

PUBLICATION

CMS Releases Guidance for MACs on 100% Prepayment and Random Medical Reviews [Ober|Kaler]

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On October 18th, CMS issued [Transmittal 489 \[PDF\]](#), providing Medicare Administrative Contractors (MACs) with instructions on 100 percent prepayment and random reviews. The guidance, effective November 19, 2013, provides MACs with additional parameters for both types of prepayment reviews.

CMS offered cautious approval for MACs to conduct 100% prepayment reviews to prevent improper payments. While first recognizing MACs' discretion to conduct such reviews, CMS stated that they considered 100% prepayment reviews "appropriate" only upon finding that "a provider has a prolonged time period of non-compliance with CMS policies." Notably, CMS left a "prolonged time period of non-compliance" undefined.

Moreover, CMS stated that any MAC seeking to conduct a 100% prepayment review must inform the CMS Contracting Officer's Representation, Regional Office Technical Monitor, and the Business Function Lead, in advance. The MAC must also provide to the same parties the following information: (1) the background information on attempts to educate the provider; (2) the historical improper payment rate of the provider before beginning 100% prepayment review; (3) the length of time the provider is expected to be on 100% prepayment reviews; (4) the estimated number of claims and the dollar value of claims expected to be reviewed per month; and (5) the criteria for removing the provider from 100% prepayment review.

CMS noted that 100% prepayment reviews may consist of a review of every claim submitted by a targeted provider, or be comprised of a more limited review of all claims submitted by a targeted provider for a specific code.

By contrast, CMS expressly discouraged MACs from performing random reviews. While again recognizing MACs' discretion to conduct random reviews, and delineating specific criteria for a MAC to follow in the event of a random review, CMS instead urged MACs to initiate non-random service-specific prepayment reviews to prevent improper payments.

Ober|Kaler's Comments

Transmittal 489, effective as of November 19, 2013, will replace more general, current Program Integrity Manual language. The current language instructs MACs to conduct targeted provider-specific prepayment reviews when there is the "likelihood of a sustained or high level of payment error," and provides for no CMS reporting requirements.

Undoubtedly, prepayment reviews are onerous and may leave providers financially strapped. Consequently, it is of note that Transmittal 489's new MAC reporting requirements for 100 percent prepayment reviews reflects a small step by CMS in limiting MAC discretion. For example, MACs may not conduct a 100 percent prepayment review of a provider without first reporting to CMS information on their efforts to educate the targeted provider and setting forth clear criteria that the provider must meet in order to end the 100% prepayment review.

In creating these new standards, it is likely that providers will be left, at the very least, less in the dark in the event of 100 percent prepayment reviews. MACs will be obligated to first work with and educate providers prior to instituting such draconian measures.