

PUBLICATION

Targeted Probe and Educate – CMS Changes Its Approach to Auditing

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Medicare providers and suppliers will now be subject to Targeted Probe and Educate (TP&E) audits beginning this fall. These TP&E audits will focus on limited audits of individual providers and provider education. This new program expands on an existing CMS pilot auditing program, which applied previously to only three MAC jurisdictions.

TP&E will focus the MACs on targeting high-risk areas while encouraging Medicare providers and suppliers to understand and correct their billing behavior to prevent future incorrect claims. TP&E begins with MACs identifying providers and suppliers with either high claims error rates or with billing practices that differ materially from other similar providers and suppliers. The MACs will use data analysis to identify these two groups and it was implied that the MACs could rely on the Common Working File; historical billing, payment and utilization data; and other internal or external sources to conduct their data analysis.

Once a provider is identified, the MAC will conduct an initial probe audit of between 20 – 40 claims per provider, per item or service. A one-on-one counseling and education session will follow this probe audit with the provider, with the expectation that the provider would correct its billing practices shortly thereafter. A second probe audit of 20 – 40 claims would confirm whether they were able to correct their billing errors in subsequent claims. If the provider/supplier continues to have a high billing error rate, a third audit of 20 – 40 claims would be conducted. Providers/suppliers that fail the third TP&E audit could be referred for 100 percent prepay review, extrapolation and recovery, referral to a recovery auditor or other actions. If the provider/supplier demonstrates improvement in their error rate, the TP&E audit ceases.

Baker Donelson Comment

The implementation of TP&E audits addresses several provider complaints about the current audit system. First, the "targeted" areas will reduce the chance that compliant billers would normally be subject to an audit because the target of the audits would be only those high claims error rate providers or providers that are statistical outliers. Second, the size and scope of the audit, limited to 20 – 40 claims per provider, will reduce the administrative burden compared to the larger audits in the past. Third, TP&E will take an affirmative approach to resolving erroneous claims – rather than pursue past claims with a perceived zeal for recoupment of incorrect (or worse, false) claims that could be extrapolated, TP&E will measure its success on whether the provider or supplier submits error free claims for similar services in the future. This new approach could also reduce the large backlog of Medicare claim appeals by creating fewer potential appeals, a topic that we discuss frequently with our clients, including [Medicare Appeals Backlog: HHS' Response to the Decade-Long Delay in Reviewing Appeals](#) and [Medicare Appeals 10-Year Backlog: D.C. Circuit Signals Enough is Enough](#).

Suppliers and providers should respond to TP&E audit requests the same as they would respond to any other government audit – promptly after fully understanding the scope of the audit and the underlying reason for the audit. Critics of the TP&E suggest that a recent report from the OIG, [Oversight of Efforts to Reduce Improper Billing Needs Improvement, GAO-17-290](#), indicates that the long-term effect of an education-centric audit system is unproven, or at best, uncertain. However, the differences between the proposed TP&E should help address concerns from the audit of the probe and educate services in that report.

