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# Program Memorandum Intermediaries/Carriers

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Department of Health &  
Human Services (DHHS)  
Centers for Medicare &  
Medicaid Services (CMS)

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CHANGE REQUEST 2264

**SUBJECT: Electronic Patient Records Via Non-Internet Means**

Recently, a number of contractors have asked whether it would be a violation of CMS security policy to allow a provider to send electronic patient records to the contractor via non-Internet means. Electronic patient records are patient medical diagnosis and treatment documentation in any combination of text, graphics, data, audio, pictorial, or other information representation in digital form that is created, modified, archived, retrieved, or distributed by a computer system. The purpose of this Program Memorandum (PM) is to clarify the CMS policy with respect to the authority the contractor has to accept electronic patient records from providers via non-Internet telecommunication networks.

Section 5 of the Business Partners Systems Security Manual ([www.cms.hhs.gov/manuals/117\\_systems\\_security/BP\\_Sys\\_Security\\_man.asp](http://www.cms.hhs.gov/manuals/117_systems_security/BP_Sys_Security_man.asp)) states that Health care transactions (such as claims, remittances, medical records, etc.) “are prohibited between Medicare carriers/intermediaries and providers **over the Internet**. This Internet prohibition also applies to using the Internet to transport CMS Privacy Act-protected data between carriers/intermediaries and any other party. (See <http://www.hcfa.gov/security/iseclply.htm> for a definition of protected data.). [emphasis added]” The Manual is silent on the transmission of electronic patient records **over non-Internet networks** (e.g., dial up telephone lines, leased telephone lines, private networks).

The transmission of electronic medical records containing Privacy Act protected data are NOT prohibited between Medicare carriers/intermediaries and providers over non-Internet means. Carriers, intermediaries, and program safeguard contractors **may**, but are not required to, accept electronic patient records sent over non-Internet mechanisms.

Contractors who choose to accept electronic patient records from providers have the authority to first pilot test the information exchange with the provider. Contractors who choose to accept such records must post information on their Web site about how a provider can send requested medical records to the contractor via this mechanism. Contractors must also describe this process in their Additional Documentation Request letters. Providers may not send electronic patient records to Medicare contractors without first confirming with the contractor that they can accept and use such records.

Security requirements for these records are covered by the general core security requirements for carriers, intermediaries, and other CMS business partners as set forth in the Business Partners Systems Security Manual. Although other provisions may also apply, contractors should specifically review their compliance with sections 1.8.4, 1.9.8, 1.12.5 and section 10, in its entirety, with respect to utilization of the non-Internet mechanisms before placing the mechanisms into production.

**The *effective date* for this PM is October 25, 2002.**

**The *implementation date* for this PM is October 25, 2002.**

**These instructions should be implemented within your current operating budget.**

**This PM may be discarded after June 1, 2003.**

**If you have any questions about the Internet security policy, contact Max Buffington at [MBuffington@cms.hhs.gov](mailto:MBuffington@cms.hhs.gov) or 410-786-6966. If you have questions about electronic patient records, contact Melanie Combs at 410-786-7683.**