APA-4

CERTIFICATION OF EMERGENCY RULES
FILED WITH LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR

Pursuant to Code of Alabama 1975, §§41-22-5 (b) and 41-22-6 (c) (2) a. and b.

I certify that the attached emergency rule is a correct copy as promulgated and adopted on the 20th day of March, 2020.

AGENCY NAME: Alabama Medicaid Agency

RULE NO. AND TITLE: Rule No. 560-X-1-.18 ER Provider and Recipient Signature Requirements

EFFECTIVE DATE OF RULE: March 20, 2020

EXPIRATION DATE (If less than 120 days): _____

NATURE OF EMERGENCY:
The above-referenced rule is being added to comply with Act No. 2011-615, amending Alabama Code (1975), §40-26B-70, et seq. This rule is being amended in order to lift the requirement for recipient signatures on claims to validate the billed and reimbursed service was rendered to the recipient during the time prescribed by the governor as a state of emergency due to the COVID-19 pandemic.

STATUTORY AUTHORITY: State Plan, Attachment 4.19-A & D; Alabama State Records Commission; 42 C.F.R. Section 433.32.

SUBJECT OF RULE TO BE ADOPTED ON PERMANENT BASIS __YES _X_ NO

NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

Administrative Secretary
Alabama Medicaid Agency
501 Dexter Avenue
Montgomery, Alabama 36103
(334) 242-5833

Stephanie McGee Azar
Commissioner

REC'D & FILED

MAR 20 2020

LEGISLATIVE SVC AGENCY

Rule No. 560-X-1-.18ER Provider and Recipient Signature Requirements

(1) Definitions

(a) Designee: Any person who can sign on behalf of the recipient. The Designee must indicate his/her relationship to the recipient next to his/her signature (e.g. spouse, power of attorney, authorized representative, etc.). The Designee's signature must be legible. If the signature is not legible, the name of the Designee should be printed next to his/her signature.

(b) Handwritten Signatures: A handwritten signature is a mark or sign by an individual on a document to signify knowledge, approval, acceptance or obligation. Provider signatures must be legible and clearly identify the provider performing the billed service. Illegible provider signatures must be supported by a valid signature log or attestation statement to determine the identity of the author. A handwritten signature must be an original signature on the original record or document; it must not be a photocopy or otherwise adhered to the original document.

(c) Electronic or Digital Signatures: An electronic signature validates an electronic medical record in the same way a hand written signature validates a written medical record. An electronic signature is an electronic sound, symbol, or process, attached to an electronic record and executed or adopted by a person with the intent to sign the record. The responsibility and authorship related to the signature should be clearly defined in the record. The system should be secure, allowing sole usage or password protection for each user. Digital signatures are an electronic method of a written signature that is generated by special encrypted software that allows for sole usage. Electronic and digital signatures are not the same as 'auto-authentication' or 'auto-signature' systems, some of which do not mandate or permit the provider to review an entry before signing. Therefore, "auto-authentication" or "auto-signature" systems are not allowed. Indications that a document has been 'Signed but not read' are not acceptable. Acceptable electronic or digital signatures include, but are not limited to, the following:

1) Chart 'Accepted By' with provider's name
2) 'Electronically signed by' with provider's name
3) 'Verified by' with provider's name
4) 'Reviewed by' with provider's name
5) 'Released by' with provider's name
6) 'Signed by' with provider's name
7) 'Signed before import by' with provider's name
8) 'Signed: John Smith, M.D.' with provider's name
9) Digitized signature: Handwritten and scanned into the computer
10) 'This is an electronically verified report by John Smith, M.D.'
11) 'Authenticated by John Smith, M.D'
12) 'Authorized by: John Smith, M.D'
13) 'Digital Signature: John Smith, M.D'
14) 'Confirmed by' with provider's name
15) 'Closed by' with provider's name
16) 'Finalized by' with provider's name
17) 'Electronically approved by' with provider's name
18) 'Signature Derived from Controlled Access Password'

(d) Stamped signatures are not accepted except in the following limited circumstances:
1) Claim forms as described in subsection (2)(b)(1) below;
2) In accordance with the Rehabilitation Act of 1973 in the case of an author with a physical disability who can provide proof to Medicaid of his or her inability to sign his or her signature due to disability. By affixing the stamped signature, the provider is certifying that he or she has reviewed the document.

(2) Provider Signatures—Unless otherwise specified, the signature requirements may be satisfied by a handwritten, electronic, or digital signature.
(a) Enrollment Applications: All providers must sign an Alabama Medicaid Provider Agreement when applying for participation. By signing the Alabama Medicaid Provider Agreement, the provider agrees to keep any records necessary to disclose the extent of services the provider furnishes to recipients; to furnish Medicaid, the Secretary of HHS, or the State Medicaid fraud control unit such information and any information regarding payments claimed by the provider for furnishing services, upon request; to certify that the information on the claim is true, accurate, and complete; that the claim is unpaid; that the provider understands that payment of the claim will be from federal and state funds, and that any falsification, or concealment of a material fact may be prosecuted under federal and state laws. The provider's duly authorized representative may sign the Alabama Medicaid Provider Agreement for a group practice, hospital, agency, or other institution. The duly authorized representative must have written authority to bind every member of the group practice or other entity, and such authority shall be attached to the contract.
(b) Claims: The provider's signature on a claim form certifies that the services billed were performed by the provider or supervised by the provider and were medically necessary.
1) For paper claims, a handwritten signature by the provider on the claim form in the appropriate area or the provider's initials next to a typewritten or stamped signature is required.

2) If the provider has signed the Alabama Medicaid Provider Agreement, the provider may indicate "Agreement on File" in the appropriate location on the claim form.

(c) Prior authorization forms:
1) For hardcopy requests, a handwritten signature by the provider or duly authorized representative on the form in the appropriate area is required to certify that the requested service, equipment, or supply is medically indicated and is reasonable and necessary for the treatment of his or her patient, and that a physician signed order or prescription is on file (if applicable).
2) For electronic requests, an electronic or digital signature is required to certify that the requested service, equipment, or supply is medically indicated and is reasonable and necessary for the treatment of his or her patient, and that a physician signed order or prescription is on file (if applicable.
(d) Referral forms:

1) For hard copy referrals, the printed, typed, or stamped name of the primary care physician with an original signature of the physician or duly authorized representative is required. Photocopied signatures will not be accepted.
2) For electronic referrals, and electronic or digital signature is required.

(e) Meaningful Use Attestation: An original signature or an electronic or digital signature shall be provided by the eligible provider or a duly authorized representative of the eligible hospital submitting the application for the incentive payment.

(f) Orders, progress notes, and examinations: Services that are provided or ordered must be signed and dated by the ordering practitioner.

(g) Treatment Plan Reviews: The reviewing psychologist must sign or initial and date the treatment plan being reviewed.

(3) Recipient Signature—Unless otherwise specified, the signature requirements may be satisfied by a handwritten, electronic, or digital signature.

(a) Recipient Signatures are required in the following instances:

1) All providers must obtain a signature to be kept on file as verification that the recipient was present on the date of service for which the provider seeks payment (e.g., release forms or sign-in sheets). A recipient signature is not required on individual claim forms.
2) Recipient signatures are required for all pharmacy, Durable Medical Equipment ("DME"), supply, appliance and Prosthetics, Orthotics and Pedorthics ("POP") claims to validate the billed and reimbursed service was rendered to the recipient and for pharmacy claims to ensure the recipient was offered appropriate counseling (if applicable). For pharmacy, DME, supply, appliance and POP items that have been delivered, the provider must ensure that the delivery service obtains the recipient's signature or the signature of the recipient's Designee.
3) Hospice recipient signatures must be obtained on the Medicaid Hospice Election and Physician's Certification (Form 165). A recipient signature is not required for each date of service for Hospice recipients. The provider must retain documentation in the medical record to show the services were rendered.
4) Treatment Plans: Unless clinically contraindicated, the recipient will sign the treatment plan to document the recipient's participation in developing or revising the plan. If the recipient is under the age of 14 or adjudicated incompetent, the parent or foster parent or legal guardian must sign the treatment plan.

(b) Recipient Signatures are not required under the following circumstances:

1) When there is no personal recipient or provider contact (e.g. laboratory or radiology services). This exception does not apply to pharmacy and/or DME claims. The provider must retain documentation in the medical record to show the services were rendered.

2) Illiterate recipients may make their mark, for example, "X" witnessed by someone with their dated signature and printed name after the phrase "witnessed by."
3) The recipient's Designee may sign claim forms for recipients who are not competent to sign because of age, mental, or physical impairment.
4) A recipient signature is not required for each date of service for Home Health recipients. The Home Health provider must retain documentation in the medical record to show the services were rendered.
5) When a home visit is made by a physician. The physician must retain documentation in the medical record to show the services were rendered.
6) For services rendered in a licensed facility setting, other than the provider's office, the recipient's signature on file in the facility's record is acceptable. The provider must retain documentation in the medical record to show the services were rendered.
7) Treatment plan review, mental health consultation, pre-hospitalization screening, crisis intervention, family support, Assertive Community Treatment (ACT), Program for Assertive Community Treatment (PACT), and any non-face-to-face services that can be provided by telephone or telemedicine when provided by a Rehabilitation Option Provider or a physician meeting the telemedicine requirements as set forth in the Alabama Medicaid Administrative Code and the Alabama Medicaid Provider Manual. The provider must retain documentation in the medical record to show the services were rendered.
8) During the time prescribed by the governor as a State of Emergency due to the COVID-19 pandemic, recipient signatures are not required in cases where the provider has discontinued signature capture due to health concerns, but only in strict accordance with the March 20, 2020 Provider Alert with the subject line "Alabama Medicaid Modifies Recipient Signature Requirement during COVID-19 Emergency" and any succeeding Alert or amendment thereto. Documentation of services provided to the recipient must be maintained by the provider.

(c) When payment has been made on claims for which a signature is not available and one of the above exceptions is not applicable, the funds paid to the provider covering this claim will be recouped.

(4) The provisions of this rule shall apply unless otherwise specified in a program-specific chapter of the Alabama Medicaid Administrative Code.

Author: Kelli Newman, R.Ph., Pharm.D; Director, Clinical Services and Support.
Authority: State Plan, Attachment 4.19-A & D; Alabama State Records Commission; 42 C.F.R. Section 433.32.
History: Rule effective October 1, 1982. **Amended** May 15, 1983, October 7, 1983, January 1, 1984 and October 12, 1991. Effective date of this amendment May 16, 2012. **Amended**: Filed September 11, 2013; effective October 16, 2013. **Amended:** Filed

January 11, 2016; effective February 25, 2016. **Amended**: Filed September 9, 2016; effective October 24, 2016. **Amended:** Emergency rule filed and effective March 20, 2020.

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