Follow Up Questions and Answers from the Preparing for the Medicare Part D Requirements for e-Prescribing in Long-Term Care Webinar Of June 5 and 12, 2014

NOTE: All answers regarding what is allowed, or what is not allowed, are specific to covered Medicare Part D drugs for Part D eligible individuals. Also, electronic prescriptions for controlled substances are exempt from the CMS e-prescribing rule requirements, and are instead governed by the DEA.

Also, it is important to note that the rule does NOT mandate the use of e-prescribing. The e-prescribing program under the Medicare Modernization Act of 2004 (MMA) is a voluntary program. It does, however, require the use of the NCPDP SCRIPT Standard for those opting to e-prescribe for Part D eligible beneficiaries.

The questions were answered by the speakers. Where possible, like questions were grouped. NCPDP reviewed the responses that were directly related to the standard.

POINT OF CLARIFICATION

The question was asked on the June 12, 2014 NCPDP webinar, "Preparing for the Medicare Part D Requirements for e-Prescribing in Long-Term Care", whether manual faxing of a paper order to the pharmacy by the facility would be permitted after November 1, 2014 for Part D eligible beneficiaries. Since this process is not considered to be e-prescribing, and since the adoption of e-prescribing is currently voluntary, under existing rules manual faxing of a paper order will continue to be allowed after November 1, 2014 for Part D eligible beneficiaries.

Question 1

A nursing facility has an electronic health record system or electronic MAR system and an Rx is entered into that system and then a hard copy of that Rx is printed on a printer (not electronically transmitted) and then manually faxed to the pharmacy – is that procedure going to be considered legal after Nov 1 2014? Yes. Manual faxing of a paper order, whether hand written or computer printed, is not considered e-prescribing, and therefore not subject to the NCPDP SCRIPT requirement.

Questions 2

Have you seen any CMS published resources explaining the LTC exemption – and the nuances shared by Drew Morgan? Please advise. The CMS final rule entitled “Medicare Program; E-Prescribing and the Prescription Drug Program; Final Rule” as published in the Federal register on November 7, 2005 is a good source of commentary regarding the LTC exemption.


Question 3

Did we get clarification on whether this is for skilled facilities only or does it include ALF’s and Group homes? While commonly referring to the exemption being lifted on November 1, 2014 as the “long-
“term care exemption”, the rule does not use this term, and instead refers to “entities transmitting prescriptions or prescription-related information where the prescriber is required by law to issue a prescription for a patient to a non-prescribing provider (such as a nursing facility) that in turn forwards the prescription to a dispenser.” Care settings meeting this description are exempted from the requirement to utilize NCPDP SCRIPT for e-prescribing until November 1, 2014. Care settings not meeting this description do not qualify for the exemption, and should currently be using NCPDP SCRIPT for e-prescribing.

**Question 4**

1) Is it accurate that if the pharmacy is integrated with a facility's eMAR, it is acceptable to provide dispensed data to that eMAR still using the HL7 standard? In a situation where prescriptions are NOT being sent to the pharmacy electronically, under current rules, continued use of a HL7 message to communicate order information to an eMAR system will be acceptable after November 1, 2014.

2) If there are refill requests or new prescriptions initiated at the facility level, this needs to be in the NCPDP 10.6 SCRIPT format? New prescriptions sent electronically must use the NCPDP SCRIPT Standard. The Resupply message used in long term care settings for this purpose was not named in the CMS rule, so electronic facility requests for a prescription refill will not be required to use the NCPDP SCRIPT Standard on November 1, 2014.

**Question 5**

I work for a 70 center LTC Provider. We currently have an electronic ordering system only. I am just requesting clarification regarding 2 areas related to the webinar.

1. **Are electronic ordering systems not considered e-prescribing certified included in the NCPDP requirement?** Yes, if the system is used to electronically communicate a drug order from the facility to a dispensing pharmacy and the relationship does not qualify for the “same legal entity exemption”, the NCPDP SCRIPT Standard is required after November 1, 2014.

2. From our electronic ordering system, orders are electronically transmitted AND a fax transmission to the pharmacy via phone line is generated. The order gets to the pharmacy in 2 ways – electronically and via fax. Would the phone line fax be acceptable or is this considered a computer generated fax and thus also does not fulfill the requirement. If the fax is automatically generated without use of paper, then this would constitute a computer-generated fax, and would not be allowed after November 1, 2014.

**Question 6**

The question our clients are asking is if they can print the order from the EMR, manually sign the document and then fax it. Is this considered computer-generated faxing or is this acceptable as a ‘manual fax’? Manual faxing of a paper order, whether hand written or computer printed, is not considered e-prescribing, and therefore not subject to the NCPDP SCRIPT requirement.

**Question 7**

One of our clients has asked that we seek clarification to the following pharmacy centric interface scenario:
Facility sends fax copies of manually generated physician order sheets and handwritten orders to pharmacy. Pharmacy regularly collects the original paper documents to file at the pharmacy. Facility does not use electronic method for sending orders to pharmacy, but does use an electronic MAR. Pharmacy dispenses the medication and sends an HL7 message to facility software system in order for EHR to create the MAR.

TO BE COMPLIANT, DOES THE PHARMACY HAVE TO CHANGE TO 10.6 SCRIPT FOR THE DISPENSE MESSAGE? No. Under current rules, continued use of the HL7 message in this situation will be acceptable after November 1, 2014.

**Question 8**

Did they clarify the definition of a "long term care" facility? If it was skilled nursing, assisted living facilities, group homes, Disabilities & Special Needs boards, etc.? While commonly referring to the exemption being lifted on November 1, 2014 as the “long-term care exemption”, the rule does not use this term, and instead refers to “entities transmitting prescriptions or prescription-related information where the prescriber is required by law to issue a prescription for a patient to a non-prescribing provider (such as a nursing facility) that in turn forwards the prescription to a dispenser.” Care settings meeting this description are exempted from the requirement to utilize NCPDP SCRIPT for e-prescribing until November 1, 2014. Care settings not meeting this description do not qualify for the exemption, and should currently be using NCPDP SCRIPT for e-prescribing.

**Question 9**

I listened to the webinar this AM on e-prescribing and LTC. I have several questions. It was asked how does all of this affect Adult Family homes, Group Homes and AL facilities. The presenters said they had to look into it and get back to you. When they do I would like the answer. Here are several scenarios that occur at my LTC pharmacy. MD is at the AFH home and takes out a fax cover sheet and tapes a handwritten RX pad onto the fax cover sheet and faxes it to me at the pharmacy or the MD writes the RX on the fax cover sheet; or MD faxes us a note of what is going to take place then we have to wait for the medical assistant back at the MD's office to send us an e-script. It sounds as though ALL PRESCRIPTIONS will have to come through the MA back at the office via e-script that has hopefully been upgraded to SCRIPT v10.6. I also assume I will no longer be able to take a verbal RX call in over the phone from the MD or the MD's office staff. This happens all the time. The script we receive has an error on it so we call the office. Then if there is a change to that RX I will not be able to take a verbal change/clarification. I will now have to wait for the new e-script to come in. Just yesterday MD sent and escript right as we were closing for an antibiotic of which the patient was allergic to. MD got on the phone and just gave me a change in order to another drug. With this new system in November I will not be able to do this, the MD will have to generate the RX electronically via a v10.6 approved system. There will most definitely be a delay in getting the medicine to these residents in these facilities if I can no longer use these methods of transmission. Manual faxes originating from paper, and verbal orders or order clarifications via telephone, will still be acceptable after November 1, 2014.

**Question 10**
Are e-faxes from an EMR system considered "computer generated faxing"? Yes, if the fax is automatically generated without use of paper, then this would constitute a computer-generated fax, and would not be allowed after November 1, 2014.

**Question 11**

Is the "same legal entity exemption" set to expire anytime in the future? There are currently no rules in place that place any expiration date on the “same legal entity exemption”.

**Question 12**

If our pharmacy updates to SCRIPT v10.6, but the facility or physician has not updated his system, will we be able to receive e-scripts submitted by them? No. Both the sending and receiving system will need to be NCPDP SCRIPT compatible. An intermediary may assist also.

**Question 13**

Is there a contingency plan for a telecom system interruption locally/regionally due to natural disaster, etc.? E-prescribing continues to be voluntary, so the use of manual processes will be acceptable in these situations. In addition, the rule states that “after January 1, 2009, electronic transmission of prescriptions or prescription-related information by means of computer-generated facsimile is only permitted in instances of temporary/transient transmission failure and communication problems that would preclude the use of the NCPDP SCRIPT Standard adopted by this section.”

**Question 14**

I have been working on an HL7 interface between an EHR and pharmacy software in a health system that is one legal entity and tax ID. However, there is some business with outside LTC facilities for the pharmacy. How does this fit with the "one legal entity" exception. If the “outside LTC facilities” are NOT part of the health systems legal entity, then the requirements for utilization of NCPDP SCRIPT would apply.

**Question 15**

How can a pharmacy ensure the physician is using eRx software incorporating NCPDP SCRIPT v10.6? The receiving software at the pharmacy is able to determine whether an inbound message is NCPDP SCRIPT. An intermediary may assist also.

**Question 16**

Is the EMR/EHR software required to be certified for SCRIPT Standard 10.6? There is no legal/regulatory requirement for certification of LTC EMR/EHR software. However, some trading partners (EMRs, pharmacy systems, and intermediaries) many have a certification process to be completed before they will exchange NCPDP SCRIPT messages with another party.

**Question 17**

Do any of these standards apply to eMAR systems that send orders directly to the pharmacy through VPN? I believe most are HL7. If an eMAR system is sending new orders to the pharmacy for dispensing, the requirements for NCPDP SCRIPT utilization are the same as for EMR/EHR systems.
Question 18

If a LTC facility has an in-house pharmacy, can they continue to use HL7 [for e-prescribing]? Only if the pharmacy and the LTC facility are part of the same legal entity.

Question 19

Our doctors are employees, our pharmacy is part of our organization and we are a LTC facility. Are we exempt? Yes, from the limited description provided, it would appear that you would qualify for the same legal entity exemption.

Question 20

DEA has made it clear it does NOT automatically consider a nursing home nurse as an agent of the physician. How does this translate to the nurse-transcribed order into v10.6 going directly to pharmacy? Electronic prescriptions for controlled substances are exempt from the CMS e-prescribing rule requirements, and are instead governed by the DEA.

Question 21

This is for Med-D program. What if for Med-A or even Med-B, if needed. The current CMS e-prescribing rules are specific to covered Part D drugs for Part D eligible individuals.

Question 22

If HL7 and manual faxing is allowed for single legal entity then is it allowed for in-house pharmacies? HL7 can only be used by an in-house pharmacy if it is part of the same legal entity as the other party with whom e-prescribing is taking place.

Question 23

So, can OTC orders still use the ePrescription process? Those products still need to be ordered somehow, correct? The NCPDP SCRIPT Standard does support e-prescribing of OTC products.

Question 24

Are Schedule 2 Rxs going to be allowed to be transmitted via escribe as well? Yes, if done consistent with both DEA and state regulatory requirements. One source for guidance is http://www.deadiversion.usdoj.gov/ecomm/e_rx/index.html

Question 25

1. What is the consequence of non-compliance for a LTC pharmacy that continues to receive electronic prescriptions that are not NCPDP 10.6 SCRIPT (e.g. HL7 or computer generated fax) from the prescriber software application?
   a. Slide 26 notes that the pharmacy’s consequence = “Reimbursement?”
   b. What is this reimbursement consequence? For the pharmacy, the possibility exists for a payment recoupment resulting from an audit by a Part D payer.
2. Can the pharmacy continue to receive non-compliance electronic prescriptions – and build them to CMS Medicare Part D plans as having received non-electronic prescriptions – at a lower reimbursement rate? No.

   a. Or does the pharmacy not indicate how the prescription was received when billing the CMS Medicare Part D plan? The Prescription Origin Code is a data field that can be submitted as part of a Telecommunication Standard version D.0 claim.

   b. Or is the pharmacy subject to CMS Medicare Part D plan audits, which could result in “fines” for non-compliant prescriptions? Pharmacy is at audit risk for payment recoupment if it received Part D payment for prescriptions received in a not allowed manner.