugs are ordered through a "qualified" e-prescribing system. A qualified system is defined as an e-prescribing system that meets Part D requirements of 42 CFR § 423.160, which sets forth standards for electronic prescribing.

Transmittal 327 states that the Drug Enforcement Administration (DEA) does not permit the prescription of controlled substances through e-prescribing systems, and that only hardcopy or pen signatures will be accepted as evidence of a drug order for controlled substances. However, on March 24, 2010 (eight days after the Transmittal 327's issuance), the DEA announced its release of an interim final rule permitting Schedules II, III, IV, and V controlled substances to be electronically prescribed beginning June 1, 2010.2 Presumably the hardcopy signature requirement for controlled substances will be loosened in light of this e-prescribing interim rule.

Transmittal 327 is effective March 1, 2010, but the changes are effective retroactively to the November 2010 report period for comprehensive error rate testing.