



## Medical Record Retention and Media Formats for Medical Records – JA1022

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<b>Key Words</b>	SE1022, Medical, Record, Retention, Media
<b>Contractors Affected</b>	<ul style="list-style-type: none"> <li>• Medicare Fiscal Intermediaries (FIs)</li> <li>• Medicare Carriers</li> <li>• Medicare Administrative Contractors (MACs)</li> </ul>
<b>Provider Types Affected</b>	Physicians, non-physician practitioners, suppliers, and providers submitting claims to Medicare Carriers, FIs, and MACs for services provided to Medicare beneficiaries



Special Edition (SE) 1022 provides guidance for physicians, suppliers, and providers on medical record retention timeframes.

### Medical Record Retention

**Provider Needs to Know...**

- The Centers for Medicare & Medicaid Services (CMS) requires records of providers submitting cost reports to be retained in their original or legally reproduced form for a period of at least 5 years after the closure of the cost report.
- This requirement is available at 42 Code of Federal Regulations (CFR) 482.24[b][1] ([http://www.access.gpo.gov/nara/cfr/waisidx\\_05/42cfr482\\_05.html](http://www.access.gpo.gov/nara/cfr/waisidx_05/42cfr482_05.html)) on the Internet.
- CMS requires Medicare managed care program providers to retain records for 10 years. This requirement is available at 42 CFR 422.504 [d][2][iii] (<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr;sid=ab240bf0e5f6388a75cbe07cc5cf1d21;rgn=div5;view=text;node=42%3A3.0.1.1.9;idno=42;cc=ecfr>) on the Internet.

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- Providers/suppliers should maintain a medical record for each Medicare beneficiary that is their patient.
  - Medical records must be accurately written, promptly completed, accessible, properly filed and retained.
  - Using a system of author identification and record maintenance that ensures the integrity of the authentication and protects the security of all record entries, is a good practice.

#### **Medical Record Media Format**

- The Medicare program does not have requirements for the media formats for medical records.
- However, the medical record needs to be in its original form or in a legally reproduced form, which may be electronic, so that medical records may be reviewed and audited by authorized entities.
- Providers must have a medical record system that ensures that the record may be accessed and retrieved promptly.
- Providers may want to obtain legal advice concerning record retention after these time periods and medical document format.

#### **Electronic Health Record (EHR) Incentive Program**

- CMS is currently engaged in a multi-year project to offer incentives to eligible providers that meaningfully use certified EHR.
  - In close coordination with this incentive program, the Office of the National Coordinator for Health Information Technology has developed the initial set of standards and certification requirements for EHRs in order to promote health information exchange and interoperability.
  - A provider may be eligible to receive incentive payments to assist in implementing certified EHR technology systems.
  - Use of "certified EHR technology" is a core requirement for physicians and other providers who seek to qualify to receive incentive payments under the Medicare and Medicaid EHR Incentive Programs' provisions authorized in the Health Information Technology for Economic and Clinical Health (HITECH) Act. HITECH was enacted as part of the American Recovery and Reinvestment Act of 2009.
  - Additional information about this initiative may be found at <http://www.cms.gov/EHRIncentivePrograms/> on the CMS website.
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| Background | <ul style="list-style-type: none"> <li>• State laws generally govern how long medical records are to be retained.</li> <li>• However, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) administrative simplification rules require a covered entity, such as a physician billing Medicare, to retain required documentation for <b>six years from the date of its creation or the date when it last was in effect, whichever is later.</b></li> <li>• HIPAA requirements preempt state laws if they require shorter periods.</li> <li>• <b>Some states may require a longer retention period.</b></li> <li>• The HIPAA requirements are available at 45 CFR 164.316(b)(2) (<a href="http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&amp;tpl=/ecfrbrowse/Title45/45cfr164_main_02.tpl">http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&amp;tpl=/ecfrbrowse/Title45/45cfr164_main_02.tpl</a>) on the Internet.</li> <li>• While the HIPAA Privacy Rule does not include medical record retention requirements, it does require that covered entities apply appropriate administrative, technical, and physical safeguards to protect the privacy of medical records and other protected health information for whatever period such information is maintained by a covered entity.</li> <li>• The Privacy Rule is available at 45 CFR 164.530(c) (<a href="http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&amp;tpl=/ecfrbrowse/Title45/45cfr164_main_02.tpl">http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&amp;tpl=/ecfrbrowse/Title45/45cfr164_main_02.tpl</a>) on the Internet.</li> </ul> |
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Operational Impact	N/A
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Reference Materials	The related MLN Matters® article can be found at <a href="http://www.cms.hhs.gov/MLNMattersArticles/downloads/SE1022.pdf">http://www.cms.hhs.gov/MLNMattersArticles/downloads/SE1022.pdf</a> on the CMS website.
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