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## Electronic Signatures for California's MAA Program

The California Department of Health Care Services (DHCS) recently announced that the use of electronic signatures on Medi-Cal Administrative Activities (MAA) and Targeted Case Management (TCM) program time surveys will be acceptable in lieu of manual signatures starting July 1, 2012. According to Policy and Procedure Letter ([PPL 12-009](#)) electronic signatures must meet the following criteria to be considered acceptable by DHCS. They must

1. identify the individual signing the document by name and title,
2. assure that the documentation cannot be altered after the signature has been affixed, and
3. provide evidence that would make it difficult for the signer to claim that the electronic signature is not valid.

DHCS's approval of the use of electronic signatures as a means of certifying MAA and TCM time surveys has raised questions from both participating schools and their regional agencies, the Local Educational Consortium (LEC) and local governmental agencies (LGAs). Specifically, they have asked how compliance with the criteria for electronic signatures can be determined.

This policy brief provides additional resources for program coordinators, LECs, and LGAs interested in better understanding the foundational statutes and the ways that other states demonstrate audit compliance for electronic signatures in their Medicaid reimbursement programs.

### State and Federal Regulations Governing Electronic Signatures

Both the state of California and the federal government define an electronic signature as "an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record."<sup>1</sup> Rules concerning the use of electronic signatures are governed by two primary sources, both cited in DHCS's PPL 12-009:

- Federal law, [15 U.S. Code Sections 7001-7006](#). This federal law outlines the general use of electronic signatures in commerce. It provides the foundation on which California has created its own more detailed, state-specific law, known as the Uniform Electronic Transactions Act (see below).
- California law, [Civil Code Section 1633.1-1633.17](#). Known as California's Uniform Electronic Transactions Act (UETA), this California law includes information about attributing an electronic signature to a person (Section 1633.9) and about requirements that must be met to satisfy electronic record retention (Section 1633.12).

<sup>1</sup> Federal law, 15 U.S. Code Sections 7006 and California law, Civil Code Section 1633.2 (pulled as current, May 2012)

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<sup>2</sup> Digital signatures are defined in California [Government Code Section 16.5](#) and further outlined in [Title 2 of the California Code of Regulations \(CCR\) Sections 22000-22005](#). More information can be found on the [California Secretary of State website](#).

<sup>3</sup> These resources are intended for informational purposes only, and in no way reflect DHCS guidance on the approved use of electronic signatures for MAA and TCM time surveys.

<sup>4</sup> Medicaid Billing Guidebook, page 9-3-1 (July 25, 2011).

<sup>5</sup> DMH criteria for using electronic signatures is more stringent than those outlined in DHCS PPL 12-009; this disparity exists because the DMH policy applies to the use of electronic signatures for electronic medical records rather than for simpler forms such as the MAA or TCM time survey, which is used to allocate allowable program costs.

When reviewing statutes and other resources related to electronic signatures, it is important to note the difference between an electronic signature and digital signature. This difference extends to both the definition and criteria that the signatures must meet. Digital signatures carry a much heavier burden of encryption, audit support, and management than electronic signatures.<sup>2</sup>

### Resources From Other States Regarding Compliance

The majority of resources found regarding electronic signatures and Medicaid reimbursement programs were related to direct service billing (as opposed to administrative claiming). Additionally, these sources tended to reflect the same criteria outlined in DHCS PPL 12-009, with no additional information provided on audit measures or on ways to demonstrate compliance. Included below are examples of how other states or programs within California tackle the issue of proving compliance.<sup>3</sup>

### Assuring That Documentation Cannot Be Altered After Signature Has Been Affixed

Secure authentication—such as having a sign-in process—is the most common measure employed to prove authenticity by linking an individual to his or her electronic signature. In [Indiana's school Medicaid program](#), the state recommends that each participant have a unique, confidential password that changes at least every 60 days. Every time the record is accessed, an electronic signature is affixed noting the date and time and creating a "fingerprint that is unique to the provider and verifies when the data was entered or modified."<sup>4</sup>

In California in 2008, the Department of Mental Health (DMH) approved use of electronic signatures as a method of signing electronic health records. Included in [DMH Letter No. 08-10](#) are standards for electronic signatures that include a form that must be signed and retained that certifies that the electronic systems used meet all standards as set forth in the letter.<sup>5</sup>

### Evidence Attributing an Electronic Signature to a Signatory

California's Uniform Electronic Transactions Act (UETA), Civil Code Section 1633.9, states that attributing an electronic signature to a person "may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to [whom] the electronic record or electronic signature was attributable." It goes on to state that the effect of an attributed electronic signature is "determined from the context and surrounding circumstance at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law."

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The majority of available guidance from states employing electronic signatures does not specify a means of certifying attribution of the signature to a signatory. However, some states employ the use of hard-copy signed statements for verification. At Oakland Schools in Michigan, participants [sign a statement](#) attesting to the use of their electronic signatures for documentation purposes and agreeing to take security measures to ensure that their login ID, username, and password remain uncompromised.

### **Additional Resources**

Although their use is new to the MAA and TCM programs, electronic signatures have been used for years to improve the efficiency of various processes under Medicaid. To date, 33 states allow electronic signatures for Medicaid applications. With the ongoing implementation of health reform, this number is only expected to increase.

More information on electronic signatures and their expanding role in Medicaid can be accessed through the following resources.

1. ["Electronic Signatures: How do they work for Medicaid and CHIP?"](#), Health Policy Institute, Georgetown University, March 2011
2. ["Use of Online Application Forms in Medicaid and Children's Health Insurance Program \(CHIP\)"](#), Kaiser Family Foundation, State Health Facts, January 2012