

May 1, 2008

Department of HHS Regulation and Licensure  
Regulatory Analysis and Integration Division  
301 Centennial Mall South  
P.O. Box 95007  
Lincoln, NE 68509

RE: Comments on proposed changes to the Nebraska Health and Human Services  
Regulations for Medicaid Written Prescriptions

The Welfare Due Process Project of the Nebraska Appleseed Center for Law in the Public Interest is committed to protecting the rights of low-income families and children in Nebraska. As part of our work, we actively review rule changes proposed by the Department of Health and Human Services that affect low-income families and children. Today I am here to comment on the proposed changes to 471 NAC 1-002.02N.

The Department's proposed regulations require that all written prescriptions for Medicaid recipients must be on paper with at least one tamper-resistant feature. Tamper-resistant prescription pads are expensive and not all providers have access to them, particularly in rural and low-income communities. Pharmacists may not be able to tell whether a written prescription complies with the new requirements, and therefore recipients may get wrongfully turned away. For some Medicaid recipients, this new rule will create a barrier to obtaining much-needed prescriptions.

We support the exceptions to this rule that will help more Medicaid recipients access their prescriptions. Electronic prescriptions, faxed prescriptions, and prescriptions sent over the telephone are exempt from the tamper-proof requirement. Since most doctor's offices have the capability of sending prescriptions by phone, e-mail, or fax, this exception allows providers to prescribe medicine for their Medicaid patients even if they have not yet purchased the tamper-resistant pads. This exception will be tremendously helpful in ensuring that Medicaid recipients have ongoing access to their prescription medications.

As the Department creates policies and procedures regarding the new requirements for written prescriptions, we encourage the Department to do outreach to providers, pharmacies, and recipients about these important exceptions to the requirement that prescriptions be written on a tamper-resistant prescription pad. If providers and recipients know that they can obtain a valid prescription by telephone, e-mail, or fax, they will be more likely to use these systems. Doctors will be able to provide better care to their patients, pharmacies will experience less uncertainty about whether the prescription meets Medicaid standards, and patients will not experience a break in medication.

We appreciate outreach efforts that the Department has already made over the last several months, and we encourage continued outreach efforts as these new regulations are implemented.

Sincerely,

Erin Ching  
Staff Attorney  
Welfare Due Process Project