

Related Change Request (CR) #: N/A

MLN Matters Number: SE0547

Related CR Release Date: N/A

The Comprehensive Error Rate Testing (CERT) Process for Handling a Provider's Allegation of Medical Record Destruction

Note: This article was revised to contain web addresses that conform to the new CMS website and to show they are now MLN Matters articles. All other information remains the same.

Provider Types Affected

All Medicare providers

Provider Action Needed



STOP – Impact to You

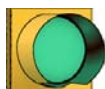
SE0547 outlines the process Medicare providers should follow when medical records requested by Medicare's Comprehensive Error Rate Testing (CERT) Documentation Contractor (CDC) and/or Medicare's CERT Review Contractor (CRC) are destroyed by disaster.



CAUTION – What You Need to Know

For CERT purposes, a "disaster" is defined as any natural or man-made catastrophe which causes damages of sufficient severity and magnitude to partially or completely destroy or delay access to medical records and associated documentation.

- Natural disasters would include hurricanes, tornadoes, earthquakes, volcanic eruptions, fires, mudslides, snowstorms, and tsunamis.
- Man-made disasters would include terrorist attacks, bombings, floods caused by man-made actions, civil disorders, and explosions. A disaster may be widespread or impact multiple structures or be isolated and impact a single site only.



GO – What You Need to Do

If you cannot submit the requested medical records because they were destroyed by a disaster, the CDC/CRC will ask you to attest, under penalty of perjury, to the destruction of the medical records. The **Attestation Form** is available to providers at <http://www.certprovider.org>. Providers who need to use this form can print and fax the

Disclaimer

This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.

form to the CDC who will either retain the form or send it to the CRC depending on which contractor sent the initial request letter for medical record documentation to the provider.

Background

The Centers for Medicare & Medicaid Services (CMS) recognizes that there are circumstances in which destruction of medical record documentation because of unforeseen events should not count as a “no documentation error.” Therefore, CMS has established the following process and procedures to corroborate allegations that CERT-requested medical records were destroyed by a disaster.

The corroboration process is comprised of two steps: 1) qualification and 2) accuracy.

In the first step, the CDC/CRC will review the attestation statement to determine if the event qualifies as a disaster. Provider induced disasters and disasters caused by negligence on the part of providers will be counted as “no documentation errors.”

The following are examples of provider induced disasters and **disasters caused by negligence** on the part of providers that **would NOT qualify** as a natural or man-made disaster:

- My dog ate the medical record.
- My computer lost or destroyed the medical record.

If the event does not qualify as a natural or man-made disaster defined in the Provider Action Needed section of this article, the claim associated with that medical record is documented as a “no documentation error.”

The following are examples of events that **WOULD qualify** as a natural or man-made disaster:

- The medical record was destroyed by a flood.
- Office fire consumed the medical record.

If the event does qualify as a natural or man-made disaster, the CDC/CRC will move to the **second step in the corroboration** process: confirming the accuracy of the attestation. The CDC will confirm the attestation statement through any or all of the following means:

The CDC **checks the following database records for evidence** of natural, man-made, and/or provider induced disasters: Pacer (Civil and Criminal Searches), Crimetime.com, News Searches, Internet Search, HHS OIG Sanctioned Providers ,Merlin, State Record Searches (Courthouse Records, Insurance Carriers or <http://www.insurancefraud.org/>, Choicepoint /Autotrak, Argyli, Tracer, and the National Crime Insurance Bureau).

The **CDC interviews the provider** who reported the destruction of medical records. The CDC determines the events leading up to the destruction of medical records, such as: what caused the destruction (weather, fire, etc.), were back-up records maintained (electronic or otherwise), what else might have been destroyed, were fire, police, insurance adjusters called to review the damage? The CDC will identify the magnitude of the destruction to medical records, determine if the Medicare Carrier/DMERC/FI has copies, interview other third parties as necessary, and determine if medical records were retained elsewhere and how were they maintained.

Disclaimer

This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.

The CDC validates additional supporting evidence for the event, which may include but not be limited to the following sources:

- Weather related events, such as, rain, floods, hurricanes, tornadoes, etc., can be confirmed by NOAA on a state and county geographical basis.
- Fire can be confirmed by checking with the local Fire Marshall.
- Explosions, such as, natural gas can be confirmed by the local Fire Marshal or local gas company.
- Explosions, such as, chemical explosions can be confirmed by the local Fire Marshall and the Bureau of Alcohol, Tobacco, and Firearms.
- Local, state, and federal investigative officials can confirm explosions.
- State insurance officials can confirm whether doctors, hospitals, and DME suppliers applied for insurance coverage under their insurance policies.
- FEMA can confirm if doctors, hospitals, and DME suppliers applied for disaster recovery loans.
- Local and state investigative agencies may be able to confirm events leading to the destruction of medical records.
- Employees or non employees of doctors, hospitals, and DME suppliers may have contributed to the destruction of medical records and there should be records disclosing charges against that individual(s).

Where the CDC is unable to verify the accuracy of the explanation provided in the attestation statement, the claim will be counted as a "no documentation error." Please note that this could eventually lead to a determination that an overpayment has occurred and overpayment recovery action could result.

Additional Information

MLN Matters article MM2976 describes the CERT program and MM3812 provides additional information on CERT. Those articles can be viewed at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM2976.pdf> and <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM3812.pdf>, respectively on the CMS website.

To review copies of the letters CERT contractors use to request medical record documentation from Medicare Physicians/Providers go to <http://www.certprovider.org/RequestLetters.aspx>, which is on a website run by the CERT documentation contractor.

Also on this site are CERT Newsletters that provide information about the entire CERT process.

If you have questions, please contact your carrier or intermediary at their toll free number, which is available at <http://www.cms.hhs.gov/apps/contacts/> on the CMS website.

Disclaimer

This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.