

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 65—Missouri Medicaid Audit and Compliance
Chapter 3—Providers and Participants—General Provider
and Participant Policies

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services under sections 208.159 and 660.017, RSMo 2016, the director adopts a rule as follows:

13 CSR 65-3.050 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 15, 2017 (42 MoReg 781-782). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Missouri Medicaid Audit and Compliance (MMAC), a unit within the Department of Social Services, received seven (7) comments on the proposed rule. Because of these comments, changes were made to this rule.

COMMENT #1: Therap Services refers to the requirement in subsection (6)(A) which requires only employees or designated agents of the provider to make entries in a participant's electronic record or electronic medical record, suggesting that this requirement will prohibit self-advocates and family members from making entries in a participant's record which it believed to be problematic if the participant self-medicated or otherwise contributed to his or her care.

RESPONSE: If a participant self-medicates or otherwise contributes to his or her care, the participant will not be able to bill Medicaid for these activities and, therefore, will have no reason to submit a record, electronic or otherwise, to MO HealthNet. Family members approved to be care providers for certain programs are employees and subsection (6)(A) states employees may make entries. No changes have been made to the rule as a result of this comment.

COMMENTS #2 and #3: Therap Services and Missouri Association of County Developmental Disabilities Services refer to the requirement in paragraph (6)(D)3. that providers' electronic records and electronic medical records system maintain an activity tracking system that records several items including "device identification, such as a Media Assigned Control (MAC) address." Both providers recommend adding "or IP address" to the device identifications.

RESPONSE: The rule does not restrict providers to the MAC identifications but merely gives it as an example and does not exclude use of the IP address as the device identification. No changes have been made to the rule as a result of this comment.

COMMENT #4: Missouri Association of County Developmental Disabilities Services recommends that the word "electronic" be inserted prior to the word "signature" in subsections (7)(A) and (B).

RESPONSE AND EXPLANATION OF CHANGE: Subsections (7)(A) and (B) will be amended, for consistency, from "signature" to "electronic signature."

COMMENT #5: Missouri Association of County Developmental Disabilities Services refers to the requirement in section (9) that edits or changes to a record be saved and the record contain the date of, the reason for, and the author of the edit or change and asks if a record can state that an edit or change was made and reference documentation supporting the reason for the change or note the reason for the change in another document that is linked to the electronic record.

RESPONSE: The above-described processes would be allowable by the rule as written. No changes have been made to the rule as a result of the comment.

COMMENT #6: Missouri Alliance for Home Care refers to the

requirement in section (8) that requires at least two (2) distinct identification components be used when affixing an electronic signature and asks a two- (2-) part question. First, whether an electronic signature must look like a "written signature" or a "signature simply typed in;" and second, whether the regulation is referring to the health care provider, the provider's employee, or the participant.

RESPONSE: With respect to the first part of the comment, subsection (1)(C) defines "electronic signature" as a compilation of computer data used with the intent of being the legally binding equivalent of the individual's handwritten signature. With respect to the second part of the comment, the requirement of section (8) applies to any electronic signature and when a requirement is specific to a party, the regulation so indicates as shown in section (7). No changes have been made to the rule as a result of this comment.

COMMENT #7: Missouri Alliance for Home Care refers to the requirement in subsection (6)(B) that requires all entries in a participant's electronic record or electronic medical record be authenticated by a method that identifies the author, including computer keys/codes, voice authentication systems, or other codes so long as they are under the sole control of the employee or agent using them. Missouri Alliance for Home Care recommends that "voice authentication" be replaced with "biometric identification" so that future technologies are included.

RESPONSE AND EXPLANATION OF CHANGE: The phrase "voice authentication" will be replaced by the broader category of "biometric identification" to allow the regulation to adjust to technology without necessitating an amendment.

13 CSR 65-3.050 Electronic Signatures for Mo HealthNet Program

(6) Nothing herein shall require a provider to conduct business electronically, but if a provider chooses to conduct business electronically, the following requirements shall apply:

(B) All entries in a participant's electronic record or electronic medical record must be authenticated with a method established to identify the author. The method utilized may include computer keys/codes or biometric identification systems that utilize a personal identification number (PIN). When computer key/code(s), biometric identification systems, or other codes are used, these methods must be under the sole control of the employee or agent using them. Providers must be able to demonstrate that adequate safeguards are maintained to protect against improper or unauthorized use of these methods;

(7) Electronic medical records shall contain the following:

(A) The name, title, and electronic signature of the MO HealthNet enrolled provider delivering the service; and

(B) The date the electronic signature was executed.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 3—Voter Identification

ORDER OF RULEMAKING

By the authority vested in the secretary of state's office under section 115.427, RSMo 2016, the secretary rescinds a rule as follows:

15 CSR 30-3.010 Voter Identification Affidavit is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 3, 2017 (42 MoReg 967). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.