



# Health Law Alert

Legal and political developments  
affecting the health care industry

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## CMS releases final e-prescribing standards for Medicare Prescription Drug Program

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CMS released a new final rule on e-prescribing entitled “Medicare Program; Standards for E-Prescribing under Medicare Part D and Identification of Backward Compatible Version of Adopted Standard for E-Prescribing in the Medicare Prescription Drug Program” on April 2, 2008. The new standards will take effect on April 1, 2009.

Although there is no requirement for prescribers, dispensers or healthcare providers to implement e-prescribing, those who do must comply with the new Medicare standards when e-prescribing for Part D-eligible individuals.

The four standards adopted in the final rule for e-prescribing are:

- 1) *Formulary and benefits.* This standard allows prescribers to communicate with Part D sponsors about drugs that are covered by the Medicare-eligible individual’s prescription drug benefit plan. Prescribers can also learn which generic prescriptions might offer lower-cost options for the Medicare Part D-eligible individual.
- 2) *Medication history.* This standard allows providers, dispensers and Part D sponsors to communicate with each other about prescribed medications that the Medicare Part D-eligible individual is taking, including medications prescribed by other providers. This standard is implemented to ensure that the prescriber has the necessary information about the prescription medications the Medicare Part D beneficiary is taking to help reduce the number of adverse drug events from drug-to-drug interaction.
- 3) *Fill-status notification.* This standard allows providers to receive an e-mail notice from a pharmacy or dispenser indicating whether or not a prescription has been retrieved and/or filled by the patient. The goal with the implementation of this standard is to assist healthcare providers in monitoring patients with chronic conditions by determining whether or not the prescribed medication is being taken by the Medicare Part D beneficiary.

- 4) *Provider identifier.* This standard requires providers, dispensers, and Part D sponsors to use the National Provider Identifier (NPI) to identify individual healthcare providers in Part D e-prescribing transactions, which ideally will speed up workflows between provider and dispensers by eliminating call-backs to pharmacies and medical offices to verify the identity of the individual prescribers.

In addition, the rule finalizes the National Council for Prescription Drug Programs (“NCPDP”) Prescriber/Pharmacist Interface Script Standard Implementation Guide, Version 8.1 as a backward compatible update of the NCPDP Script 5.0 until April 1, 2009.

The final e-prescribing standards supplement the “foundation” standards published in November 2005, which took effect with the start of Part D on January 1, 2006.

The e-prescribing standards adopted under the final rule will apply to all Part D sponsors, as well as to prescribers and dispensers engaged in e-prescribing for Part D-eligible individuals, including free-standing prescription drug plan sponsors, Medicare advantage prescription drug plans and other Part D sponsors.

CMS has indicated that through testing of the new standards by providers and pharmacies, the standards should be easily incorporated into existing e-prescribing systems.

The final e-prescribing rule is one of several initiatives of the federal government to encourage the broader use of e-prescribing to improve the quality of patient care, following the adoption of final Stark and anti-kickback safe harbor for electronic health records and e-prescribing implemented by CMS in August of 2006. These series of rules were implemented in response to a provision in the Medicare Modernization Act (MMA) that directed the Secretary of Health and Human Services (HHS) to adopt standards for electronic prescribing and to create an exception to help promote widespread adoption of e-prescribing.

For more information on the final Stark exception and anti-kickback safe harbor for electronic health records and e-prescribing, please [click here](#) to see the Nixon Peabody Health Law Alert of 10/5/06.

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