



E-Prescribing: the Way of the Future?

Jennifer Van Regenmorter

Siebers Mohnney Blog

October 21, 2008

AUTHORS/ CONTRIBUTORS

Jennifer B. Van Regenmorter

Through a series of recent acts, CMS is highly encouraging providers to use e-prescribing. Beginning with the Medicare Prescription Drug Improvement and Modernization Act in 2003, and most recently with the final e-prescribing rule published in April of this year, CMS has been working, as have other players in the prescription drug industry, to promote e-prescribing. The final e-prescribing rule provides three electronic tools for use in e-prescribing: formulary and benefit transactions; medication history transactions; and fill status notifications.

Besides the voluntary provisions in these Acts, CMS has required e-prescribing for certain Medicare Part D providers, as well as disallowing certain computer-generated faxes of prescriptions. Beginning in 2009, CMS will also provide financial incentives to eligible Medicare providers who use e-prescribing. CMS has also promoted e-prescribing by creating new safe harbors from the Stark laws and federal anti-kickback statute for the provision of certain technology to providers, provided it has e-prescribing capabilities.

E-Prescribing is now legal in all fifty states and Washington D.C. CMS estimates that 5-18% of physicians are currently e-prescribing. E-prescribing allows a physician to immediately check a patient's medication history and insurance benefits online through a health information exchange prior to or at the time of service. The prescription is then electronically transmitted to the patient's pharmacy of choice. All of this can be done in a matter of minutes. Therefore, e-prescribing is thought to provide a number of benefits, such as efficiency; saving the physician's time; and promoting safety by reducing errors in prescriptions due to illegible handwriting. The physician can also review the patient's indications to prevent possible side effects. The increased efficiency should lead to lower drug costs.

Despite the benefits of e-prescribing, there are a number of hurdles that need to be cleared before more physicians will elect to participate. First, most physicians have not wanted to switch to e-prescribing unless all of their prescriptions can be transmitted electronically.



Prescribing of controlled substances currently presents a challenge. The DEA has strict requirements relating to controlled substances, and as of now they cannot be prescribed electronically. However, earlier this year the DEA published a proposed rule allowing e-prescribing of controlled substances, and the public comment period ended September 25, 2008. However, the proposed rule would impose additional security requirements for e-prescribing of controlled substances which the players involved believe could be unduly onerous. Also, e-prescribing would involve software and hardware upgrades and expenses. CMS is also addressing other issues such as commercial advertising on health information exchanges. Finally, the time spent retraining group practices to e-prescribe would be a burden. Yet, if these hurdles are overcome, e-prescribing would save time and money in the long run, as well as promote patient safety and ultimately reduce costs.

A number of pilot projects have been conducted relating to e-prescribing and have been met with success. One pilot was done in the long term care industry, and it is believed that, with the proper software, e-prescribing would have the benefits listed above for this industry as well.

A provider who is considering switching to e-prescribing will want to review the practice's privacy policies, HIPAA policies, and records policies, as well as patient consent forms, concerning prescribing. Please contact us if we can assist you in this area.