DEPARTMENT OF HEALTH AND SOCIAL SERVICES

CHANGES TO REGULATIONS

7 AAC 43.591. Drug Reimbursement.

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FILED REGULATIONS

Incorporating Changes Made by the Department of Law

Effective: March 15, 2008

7 AAC 43.591 is amended by adding new subsections to read:

(r) On or after April 1, 2008, outpatient drugs reimbursable under Medicaid that are not prescribed by electronic transmission in accordance with 12 AAC 52.490 or by verbal communication must be executed on tamper-resistant paper in order to be reimbursed by the department as the primary or secondary payor. Each prescription form must contain a serial number and the prescriber's National Provider Identifier (NPI) number under 45 C.F.R. 162.402 - 162.414.

(s) The requirements in (r) of this section do not apply to a

(1) refill if the original prescription was filled before April 1, 2008;

(2) prescription for which retroactive Medicaid eligibility has been determined, except for refills that are filled after the retroactive eligibility determination date; or

(3) prescription prepared in an institutional pharmacy, if the prescriber writes the prescription into the medical record, the medical staff gives the order directly to the institutional pharmacy, and the patient does not handle or have the opportunity to handle the prescription; in this paragraph, "institutional pharmacy" has the meaning given in 12 AAC 52.995(a).

(t) The tamper-resistant paper required under (r) of this section must include at least one industry-recognized feature designed to prevent unauthorized copying of a completed prescription, at least one industry-recognized feature designed to prevent the erasure or modification of information written on the prescription by the prescriber, and at least one industry-recognized feature designed to prevent the use of counterfeit prescription forms. For purposes of this subsection, industry-recognized features designed to prevent

(1) unauthorized copying of a completed or blank prescription form include

(A) high-security watermarks on the reverse side of blank prescriptions;

(B) thermochromic ink that changes color or disappears when warmed;

(C) security patterns;

(D) void pantographs;

(E) microprinting

(F) prismatic printing;

(G) lenticular patterns; and

(H) encodation schemes;

(2) erasure or modification of information written on the prescription by the prescriber include tamper-resistant background ink that shows erasures or attempts to change written information according to any of the following techniques:

(A) toner anchorage used to complicate the removal of toner;

(B) chemical stains used to reveal chemical eradication attempts against ink or toner;

(C) laid lines used to reveal cut-paste attempts on an item;

(D) chemical reactive inks used to reveal washing attacks;

(E) overcoatings, laminates, and varnishes used to secure written content on the item;

(F) erasable ink backgrounds used to reveal attempts at ink and toner removal;

(G) borders and fill characters used to complicate attempts to add-on extra information;

(H) on-item encodation techniques, bar codes, and patterns used to validate item content;

(3) the use of counterfeit prescription forms include

(A) serially numbered blanks;

(B) duplicate or triplicate blanks;

(C) thermochromic ink that changes color or disappears when warmed; and

(D) color-shifting ink that changes color when viewed from different angles.

(u) The department will reimburse a provider for filling a prescription that does not comply with (r) - (t) of this section, as follows:

(1) if the prescription is for a schedule II controlled substance, the prescriber must, within 72 hours after the date the prescription was filled, provide the pharmacy with a prescription transmitted by writing on tamper-resistant paper that complies with (r) - (t) of this section;

(2) if the prescription is for a schedule III, IV, or V controlled substance, the prescriber must, within 72 hours after the date the prescription was filled, provide the pharmacy with a prescription transmitted by

(A) facsimile; the facsimile transmission must be in accordance with 12 AAC 52.490;

(B) telephone; or

(C) writing on tamper-resistant paper that complies with (r) - (t) of this section;

(3) if the prescription is for a noncontrolled substance, the prescriber must, within 72 hours after the date the prescription was filled, provide the pharmacy with a prescription transmitted by

(A) any form of electronic transmission in accordance with 12 AAC 52.490;

(B) telephone; or

(C) writing on tamper-resistant paper that complies with (r) - (t) of this section;

(4) in this subsection, "schedule," used in conjunction with a controlled substance, means the relevant schedule of controlled substances under 21 U.S.C. 812 (sec. 202, Federal Controlled Substances Act).

(v) If a written prescription does not comply with (r) - (u) of this section, the monetary value of that prescription claim may be recouped by the department during pre- or postpayment review. (Eff. 2/1/89, Register 109; am 6/14/89, Register 110; readopt 8/7/96, Register 139; am 6/26/98, Register 146; am 5/5/99, Register 150; am 3/3/2001, Register 157; am 4/28/2005, Register 174; am 4/14/2007, Register 182; am 3/15/2008, Register 185)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.050
AS 47.07.030