

Affected Programs: BadgerCare Plus, Medicaid, SeniorCare, Wisconsin AIDS Drug Assistance Program, Wisconsin Chronic Disease Program

To: All Providers, HMOs and Other Managed Care Programs

Policy Requirements for Use of Electronic Signatures on Electronic Health Records

This *ForwardHealth Update* defines the policy requirements and standards for use of electronic signatures on electronic health records.

This *ForwardHealth Update* defines policy requirements and standards for the use of electronic signatures on electronic health records. Providers are required to continue to meet all handwritten signature requirements as detailed in the Wisconsin Statutes, Wisconsin Administrative Code, and the ForwardHealth Online Handbook. The use of electronic signatures is not required by ForwardHealth and is only offered as a convenience for those providers who wish to use them.

Effective December 1, 2013, in ForwardHealth policy areas requiring a signature, electronic signatures are acceptable as long as the signature meets the requirements defined in this *Update*. When ForwardHealth policy specifically states that a handwritten signature is required, an electronic signature will not be accepted. When ForwardHealth policy specifically states that a written signature is required, an electronic signature will be accepted.

Reimbursement for services paid to providers who do not meet all electronic signature requirements may be subject to recoupment.

Electronic Signature Definition

An electronic signature, as stated in s. 137.11(8), Wis. Stats., is “an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.”

Some examples include:

- Typed name (performer may type his or her complete name).
- Number (performer may type a number unique to him or her).
- Initials (performer may type initials unique to him or her).

All examples above must also meet all of the requirements noted in the Electronic Signature Requirements section of this *Update*.

Benefits of Using Electronic Signatures

The use of electronic signatures will allow providers to:

- Save time by streamlining the document signing process.
- Reduce the costs of postage and mailing materials.
- Maintain the integrity of the data submitted.
- Increase security to aid in non-repudiation.

Electronic Signature Requirements

By following the general electronic signature requirements below, the use of electronic signatures provides a secure alternative to handwritten signatures. These requirements align with Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule guidelines.

General Requirements

When using an electronic signature, all of the following requirements must be met:

- The electronic signature must be under the sole control of the rendering provider. Only the rendering provider or designee has the authority to use the rendering provider's electronic signature. Providers are required to maintain documentation that shows the electronic signature that belongs to each rendering provider if a numbering or initial system is used (e.g., what number is assigned to a specific rendering provider). This documentation must be kept confidential.
- The provider is required to have current policies and procedures regarding the use of electronic signatures. The Department of Health Services recommends the provider conduct an annual review of policies and procedures with those using electronic signatures to promote ongoing compliance and to address any changes in the policies and procedures.
- The provider is required to conduct or review a security risk analysis in accordance with the requirements under 45 CFR s. 164.308(a)(1).
- The provider is required to implement security updates as necessary and correct identified security deficiencies as part of its risk management process.
- The provider is required to establish administrative, technical, and physical safeguards in compliance with the HIPAA Security Rule.

Electronic Health Record Signature Requirements

An electronic health record that utilizes electronic signatures must meet the following requirements:

- The certification and standard criteria defined in the Health Information Technology Initial Set of

Standards, Implementation Specifications, Certification Criteria for Electronic Health Record Technology Final Rule and any revisions including, but not limited to, the following:

- ✓ Assign a unique name and/or number for identifying, tracking user identity, and establishing controls that permit only authorized users to access electronic health information.
- ✓ Record actions related to electronic health information according to the standard set forth in 45 CFR s. 170.210(b).
- ✓ Enable a user to generate an audit log for a specific time period. The audit log must also have the ability to sort entries according to any of the elements specified in the standard 45 CFR s. 170.210(b).
- ✓ Verify that a person or entity seeking access to electronic health information is the one claimed and is authorized to access such information.
- ✓ Record the date, time, patient identification, and user identification when electronic health information is created, modified, accessed, or deleted. An indication of which action(s) occurred and by whom must also be recorded.
- ✓ Use a hashing algorithm with a security strength equal to or greater than Secure Hash Algorithm 1 (SHA-1) as specified by the National Institute of Standards and Technology (NIST) in FIPS PUB 180-3 (October 2008) to verify that electronic health information has not been altered. (Providers unsure whether or not they meet this guideline should contact their IT and/or security/privacy analyst.)
- Ensure the electronic health record provides:
 - ✓ Nonrepudiation — assurance that the signer cannot deny signing the document in the future.
 - ✓ User authentication — verification of the signer's identity at the time the signature was generated.
 - ✓ Integrity of electronically signed documents — retention of data so that each record can be authenticated and attributed to the signer.

- ✓ Message integrity — certainty that the document has not been altered since it was signed.
- ✓ Capability to convert electronic documents to paper copy — the paper copy must indicate the name of the individual who electronically signed the form as well as the date electronically signed.
- Ensure electronically signed records created by the electronic health record have the same back-up and record retention requirements as paper records.

The Health Information Technology: Initial Set of Standards, Implementation Specifications, Certification Criteria for Electronic Health Record Technology Final Rule can be found by visiting www.ecfr.gov/ and viewing 45 CFR Part 170.

Information Regarding Managed Care Organizations

This *Update* contains fee-for-service policy and applies to services members receive on a fee-for-service basis only. For managed care policy, contact the appropriate managed care organization (MCO). Managed care organizations are required to provide at least the same benefits as those provided under fee-for-service arrangements. Members enrolled only in the Wisconsin Chronic Disease Program are not enrolled in MCOs.

The *ForwardHealth Update* is the first source of program policy and billing information for providers.

Wisconsin Medicaid, BadgerCare Plus, SeniorCare, and Wisconsin Chronic Disease Program are administered by the Division of Health Care Access and Accountability, Wisconsin Department of Health Services (DHS). The Wisconsin AIDS Drug Assistance Program and the Wisconsin Well Woman Program are administered by the Division of Public Health, Wisconsin DHS.

For questions, call Provider Services at (800) 947-9627 or visit our Web site at www.forwardhealth.wi.gov/.

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