

MEDICARE COMPLIANCE

Weekly News and Analysis on New Enforcement Initiatives and Billing/Documentation Strategies

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CMS Seems to Bar Signature Stamps; Hospitals Should Amend Policies, Train MDs

It appears that CMS has effectively banned the use of physician signature stamps, which means that orders, progress notes and other relevant documentation must have handwritten or electronic signatures, according to Medicare Transmittal 248 (Change Request 5971). Though CMS made the change in the context of medical reviews, physicians inside and outside of hospitals will have to abandon signature stamps because there's no way to predict when a Medicare auditor will show up, experts say. As it stands now, hospitals apparently will face claims denials for services if auditors find any orders (or supporting documentation) with a signature stamp, experts say.

Transmittal 248, which modified the Medicare *Program Integrity Manual*, says that "stamp signatures are not acceptable."

Issued March 28, the transmittal also states that the "method used [to identify the person who provided or ordered services] shall be hand written or an electronic signature."

But there's a twist: CMS still has language referring to signature stamps in Feb. 8 "interpretive guidelines" related to Medicare conditions of participation (CoPs). Included in a survey and certification (S&C) letter, the guidelines, which correspond to a November 2006 regulation amending the hospital CoPs, help state surveyors evaluate hospitals' CoPs compliance on CMS's behalf. The guidelines direct state surveyors to "determine whether the hospital has a means for verifying signatures, both written and electronic, written initials, codes, and stamps when such are used for authorship identification" (S&C-08-12).

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Transmittal Bars Signature Stamps

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So which document should providers rely on? Transmittal 248 probably trumps the S&C letter because the transmittal is newer, and its language is simple and forceful, says Cheryl Rice, corporate director of corporate responsibility for Catholic Healthcare Partners in Ohio. It's a good bet that signature stamps will soon be a thing of the past, which is better for compliance anyway, she says.

Still, the lack of clarity is frustrating. "CMS policy on signature stamps continues to be contradictory — as evidenced by guidance in Transmittal 248 versus recent guidance in S&C-08-12 on 482.24(c)(1) documentation of orders and H&P [i.e., history and physical] that still acknowledges stamp-signature usage if an attestation is on file according to hospital policy. With this mixed message, hospitals face an uphill battle in developing and monitoring uniform policy and process," Rice contends.

CMS did not respond to a request for comment.

The crackdown on signature stamps in the transmittal appears under "Documentation Specifications for Areas Selected for Prepayment or Postpayment [Medical

Review].” The implementation date of the transmittal was April 28, but it’s retroactive to Sept. 3, 2007.

The flat-out prohibition on signature stamps is a departure from historical practice, Rice says. At the behest of the American Medical Assn., CMS for a long time let physicians use signature stamps, provided that they sign an attestation affirming that the stamp truly substituted for only their signature, she says. And hospitals were required to adopt policies and procedures that ensured stamps were used by only the physicians whose signature they represented.

CMS demanded those safeguards because, as it warned providers in a 2003 update to the *Program Integrity Manual* (Transmittal 59), “there is a potential for misuse or abuse with a signature stamp or other alternate signature methods [e.g., electronic authorization]. For example, a rubber stamped signature is much less secure than other modes of signature identification.” CMS also added language indicating that physicians should check with their legal counsel and malpractice insurer before using a signature stamp.

The new transmittal lacks warnings about signature stamps, but similar language was applied to electronic signatures, which, like signature stamps, are considered another form of “alternative signatures” (but, unlike signature stamps, won’t be eliminated).

Adjust Hospital Policies, Bylaws

To comply with this new signature-stamp restriction, hospitals should train their employed physicians to stop using signature stamps and should get the word out to community physicians, says Rice. Hospital policies and medical staff bylaws will need adjustment to reflect this CMS directive, she says.

“Most hospitals historically have stated in their bylaws that doctors can authenticate their entries by writing their signatures, signing their initials, using electronic signatures and, in some cases, using signature stamps if they have signed an attestation that only they will use [the stamp],” she explains. “But the [transmittal] appears to eliminate the ability to use signature stamps.”

As a result, when physicians interpret tests, write reports, write progress notes on a hospital chart, etc., they can use only handwritten or electronic signatures. “That will be a change for some physicians and facilities,” says Rice. She maintains that it will be a challenge to train employed physicians, but it’s manageable. The real compliance hurdle is community physicians. Hospitals can’t control their behavior, and yet payment may hinge on their compliance with the new signature-stamp rule if the documents are part of a medical review.

For example, if a recovery audit contractor (RAC) requests medical records for a patient that include a report from an outside cardiologist who signed it with a signa-

ture stamp, payment will be disallowed. So assuming CMS meant to apply the signature-stamp policy in these circumstances, hospitals may find themselves having to send reports and orders back to get community physicians to re-sign them by hand or electronically, and inform them that signature stamps are no longer allowed.

“We want to make sure we are complying with any internal documentation we generate, but many external physicians use signature stamps on entries and orders on external documentation that is sent to the hospital,” Rice says. Sometimes stamps are used for just a clarification in the middle of the page, and they often help decipher the author of a progress note when it’s a doctor with an illegible signature.

But Rice says that signature stamps are vulnerable to manipulation (e.g., faxing an unauthorized prescription for painkillers to a pharmacy). “We should be working toward eliminating the use of signature stamps and implementing electronic signatures,” she asserts.

Jean Acevedo, president of Acevedo Consulting, Inc. in Delray Beach, Fla., says that relinquishing signature stamps is good for compliance. “There is no need for a signature stamp,” she says. It is risky from both compliance and risk management perspectives. Hospitals, however, face the unpleasant task of hounding community physicians for their regular signatures when orders come in with signature stamps. “If they wind up hassling doctors, they may lose referral sources,” Acevedo says.

Though hospitals face a greater compliance challenge, physicians also have to stop using signature stamps in their own practices. Some solo-practice physicians, she says, don’t even sign their own documentation because they are the only physician in the practice. But medical reviewers warn them to sign each piece of paperwork so it’s clear the physician, not a staffer, wrote it, says Acevedo.

One more note: In the transmittal, CMS also liberalized the signature requirement for hospice certifications of terminal illnesses. Until now, CMS required a written signature for these certifications. Now, the transmittal says, “facsimile of original written or electronic signatures are acceptable for the certifications of terminal illness for hospice.”

Contact Rice at clrice@health-partners.org and Acevedo at jacevedo@acevedoconsulting.com. To view the transmittal, visit AIS’s Government Resources at the Compliance Channel at www.AISHealth.com; click on “CMS Program Transmittals/Change Requests.” ♦

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