

Pursuant to federal law (H.R. 2206 / Public Law 110-28, U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007), effective April 1, 2008, prescribing practitioners will be required to use a tamper-resistant prescription pad when writing a prescription for any drug for Medicaid recipients.

The Texas Health and Human Services Commission (HHSC) requested an exemption to this regulation for its Medicaid providers. However, the federal Centers for Medicare and Medicaid Services (CMS) determined that it does not have the statutory authority to grant an exemption to federal law.

This regulation, effective April 1, 2008, applies to all *written* prescriptions submitted for payment through the Vendor Drug Program (VDP) for all Texas Medicaid beneficiaries. The regulation does not apply to prescription orders transmitted to a pharmacy via telephone, fax, or electronically. According to CMS, the purpose of tamper-resistant prescription pads is to reduce instances of unauthorized, improperly altered, and counterfeit prescriptions.

In order for a written prescription to be considered tamper-resistant by CMS the prescription pads must meet all three of the following characteristics:

- Prevents unauthorized copying of completed or blank prescription forms.
- Prevents erasure or modification of information written on the prescription form.
- Prevents the use of counterfeit prescription forms.

CMS is permitting a grace period from April 1, 2008 until October 1, 2008, in which prescriptions meeting at least one of the three requirements will be considered tamper-resistant. No later than October 1, 2008, written prescriptions must meet all three requirements to be considered tamper resistant per federal law.

CMS has determined that the prescription forms for Schedule II controlled substances issued by the Texas Department of Public Safety (DPS) under the Texas Prescription Program meet the baseline standards set forth above. Providers should continue using these pads for all prescriptions for Schedule II controlled substances. These pads should not be used to write prescriptions for non-Schedule II drugs.

Prescribers may select their supplier of CMS-compliant prescription pads. Information on available vendors may be obtained online by using a key word search of "secure prescription pads". In addition, some states such as California, Florida, Indiana, Kentucky, Maine, West Virginia, and Wyoming currently have tamper-resistant programs in place whereby they certify specific printers for tamper-resistant prescription pads. A link to printers approved by the California Board of Pharmacy is provided below. These printers meet the baseline requirements set by CMS.

http://www.ag.ca.gov/bne/security_printer_list.php

Prescription orders transmitted to a pharmacy electronically, by telephone, or by fax are exempt from this requirement. If you are currently calling in, faxing or sending in prescriptions by electronic means you can continue to do so without any change in these practices. We encourage prescribing practitioners to submit prescriptions through one of these approved processes whenever possible, to ensure continuity of care and access to necessary medications for Medicaid recipients. The tamper-resistant requirement also does not apply to refills of written prescriptions presented at a pharmacy before April 1, 2008.

In the event a prescription is not submitted on a tamper-resistant prescription form, a pharmacy may fill the prescription in full (as written) on an emergency basis. In those instances, the pharmacy must obtain a verbal, faxed, electronic, or compliant, written prescription from the prescriber within 72 hours after the date on which the prescription was filled.

Effective April 1, 2008, federal law requires Medicaid agencies to limit reimbursement for written (and non-electronic) prescriptions to only those executed on tamper-resistant pads. Prescribing practitioners should take necessary steps to ensure that tamper-resistant pads are used for all written prescriptions provided to Medicaid clients or that compliant, non-written alternatives are used for transmitting

prescriptions such as by telephone, fax, or electronic submittal. Pharmacies are required to ensure that all written Medicaid prescriptions submitted for payment to the Vendor Drug Program were written on a compliant tamper-resistant pad.

CMS provided guidance on the requirements and use of tamper-resistant prescription pads to states. Based on this guidance the Texas Health and Human Services Commission (HHSC) has developed a Question and Answer document to assist practitioners and address frequently asked questions.

Question and Answers

QUESTION	ANSWER
<i>Where can providers obtain tamper-resistant prescription pads?</i>	Prescribers are encouraged to check with their current suppliers of prescription pads. Providers may also obtain information on vendors of tamper-resistant prescription pads online by using a key word search of “secure prescription pads”. In addition, some states such as California, Florida, Indiana, Kentucky, Maine, West Virginia, and Wyoming currently have tamper-resistant programs in place whereby they certify specific printers for tamper-resistant prescription pads. A link to security printers approved by the California Board of Pharmacy is provided below. These printers meet the baseline requirements set by CMS. http://www.ag.ca.gov/bne/security_printer_list.php
<i>Is HHSC certifying approved printers/suppliers of tamper-resistant prescription pads?</i>	No. At this time, HHSC is not certifying printers or suppliers.
<i>What is the cost of tamper-resistant prescription pads?</i>	HHSC does not have cost information on prescription pads. Prices are available from printers/suppliers.
<i>Will the state reimburse medical providers for the cost of the tamper-resistant prescription pads?</i>	No.
<i>When will this rule become effective, and when are providers and pharmacies expected to comply with this change?</i>	Beginning April 1, 2008, Medicaid providers will be required to submit all written prescriptions on tamper-resistant pads meeting all three of the following characteristics: <ul style="list-style-type: none"> • prevents unauthorized copying of completed or blank prescription forms, • prevents erasure or modification of information written on the prescription form, and • Prevents the use of counterfeit prescription forms. <p>CMS is permitting a grace period from April 1, 2008 until October 1, 2008, in which prescriptions meeting at least one of the three requirements will be considered tamper resistant. No later than October 1, 2008, all three requirements must be met to be considered tamper resistant per federal law.</p>

<i>Is this requirement limited to Schedule II controlled substances?</i>	No. This requirement applies to all written prescriptions provided to Medicaid recipients, irrespective of the drug class.
<i>Does this apply to Medicaid recipients enrolled in managed care plans?</i>	Yes. This requirement applies to Medicaid recipients enrolled in managed care plans, primary care case management, and traditional fee-for-service Medicaid.
<i>Are there any exceptions to having to use tamper-resistant written prescriptions?</i>	Yes. Telephone, fax, and electronic prescriptions are exempt from this requirement. Providers are encouraged to use these methods when submitting prescriptions.
<i>How can a pharmacist determine whether a written prescription is tamper resistant?</i>	<p>A compliant, written prescription will have the following industry-recognized features:</p> <ul style="list-style-type: none"> • Prevents unauthorized copying of blank or completed forms. • Prevents erasure or modification of completed forms. • Prevents counterfeiting. <p>There are many suppliers of tamper-resistant prescription pads, so there will be many variations in these features. Pharmacists are expected to use their best professional judgment. If a prescription appears to be written on plain paper or the pharmacist has any doubts, the prescriber should be contacted.</p>
<i>If a patient presents with a prescription that is not on a tamper-resistant pad and needs the medication right away, can the pharmacy fill the prescription?</i>	Yes, the pharmacist may fill the prescription in full as it is written. CMS requires that a compliant prescription be obtained within 72 hours of filling the prescription. A compliant prescription is considered one that has been faxed, telephoned, submitted electronically, or written on a tamper-resistant prescription pad.
<i>What should providers do in the event that tamper-resistant prescription pads are not available to them by April 1, 2008?</i>	Providers may submit prescriptions using an approved alternative method such as by fax, telephone, or electronic prescription submittal.
<i>Does this policy apply in cases of retroactive eligibility? What if the patient was not eligible for Medicaid at the time of the visit?</i>	No. Tamper resistant prescriptions are not required in cases of retroactive eligibility, as providers would not have been aware of the client's Medicaid status during the medical encounter.

<i>Are all providers required to comply?</i>	Yes. All providers writing prescriptions for Medicaid clients are required to comply, irrespective of specialty or the setting in which they practice. All written prescriptions are required to be submitted on tamper-resistant prescription pads.
<i>Are tamper-resistant prescriptions required when Medicaid is the secondary payer?</i>	Yes. Per federal law, tamper-resistant prescriptions are required for all written Medicaid prescriptions.
<i>Are refills exempt from this rule?</i>	Refills of written prescriptions are exempt if the original written prescription was presented at a pharmacy before April 1, 2008.
<i>Are tamper-resistant prescriptions required in facilities?</i>	Only hand-written prescriptions provided directly to the patient are required to be executed on tamper-resistant prescription pads. Prescriptions for patients in nursing homes and other facilities, where the patient does not handle the prescription directly, are exempt from this requirement. However, if the facility provides a written prescription to be filled by the client directly, it must be written on a tamper-resistant prescription pad.
<i>Are "drug orders" written for a resident of a nursing facility exempt from this rule?</i>	Yes. Drug orders transmitted directly from a nursing facility to a pharmacy are exempt, as the patient does not directly handle the prescription.
<i>Are prescriptions printed in a practitioner's office from a patient's medical record exempt from this requirement?</i>	No. If the prescription order is presented to the pharmacy on paper, it must be on tamper-resistant paper. Faxed and other electronic "drug orders" are exempt. Tamper-resistant printer paper may also be available from suppliers of compliant prescription pads.
<i>Does this requirement apply when a prescription is provided for an over-the-counter drug?</i>	Yes. This applies to all prescribed outpatient drugs including over-the-counter drugs.
<i>Are prescriptions written prior to April 1, 2008, but filled after April 1, 2008 exempt from this rule?</i>	No. Any new written prescription filled on or after April 1, 2008 must be executed on a tamper-resistant prescription pad, irrespective of the date the prescription was written.