

## **Attention: Pharmacists**

# **Maintaining Hard Copies of Prescriptions**

Many pharmacies are moving toward the use of systems that allow prescriptions to be scanned into a computer. The N.C. Medicaid Program requires that hard copies of prescriptions must be retained as stated in DMA's Medicaid Participation Agreement. From Section A.5, "The aforementioned provider agrees to participate in the North Carolina Medicaid Program and agrees to abide by the following terms and conditions: . . . Maintain for a period of five (5) years from the date of service: (a) accounting records in accordance with generally accepted accounting principles and Medicaid recordkeeping requirements; and (b) other records as necessary to disclose and document fully the nature and extent of services provided and billed to the Medicaid Program. For providers who are required to submit annual cost reports, 'records' include, but are not limited to, invoices, checks, ledgers, contracts, personnel records, worksheets, schedules, etc. Such records are subject to audit and review by Federal and State representatives."

Additionally, Section C of the Participation Agreement states that all pharmacy providers are required to "file prescriptions numerically and in chronological order, either in normally occurring order with other prescriptions filled by the provider or in a separate file."

Furthermore, important legislation was passed by Congress in May 2007 requiring prescriptions for all Medicaid outpatient drugs to be written on tamper-resistant prescription pads. This requirement was included in a provision in Section 7002(b) of the US Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007. States have been charged with implementation and monitoring of this federal requisite in order to be eligible for federal reimbursement. In order to fully assess providers' compliance with this federal mandate, it is reasonable to conclude that there are instances in which auditors, investigators or entities working on behalf of DMA would need access to the original hard copies of prescriptions. It is the position of DMA that all hard copies of prescriptions should be maintained on-site and readily retrievable for a period of not less than five years from the date of service.

**Program Integrity Pharmacy Review Section**  
**DMA, 919-647-8000**

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# Pharmacy Audits

Pursuant to federal regulations regarding utilization of Medicaid services, DMA is authorized by Section 1902 (a)(27) of the Social Security Act and Federal Regulation 42 CFR 431.107 to access patient prescriptions for purposes directly related to the administration of the Medicaid program. Therefore, special permission from the recipient is not necessary for releasing this information. In addition, when applying for Medicaid benefits, each recipient signs a release, which authorizes access to his or her Medicaid records by the appropriate authorities.

**The N.C. Medicaid Program is not required to give advance notice of intent to audit.** Section B.5 of the Medicaid Participation Agreement states that the provider understands and agrees “That Federal and/or State officials and their contractual agents may make certification and compliance surveys, inspections, medical and professional reviews, and audit of costs and data relating to service to Medicaid patients as may be necessary under Federal and State statutes, rules and regulations. Such visits must be allowed at any time during hours of operation, including unannounced visits. All such surveys, inspections, reviews and audits will be in keeping with both legal and ethical practice governing patient confidentiality.”

Section B.10 further states that “DMA may terminate this agreement upon giving written notice or refuse to enter into an agreement when: (a) The provider fails to meet conditions for participation, including licensure, certification or other terms and conditions stated in the provider agreement.”

Section A.5 states that the provider must “maintain for a period of five (5) years from the date of service:

(a) accounting records in accordance with generally accepted accounting principles and Medicaid recordkeeping requirements; and (b) other records as necessary to disclose and document fully the nature and extent of services provided and billed to the Medicaid Program. . . . Such records are subject to audit and review by Federal and State representatives.”

Our audits, investigations, and inspections are health oversight activities and are subject to the oversight Fraud and Abuse exemption of HIPAA. These disclosures are required by law, and are not subject to minimum necessary 45 CFR 164.502(b)(2)(v). Any disclosures beyond that clearly allowed are considered incidental exposures and are permitted under 45 CFR 164.502(a)(1)(iii). Additionally, 45 CFR 164.506(a) and 45 CFR 164.512(k) support DMA’s right to request private health information.

**Impeding or refusing a N.C. Medicaid audit may result in DMA implementing sanctions including, but not limited to, permanent or temporary termination of participation and/or recoupments.**

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