

New York State

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# Medicaid Update

## New York Medicaid Electronic Prescribing Incentive Program: Interim Guidance



**Effective January 1, 2010**, subject to CMS approval, New York Medicaid will provide incentives to encourage electronic prescribing (e-prescribing). As described in the New York State fiscal year 2009-2010 Health Budget, eligible Medicaid prescribers can receive an incentive payment of \$0.80 per dispensed Medicaid e-prescription, and eligible retail pharmacies can receive \$0.20 per dispensed Medicaid e-prescription.

The long-term goals of the program are to reduce medication errors, encourage pharmaceutical practices that produce better patient outcomes, and yield savings. The following interim guidance is intended to assist prescribers and pharmacies to prepare for participation in the program. This program guidance will be updated as necessary to incorporate new Federal rules regarding electronic prescribing.

### Electronic Prescription Definition

New York State Pharmacy Regulations (<http://www.op.nysed.gov/part63.htm>) recognize two distinct types of electronically-transmitted prescriptions:

- > a prescription transmitted electronically by facsimile;
- > a prescription transmitted electronically by means other than facsimile; such non-facsimile prescriptions are required by regulation to be electronically encrypted, meaning protected to prevent access, alteration or use by any unauthorized person.

The New York Medicaid e-prescribing incentive program applies only to the second type of electronic transmission (non-facsimile). For the purposes of the incentive program, an electronic prescription (e-prescription) is defined as: a prescription created electronically and transmitted via encrypted, interoperable computer-to-computer electronic data interchange in machine-readable (non-facsimile) format that is compliant with Medicare Part D data standards and requirements<sup>(1)</sup> and New York State Pharmacy Regulations.

The e-prescription must originate from the prescriber's computer system (an electronic health record, electronic medical record, or stand-alone e-prescribing software) and must be transmitted to the retail pharmacy's computer system. It is permissible to employ the services of an intermediary or e-prescribing network to transmit the e-prescription. The guidance in this document applies only to non-facsimile electronic transmission, and is not intended to address prescriptions that are transmitted electronically by facsimile.

## Eligible Participants: Prescribers

To be eligible for incentive payments, practitioners must be legally authorized to prescribe in New York State, must have an individual National Provider Identifier (NPI) number, and must be enrolled in the New York Medicaid Fee-for-Service (FFS) program as a billing practitioner.

### **Eligible Professions Include:**

- **Physician (MD, DO)** ■ **Dentist** ■ **Nurse Practitioner** ■ **Podiatrist** ■ **Optometrist**
- **Licensed Midwife** (*includes nurse midwife and certified midwife with prescriptive privileges*).

Practitioners must have a valid 10-digit NPI number on file with New York Medicaid. To apply for an individual NPI number, please visit: <http://www.cms.hhs.gov/NationalProvIdentStand/>.

Individually assigned NPI numbers must be used to receive the incentive. Group, practice, and facility level NPI numbers may not be used with e-prescriptions in New York Medicaid.

Please note that all checks will be made out to the individual prescriber and sent to the payment address associated with the prescriber's individual NPI number. Therefore, it is imperative that the practitioner's Medicaid enrollment file has correct information regarding the payment address that is linked to the practitioner's individual NPI number. For questions regarding a practitioner's enrollment file, please contact the eMedNY Call Center at (800) 343-9000.

To enroll in New York Medicaid FFS, please visit: <http://www.emedny.org/info/ProviderEnrollment/index.html>.

## Requirements for Practitioners to Participate in the New York Medicaid e-Prescribing Incentive Program

- > Must be legally authorized to prescribe in New York State.
- > Must have an individual NPI number on file with New York Medicaid.
- > Must be enrolled as a billing practitioner in New York Medicaid FFS.
- > Must provide a correct payment address to be linked with the individual NPI number.

## Eligible Participants: Pharmacies

In order to receive incentive payments, a retail pharmacy must be enrolled in New York Medicaid FFS, and its NPI number must be on file with New York Medicaid.

Enrolled hospital-based outpatient retail pharmacies and freestanding clinic-based retail pharmacies are eligible to participate in the program. To enroll in New York Medicaid FFS, pharmacies should visit: <http://www.emedny.org/info/ProviderEnrollment/index.html>.

To confirm information in a pharmacy's enrollment file, please contact the eMedNY Call Center at (800) 343-9000.

## Eligible e-Prescriptions

E-prescriptions must be approved by a Medicaid FFS-enrolled billing practitioner legally authorized to prescribe in New York State, while functioning within his or her scope of practice. The prescribing practitioner is responsible for review of clinical edits, and for final sign-off on the e-prescription before transmitting the e-prescription to a retail pharmacy. It is not permissible for a practitioner to delegate these responsibilities to non-qualified office staff (e.g., an employee or agent who cannot legally prescribe in New York State). The practitioner who signs off on the e-prescription must be identified by his or her individual NPI number on the e-prescription. Currently, Federal law prohibits e-prescribing of controlled substances.



New York State Pharmacy Regulations require that electronically transmitted prescriptions must contain the signature, or the electronic equivalent of a signature, of the prescriber. To satisfy this regulation, New York Medicaid requires that the electronic software generating the e-prescription must be certified by a certifying organization recognized by the Federal government (see insert). Certified e-prescribing software incorporates access controls that restrict access to the e-prescribing functions of the software.

The Federal government currently recognizes the Certifying Commission for Health Information Technology (CCHIT) as a valid certification organization for Electronic Health Records (EHRs) and stand-alone e-prescribing software. New York Medicaid will publish an updated list of federally-recognized certifying organizations for EHRs and e-prescribing software as additional information becomes available.

Only legally authorized prescribers are permitted to access those e-prescribing functions that enable final sign-off and transmission of the prescription. At a minimum, access to those functions must be protected by a user name and password. New York Medicaid will accept such controls to satisfy the electronic signature requirement at the present time. However, New York State agencies are evaluating the feasibility of implementing cryptographic digital signatures for practitioners. Further guidance on this topic will be provided in a future Medicaid Update.

To qualify for an incentive payment, the e-prescription must be encrypted and transmitted electronically to the retail pharmacy according to Medicare Part D standards. Faxed prescriptions do not qualify for the New York Medicaid incentive payment, even if the fax is computer-generated. While faxed prescriptions are legal in New York State, the incentive program is designed to encourage electronic prescribing practices conforming to national standards to ensure interoperable data exchange between the prescriber's computer and the retail pharmacy computer system.

The electronic transaction must conform to Medicare Part D standards and requirements<sup>(1)</sup>. Medicare currently requires the use of the National Council for Prescription Drug Programs (NCPDP) Prescriber/Pharmacist Interface SCRIPT standard Version 8.1. Medicare may soon advance to NCPDP SCRIPT standard 10.5 or 10.6. New York Medicaid will publish an advisory notice in the Medicaid Update should this occur.

All e-prescriptions must contain the required NCPDP 8.1 data fields. Additionally, Medicare Part D standards require that all e-prescriptions include the prescriber's individual NPI number. Practitioners are urged to consult with their software vendors to ensure that their software is certified by an organization recognized by the Federal government, and to ensure that the software is Medicare Part D compliant. It is recommended that the prescriber's individual NPI number be automatically populated on the e-prescription to avoid transcription errors that could occur with manual entry of the 10-digit number.

E-prescriptions for the New York Medicaid program not conforming to these national standards may be rejected by pharmacists as invalid e-prescriptions. It is the prescriber's responsibility to ensure that the correct NCPDP data fields and individual NPI number have been provided on the e-prescription. Only e-prescriptions dispensed in the retail setting are eligible for the incentive program. E-prescriptions for use in the inpatient setting, long-term care setting (when the cost of the pharmaceutical is already included in the long-term care rate), or for administration in the clinic or physician office are not eligible.

## Eligible Beneficiaries

The e-prescription must be written for a beneficiary who is enrolled in Medicaid FFS, Medicaid Managed Care, or Family Health Plus. The beneficiary must be eligible for services at the time the e-prescription is written, and also at the time the prescription is filled at the pharmacy.

## Pharmacy Claim Must Be Paid by New York Medicaid

For the incentive to be payable, the prescribed item must be on the New York Medicaid formulary (i.e., the New York State Department of Health List of Medicaid-Reimbursable Drugs, available at: [www.emedny.org/info/formfile.html](http://www.emedny.org/info/formfile.html)) and must be identified by a National Drug Code (NDC). The prescription itself is not required to contain the NDC, as this code is usually assigned by the pharmacy. The pharmacy claim corresponding to the e-prescription must be paid by New York Medicaid before the incentive payment can be applied. Denied pharmacy claims will not be processed for the incentive payment for either the prescriber or pharmacy. Furthermore, claims that are paid by Medicare Part D plans or other payers are not eligible for the incentive (unless Medicaid also makes a partial payment [e.g., co-payment or secondary payment] on the claim).

## Prior Authorization

Certain items on the New York State Department of Health List of Medicaid-Reimbursable Drugs require prior authorization. Before transmitting the e-prescription, it is the prescriber's responsibility to ensure that prior authorization has been obtained. A data field is available within the NCPDP 8.1 standard for transmitting the 11-digit prior authorization number with the e-prescription (NCPDP field DRU – 080).

## The Prescribed Item Must Be Dispensed to the Beneficiary

The incentive payments for both the prescriber and pharmacy are payable only if the prescribed item is picked up or delivered to the beneficiary within 14 days of being filled. If the item is not picked up or delivered within 14 calendar days, the pharmacy is required to void the claim (if already submitted) by day 15 (or the next business day). The voided claim will automatically void the incentive payments.

## Refills

One original fill and up to five (5) refills within 180 days are **each** eligible for an incentive payment to both the prescriber and pharmacy, provided that the refilled item is picked up by or delivered to the beneficiary. This represents a maximum payment of \$4.80 to the prescriber, and \$1.20 to the pharmacy. The 180-day limit for refills is calculated with respect to the date the e-prescription was written. The date on which a given e-prescription was written must be reported on each related pharmacy claim in NCPDP field 414-DE.

## Requirements for Intermediaries and Electronic Prescribing Networks

Intermediaries and networks that electronically route e-prescriptions from the prescriber's software to the retail pharmacy computer system must ensure that their procedures are compliant with Medicare Part D standards and that they can transmit all required NCPDP data fields as well as the prescriber's individual NPI number. Intermediaries and electronic prescribing networks must comply with all applicable Federal and NY State rules and standards for data security and privacy. Per New York State Pharmacy Regulations, intermediaries and electronic prescribing networks must employ electronic encryption technology ensuring that the e-prescription is protected to prevent access, alteration or use by any unauthorized person. Hence, encryption and message authentication are required and must be according to algorithms approved by the National Institute of Standards and Technology (NIST). Intermediaries and electronic prescribing networks must implement strong policies and procedures regarding identity management, authentication and access control to ensure that only authorized users may transmit and receive e-prescriptions.

## Special Requirements for Pharmacies

**Effective January 1, 2010**, all Medicaid pharmacy claims for e-prescriptions must include the number "3" in the NCPDP Prescription Origin Code field (i.e., NCPDP field 419-DJ). To qualify as an electronic prescription, the prescription must be created electronically on the prescriber's e-prescribing system and must be transmitted to the retail pharmacy computer system via encrypted, interoperable computer-to-computer electronic data interchange in machine-readable (non-facsimile) format that is compliant with Medicare Part D standards and requirements <sup>(1)</sup> and New York State Pharmacy Regulations. New York State regulations are available at <http://www.op.nysed.gov/part63.htm>.

### Prescription Origin Codes

<b>0 = Not Specified</b>
<b>1 = Written</b>
<b>2 = Telephone</b>
<b>3 = Electronic</b>
<b>4 = Facsimile</b>

Although New York is initially only requiring use of the field for e-prescriptions, it is the State's intent to mandate use of the Prescription Origin Code for all Medicaid prescription claims effective **July 1, 2010**. After July 1, 2010, pharmacy claims that do not have a valid entry in this field will be denied.

Pharmacies are urged to consult with their software vendors to facilitate auto-population of this field with a "3" upon processing a valid Medicare Part D-compliant e-prescription. The NCPDP allowable entries are outlined in the box above. Medicare will also require implementation of the prescription origin code field as of January 1, 2010 <sup>(2)</sup>.

Pharmacies must report the prescriber's identity on all pharmacy claims in NCPDP field 411-DB (i.e., Prescriber ID). For a given e-prescription, New York Medicaid expects that the prescriber's individual NPI number will be reported on each related pharmacy claim in NCPDP field 411-DB. New York Medicaid expects that the corresponding Prescriber ID Qualifier will be reported as "01" in NCPDP field 466-EZ, indicating that the Prescriber ID is an NPI number.

## Incentive Payments

The pharmacy incentive payment will be reported separately from the dispensing fee on the 835 remittance. The prescriber's identity will be captured from the pharmacy claim (as the individual NPI number). Prescriber incentives will be bundled into quarterly payments. These will initially be processed off-line, but will eventually transition to the New York Medicaid MMIS system (eMedNY).

## References

(1) Centers for Medicare and Medicaid Services. Medicare Program; Standards for E-Prescribing Under Medicare Part D and Identification of Backward Compatible Version of Adopted Standards for E-Prescribing and the Medicare Prescriptions Drug Program (Version 8.1); Final Rule. Federal Register. Volume 73, No. 67, April 7, 2008, pp. 18918 -18942. (2) 2010 CMS Call Letter 3-30-2009.

## e-prescribing Q & A

**Q: As a prescriber, will I incur a tax liability if I receive incentive payments from New York Medicaid for e-prescribing?**

A: Yes, a 1099 form will be issued to the individual prescriber. Prescribers are encouraged to consult their tax adviser to determine how the income should be reported on their tax forms.

**Q: Can I assign all or part of my incentive payments to an employer or my clinical practice?**

A: The payment will go directly to the prescriber. The prescriber may elect to pay all or part of the incentive over to one or more employer(s) or practice(s). This would typically be governed by contractual arrangements between the prescriber and the specific employer or practice. Again, prescribers are encouraged to consult with their practice manager and tax advisor to determine how such arrangements would impact their tax liability.



**Q: I am an attending physician, enrolled in New York Medicaid FFS, and I supervise residents at a hospital. Can I receive incentive payments for e-prescriptions written by residents?**

A: Not if the resident is the clinician who provides final sign-off on the prescription. Since residents are not allowed to enroll in New York Medicaid as billing practitioners, no prescriber incentive would be payable. However, if the resident prepares a draft e-prescription, and the hospital system routes the draft e-prescription to the attending physician who then personally reviews the e-prescription and associated clinical edits, and provides final sign-off, then the incentive would be payable to the attending physician. In this instance, the prescription would bear the individual NPI number of the attending physician.

**Q: Can the pharmacy be paid an incentive if the e-prescription is written by a non-enrolled prescriber?**

A: Yes, if the pharmacy is enrolled in New York Medicaid and the e-prescription meets all other criteria. However, the prescriber incentive would not be payable in this instance.

**Q: I am a physician assistant (PA) and write e-prescriptions for New York Medicaid beneficiaries. Am I eligible to receive an incentive payment?**

A: No, because PA's are not allowed to enroll in New York Medicaid as billing practitioners. However, if an arrangement is established similar to that described in question 3 for residents, then a supervising physician could review and sign-off on e-prescriptions drafted by the PA, and the supervising physician would receive the incentive payment.

**Q: If I e-prescribe but do not wish to be included in the New York Medicaid incentive program, can I opt-out?**

A: Yes, if a prescriber wishes to opt-out, they should forward a notarized letter containing their individual NPI number by certified mail to: Computer Sciences Corporation (CSC), P.O. Box 4610, Rensselaer, NY 12144-4610.

**Q: Is it permissible to use electronic prescribing in the New York Medicaid program to transmit prescriptions when the prescriber has determined that a brand is medically necessary?**

A: No. Current Federal and State Pharmacy laws require that the prescriber must indicate "brand medically necessary" or "d a w" in his/her own handwriting. There is currently no standard available in NCPDP script to accommodate this requirement. Therefore, e-prescribing is not currently an option for transmission of such prescriptions.

## **e-prescribing Q & A** (continued)

**Q: My pharmacy computer system receives prescriptions by computer-to-computer facsimiles that are then routed to and printed on our fax machine. The data are then manually entered back into the pharmacy computer system. Does this meet the requirement for the e-prescribing incentive under the New York Medicaid incentive program?**

A: No. This scenario does not represent interoperable transmission of the NCPDP data fields in machine-readable format. This type of transmission should be recorded as a facsimile.

**Q: Is it permissible for a nurse or an authorized administrative staff person to prepare a draft of an e-prescription?**

A: Yes, provided that the draft e-prescription is then electronically transmitted to the legally-authorized prescribing practitioner, who then must have the opportunity to review all clinical edits, approve, and provide final sign-off on the e-prescription before it is transmitted to the retail pharmacy.

**Q: Will an incentive payment be available under New York Medicaid if the prescriber routes an e-prescription through an intermediary, but due to a temporary network disruption, the intermediary completes the transaction by sending a facsimile to the pharmacy?**

A: No. This transaction should be recorded as a facsimile and is not eligible for an incentive payment.