



Medical Record Maintenance & Access Requirements



What's Changed?

- Added link to Consolidated Appropriations Act of 2023 for extended telehealth provisions (page 6)
- Added information on elimination of Certificates of Medical Necessity and DME Information Forms (page 6)
- Added reminder for independent diagnostic testing facilities to properly store medical records (page 6)

Substantive changes appear in dark red.

This fact sheet educates Medicare physicians, non-physician practitioners (NPPs), hospitals, other providers, and suppliers on current regulations at [42 CFR 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's responsible for providing access.

Who does the updated regulation impact?

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

Example:

123 Medical Supply is a DME supplier providing 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 you may rely upon an employer or another entity to maintain these records. However, if you get a medical records request, you're responsible for providing the medical records to us or 1 of our Medicare contractors.



Who may request access to these medical records?

We or a Medicare contractor may request access to documentation. The term “access to documentation,” means you must provide or make available the documentation. You must do this in the manner we or 1 of our contractors requested.

Example:

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

What type of documentation must you maintain and provide to us or 1 of our Medicare contractors?

The documentation includes written and electronic documents relating to:

- Orders
- Certifications
- Referrals
- Prescriptions
- Requests for payments for Medicare Part A or B services, items, or drugs

Chapter 7, Section 30.5.1.2 of the [Medicare Benefit Policy Manual](#) notes that in cases of home health (HH) care, the certifying physician's or allowed practitioner's facility medical record must contain information that justifies the referral for Medicare HH services for the patient. Such referrals should support the patient's:

- Need for the skilled service
- Homebound status

Documentation used to support the certification of HH eligibility must be provided, upon request, to us, the HH agency (HHA), or review entities. In turn, the HHA must be able to provide the supporting documentation to us and our review contractors.

These documents must include the 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 our request or a request from 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 orders
- 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 services, items, or drugs

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 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) 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

Sufficient and Deficient Access to Documents Examples

Sufficient Access	Deficient Access
Providing all documentation requested	Providing none of the requested documentation
Providing documentation specific to the orders or certifications, 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 us 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-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?

- Providers 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've access to the medical records upon our request. We encourage you to discuss contractual language with your legal counsel.
- If you're a hospitalist and your hospital employer solely maintains the medical records for your Medicare patients, make sure 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 on your orders for Medicare patients upon our request. [The Medicare Telemedicine Health Care Provider](#) fact sheet has more information on telehealth. See Section 4113 of the [Consolidated Appropriations Act of 2023](#) for extension of many telehealth provisions.

Certificates of Medical Necessity (CMNs) and DME Information Forms (DIFs)

Information on CMNs and DIFs is available either on the claim or in the medical record. So, providers and suppliers no longer need to submit these forms for DOS on or after January 1, 2023. See Chapter 5, Section 5.5 of the [Medicare Program Integrity Manual](#) for more information.

Reminder for Independent Diagnostic Training Facilities (IDTFs)

You must properly store medical records. If we or our contractors request to see these records, you must provide them within 2 business days. See Chapter 10, Section 10.2.2.4 of the [Medicare Program Integrity Manual](#) for more information.

Resources:

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

Together we can advance health equity and help eliminate health disparities for all minority and underserved groups. Find resources and more from the [CMS Office of Minority Health](#):

- [Health Equity Technical Assistance Program](#)
- [Disparities Impact Statement](#)

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