



Medical Record Maintenance & Access Requirements

Introduction

This fact sheet educates Medicare physicians, nonphysician practitioners, hospitals, other providers, and suppliers on the updated regulations at [42 Code of Federal Regulations \(CFR\) Section 424.516\(f\)](#). It gives information on updated documentation maintenance and access requirements for billing services to Medicare patients. It also tells you how long to keep the documentation and who is responsible for providing access.

Who does the updated regulation impact?

- A Medicare provider or supplier that furnishes covered ordered, certified, referred, or prescribed Part A or B services, items, including laboratory and imaging services, or drugs.

Example:

123 Medical Supply is a Durable Medical Equipment (DME) supplier that furnished walkers and wheelchairs that Dr. John Doe ordered for patients. 123 Medical Supply must maintain and provide access to medical records for DME items Dr. John Doe ordered.

- A physician or, when permitted, an eligible professional who orders, certifies, refers, or prescribes Part A or B services, items, or drugs.

Example:

Dr. John Doe is a physician who orders DME items for his Medicare patients. Dr. John Doe must maintain and provide access to the medical records related to the DME items (for example, the order, associated office visit records) if requested, whether the DME supplier retains it or not.

The regulation requires you to maintain medical records for 7 years from the Date of Service (DOS).

CMS recognizes that you may rely upon an employer or another entity to maintain these records. However, if you receive a medical records request, you are responsible for providing the medical records to us or one of our Medicare contractors.

Who may request access to these medical records?

CMS or a Medicare contractor may request access to documentation. The term “access to documentation” means that you must provide or make available the documentation. You must do this in the manner that we or one of our contractors requested.

Example:

WPS, a Medicare contractor, sent Dr. John Doe a request for medical records pertaining to all orders for wheelchairs for Medicare patients with a DOS from November 1, 2015, through November 10, 2015. Dr. John Doe must provide the copies of medical records in full, according to the specific request from WPS.

What type of documentation must you maintain and provide to us or one of our Medicare contractors?

The documentation includes:

- Written and electronic documents relating to (1) orders, (2) certifications, (3) referrals, (4) prescriptions, and (5) requests for payments for Part A or B services, items, or drugs.

These documents must include the National Provider Identifier (NPI) of the physician or, when permitted, other eligible professional who ordered, certified, referred, or prescribed the Part A or B service, item, or drug.

Upon a request from us or our contractor, you must provide all documentation to support the medical necessity of the Part A or B service, item, or drug ordered, referred, certified, or prescribed. Such documentation may include, but isn't limited to the following:

- Physician order(s)
- Face to face evaluations
- Therapy notes
- Assessment notes
- Correspondence to or from the patient
- Photograph or detailed description of service or both
- Any additional documentation to support the medical necessity of the service(s), item(s), or drug(s)

Remember these documentation maintenance and access guidelines apply to any physician or, when permitted, any eligible professional who orders, certifies, refers, or prescribes Part A or B services, items, or drugs. For these other eligible professionals, the 7-year timeline and access requirements we outlined above still apply. We require the NPI of such eligible professionals to be part of the required documentation.

What happens if you don't maintain required documentation or don't provide access?

- You must comply with the document maintenance and access requirements at [42 CFR 424.516\(f\)](#) in order to maintain your Medicare enrollment.
- Failure to comply with these requirements may result in the revocation of your Medicare enrollment per [42 CFR 424.535\(a\)\(10\)](#).
- If we revoke your enrollment, we bar you from participating in the Medicare program from the effective date of the revocation until the end of the re-enrollment bar per [42 CFR 424.535\(c\)](#).
- We may consider each instance of noncompliance in determining the length of the re-enrollment bar.
- Failure to provide 1 medical record listed in the request letter may constitute a single instance of noncompliance.

The following table provides examples of sufficient and deficient access to documents.

Table: Examples of Sufficient and Deficient Access

Sufficient Access	Deficient Access
Providing all documentation requested	Providing none of the requested documentation
Providing documentation specific to the order(s) or certification(s), as requested	Providing only a portion of the requested documentation
Providing documentation for the DOS or billing period requested	Providing similar documentation that doesn't contain the order or certification requested
	Providing other documents NOT requested by CMS or a Medicare Contractor or not specifically directing attention to the requested documentation

Example:

A Medicare contractor requests copies of all orders of wheelchairs from an ordering physician for all patients with DOS from November 1, 2014, to November 10, 2014. The ordering physician must provide the copies, in full, according to the specific request. If you can't provide the copies because you didn't personally maintain the records, or only provide part of the record, then you haven't met the requirement to maintain this documentation and provide access to it. In such cases, you may be subject to the revocation basis set forth in [42 CFR 424.535\(a\)\(10\)](#).

What are some best practices for meeting the documentation and maintenance requirements?

- Practitioners may add language to their contracts with employers (W-2 relationship) or entities paying them for their services (independent contractor relationship) regarding access to medical documentation. You may write the contractual language in a way that makes sure you have access to the medical records upon our request. We encourage you to discuss contractual language with your legal counsel.

- If you are a hospitalist and your hospital employer solely maintains the medical records for your Medicare patients, make sure that the hospital is willing to provide the necessary documents to respond to a medical records request. Consider discussing these requirements with the hospital before performing services there. Claiming that the hospital isn't providing you with access to medical documents wouldn't be a valid excuse. We may elect to revoke your Medicare enrollment for failing to produce medical documentation after a records request under [42 CFR 424.535\(a\)\(10\)](#).
- If you work for a telehealth-based practice group or are in a business relationship with any type of telehealth entity, the above requirements still apply to you. You must make sure that the group or entity is willing to provide access to the medical records pertaining to your orders for Medicare patients upon our request. The [Medicare Telemedicine Health Care Provider Fact Sheet](#) has more information on telehealth.

Resources:

- [ICN909160](#) : Complying with Medical Record Documentation Requirements
- [ICN909221](#) : Complying with Laboratory Services Documentation Requirements

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