Like it or Hate it, Mandatory Electronic Prescribing is Coming

Dentists have two years to change over, but wisdom dictates preparing now.

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Although it could come sooner, the outside date for mandatory electronic prescribing for all prescriptions issued in New York State is Dec. 31, 2014. The time to start preparing for this requirement, however, is now.

The Drug Enforcement Administration (DEA) has already adopted regulations to allow the option of electronic prescribing for controlled substances, a practice that was previously prohibited. But because the DEA regulations have extremely strict security requirements, no electronic systems vendor has yet been able to design an e-prescribing system that fits the requirements. In addition, although New York State currently allows e-prescribing, it does not allow it for controlled substance prescriptions. That's about to change now that Gov. Cuomo has signed into law the I-STOP (Internet System for Tracking Over-Prescribing) Act. Under the I-STOP law, regulations that will set the standards for mandatory electronic prescriptions for all drugs will be created by the end of this year, and will take effect two years after they are created—hence, Dec. 31, 2014. Keep in mind that New York is moving to a mandatory electronic prescribing system for all prescriptions, a radical step to accomplish by the 2014 deadline and one that goes way beyond the DEA optional concept and other existing electronic prescribing programs. Gov. Cuomo is determined to position New York State as the leader in this area of healthcare technology, and the I-STOP law jumpstarted the process. There will be many details to work out over time.

Electronic prescribing already exists in Medicare and Medicaid, and both programs are paying healthcare providers more for using electronic prescriptions. The Medicare e-prescribing program of enhanced reimbursement has been in effect since 2009. Although dentists are eligible to participate in this program, only a small number of them ever bill Medicare for a service and could qualify for the program. Nevertheless, Medicare has been setting the pace for electronic prescribing and electronic health records.

The Medicare Electronic Prescribing (eRx) Incentive Program, which is mandated by federal legislation, uses a combination of incentive payments and payment adjustments to encourage electronic prescribing by eligible professionals. The Centers for Medicare and Medicaid Services
(CMS) implement the eRx Incentive Program through its regulations. The program provides an incentive payment to practices with eligible professionals (identified on claims by their individual National Provider Identifier [NPI] and Tax Identification Number [TIN]) who successfully e-prescribe for covered Physician Fee Schedule (FFS) services furnished to Medicare Part B Fee-for-Service (FFS) beneficiaries, including Railroad Retirement Board and Medicare Secondary Payer. Starting this year, the program also applies a payment adjustment/penalty to eligible professionals who are not successful electronic prescribers on their Medicare Part B services.

There is no sign-up or pre-registration for individual eligible professionals to participate in the eRx Incentive Program. However, there are certain limitations on who can qualify for an eRx incentive payment. First, an eligible professional must have and use a qualified eRx system and report on his or her adoption and use of the eRx system. Second, the eligible professional must meet the criteria for a successful electronic prescriber specified by CMS for a particular reporting period. Finally, at least 10 percent of a successful electronic prescriber’s Medicare Part B covered services must be made up of codes that appear in the denominator of the eRx measure.

To qualify for a 2012 eRx incentive, individual eligible professionals may choose to report on their adoption and use of a qualified eRx system by submitting information on one of the following eRx measures: 1. to CMS on their Medicare part B claims; 2. to a qualified registry; 3. to CMS via a qualified electronic health record (EHR) product; or 4. to a qualified data submission vendor.

To be considered a successful electronic prescriber for the 2012 eRx Incentive Program and potentially qualify to earn a one percent incentive payment for the 2012 eRx Incentive Program, an individual eligible professional must report the eRx measure for at least 25 unique electronic prescribing events in which the measure is reportable by the eligible professionals during 2012.

Group Practices Covered
A group practice may also potentially qualify to earn an eRx incentive payment equal to one percent of the group practice’s total estimated Medicare Part B Physician Fee Schedule (PFS) allowed charges for covered professional services furnished during the 2012 eRx reporting year, based on the group practice meeting the criteria for being a successful electronic prescriber as specified by CMS.

Individual eligible professionals and group practices participating in the eRx Group Practice Reporting Option (GPRO) who are not successful electronic prescribers will be subject to a one percent payment adjustment/penalty on their Medicare Part B services provided Jan. 1, 2012, through Dec. 31, 2012. To avoid

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the 2012 eRx payment adjustment/penalty, individual eligible professionals would have had to report the G8553 code via claims for at least 10 unique denominator eligible eRx events for services provided Jan. 1, 2011, through June 30, 2011.

Individual eligible professionals and group practices participating in the eRx Group Practice Reporting Option (GPRO) who are not successful electronic prescribers will be subject to a one and one-half percent payment adjustment on their Medicare Part B services provided Jan. 1, 2013, through Dec. 31, 2013. To avoid the 2013 eRx payment adjustment, individual eligible professionals would have had to have been a successful electronic prescriber in 2011, or will need to report the G8553 code via claims for at least 10 billable Medicare Part B FFS services provided Jan. 1, 2012, through June 30, 2012.

State Medicaid Already On Board
The New York State Medicaid program has been providing enhanced reimbursement for electronic prescribing since 2010, and dentists are eligible to participate in the program. As described in the New York State fiscal year 2009-2010 Health Budget, eligible Medicaid prescribers can receive an incentive payment of $0.80 per dispensed Medicaid e-prescription. The long-term goals of the program are to reduce medication errors, encourage pharmaceutical practices that produce better patient outcomes and yield savings.

The New York Medicaid e-prescribing incentive program applies only to a non-facsimile type of electronic transmission. For the purposes of the incentive program, an electronic prescription (e-prescription) is defined as: "a prescription created electronically and transmitted via encrypted, interoperable computer-to-computer electronic data interchange in machine-readable (non-facsimile) format that is compliant with Medicare Part D data standards and requirements and New York State Pharmacy Regulations." The e-prescription must originate from the prescriber’s computer system (an electronic health record, electronic medical record or stand-alone e-prescribing software) and must be transmitted to the retail pharmacy’s computer system. It is permissible to employ the services of an intermediary or e-prescribing network to transmit the e-prescription.

To be eligible for Medicaid incentive payments, practitioners must be legally authorized to prescribe in New York State, must have an individual NPI number and must be enrolled in the New York Medicaid Fee-for-Service (FFS) program as a billing practitioner. Group, practice and facility level NPI numbers may not be used with e-prescriptions in New York Medicaid.

New York State Pharmacy Regulations require that electronically transmitted prescriptions contain the signature, or the electronic equivalent of a signature, of the prescriber. To satisfy this regulation, New York Medicaid requires that the electronic software generating the e-prescription be certified by a certifying organization recognized by the federal government. Certified e-prescribing software incorporates access controls that restrict access to the e-prescribing functions of the software. Only legally authorized prescribers are permitted to access those e-prescribing functions that enable final sign-off and transmission of the prescription. At a minimum, access to those functions must be protected by a user name and password. Medicaid currently accepts such controls to satisfy the electronic signature requirement.

To qualify for a Medicaid incentive payment, the e-prescription must be encrypted and transmitted electronically to the retail pharmacy according to Medicare Part D standards. Faxed prescriptions do not qualify for the New York Medicaid incentive payment, even if the fax is computer-generated. While faxed prescriptions are legal in New York State, the incentive program is designed to encourage electronic prescribing practices that conform to national standards, to ensure interoperable data exchange between the prescriber’s computer and the retail pharmacy computer system. The electronic transaction must conform to Medicare Part D standards and requirements. Practitioners should consult with their software vendors to ensure that their software is certified by an organization recognized by the federal government and to ensure that the software is Medicare Part D compliant. It is recommended that the prescriber’s individual NPI number be automatically populated on the e-prescription to avoid transcription errors that could occur with manual entry of the 10-digit number.

Retail Only
Only e-prescriptions dispensed in the retail setting are eligible for the Medicaid incentive program. E-prescriptions for use in the inpatient setting, long-term care setting (when the cost of the pharmaceutical is already included in the long-term care rate) or for administration in a clinic or dentist’s office are not eligible. The e-prescription must be written for a beneficiary who is enrolled in Medicaid FFS, Medicaid Managed Care or Family Health Plus. The beneficiary must be eligible for services at the time the e-prescription is written and also at the time the prescription is filled at the pharmacy.

Additional Medicaid electronic prescribing incentive rules are that, for the incentive to be payable, the prescribed item must be on the New York Medicaid formulary (i.e., the New York State Department of Health list of Medicaid-reimbursable drugs, and must be identified by a National Drug Code (NDC)). The prescription itself is not required to contain the NDC, as this code is usually assigned by the pharmacy. The pharmacy claim corresponding to the e-prescription must be paid by New York Medicaid before the incentive payment can be applied. Denied pharmacy claims will not be processed for the incentive payment.
for either the prescriber or the pharmacy. Furthermore, claims that are paid by Medicare Part D plans or other payers are not eligible for the incentive, unless Medicaid also makes a partial payment—e.g., copayment or secondary payment—on the claim. Certain items on the New York State Department of Health list of Medicaid-reimbursable drugs require prior authorization. Before transmitting the e-prescription, it is the prescriber’s responsibility to ensure that prior authorization has been obtained.

Finally, the Medicaid incentive payments for both the prescriber and pharmacy are payable only if the prescribed item is picked up or delivered to the beneficiary within 14 days of being filled. If the item is not picked up or delivered within 14 calendar days, the pharmacy is required to void the claim—if already submitted—by day 15 or the next business day. The voided claim will automatically void the incentive payments. One original fill and up to five refills within 180 days are each eligible for an incentive payment to both the prescriber and pharmacy, provided the refilled item is picked up by or delivered to the beneficiary. This represents a maximum payment of $4.80 to the prescriber and $1.20 to the pharmacy. The 180-day limit for refills is calculated with respect to the date the e-prescription was written. The date on which a given e-prescription was written must be reported on each related pharmacy claim.

Intermediaries and networks that electronically route e-prescriptions from the prescriber’s software to the retail pharmacy computer system must ensure that their procedures are compliant with Medicare Part D standards and that they can transmit all required NCPDP data fields as well as the prescriber’s individual NPI number. Intermediaries and electronic prescribing networks are required to comply with all applicable federal and New York State rules and standards for data security and privacy. In accordance with New York State Pharmacy Regulations, intermediaries and electronic prescribing networks must employ electronic encryption technology, ensuring that the e-prescription is protected to prevent access, alteration or use by any unauthorized person, and this technology must be according to algorithms approved by the National Institute of Standards and Technology (NIST). Intermediaries and electronic prescribing networks need to implement strong policies and procedures regarding identity management, authentication and access control to ensure that only authorized users may transmit and receive e-prescriptions.

As electronic prescribing becomes mandatory in New York State, by at least Dec. 14, 2014—an ambitious deadline—dentists need to start preparing for that new health information technology world now. NYSDA’s Electronic Task Force, created by the NYSDA House of Delegates this past June, is taking the lead in helping dentists get ready. 

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