

## HEALTH CARE PROVIDER ALERT

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### CMS Expanding the “Targeted Probe and Educate” Audits Nationally this Fall

*By Mazen Asbahi, Partner*

The Centers for Medicare and Medicaid Services (“CMS”) announced recently that it will be expanding its medical claims review program to cover the entire country by the end of this year. The expanded program, titled “Targeted Probe and Educate” or “TPE,” would focus on limited audits of individual providers and provider education.

To providers, this announcement may in fact be welcome news. Unlike other types of Medicare audits that evaluate claims retroactively and put the provider at risk of fines, the TPE program is intended by CMS to promote billing and coding education so that providers can proactively correct and improve their billing behavior to prevent future incorrect claims.

Prior to the TPE program, CME would instruct its Medicare Administrative Contractors (“MACs”) to review clinical documentation of all providers billing a particular service when conducting an audit. However, the TPE program will only focus on a subset of providers, namely, those providers identified through data analysis as having the highest error rates or billing practices that differ greatly from their peers with respect to services that pose great financial risk to Medicare and/or have a high national error rate.

Once a provider is identified, the MAC will conduct an initial audit or probe of 20-40 claims. Following its review, the MAC will provide a one-on-one counseling and education session with the expectation that the provider will correct its billing practices. A second probe of 20-40 claims will follow to confirm whether the provider has made the requisite corrections. If the provider continues to have a high billing error rate, then a third probe would be conducted of yet another 20-40 claims. Failure by the provider to make corrections following the third audit may result in a referral of the provider for 100 percent prepay review, extrapolation and recovery, referral to a recovery auditor, or other actions.

The TPE program addresses a number of concerns raised by providers about the current audit system. First, the TPE program only targets a select subgroup of providers based on data analysis; thus, compliant billers are not likely to get audited. Second, the scope of the audits, namely 20-40 claims, is much more manageable than previous information requests and reduces the administrative burden on providers. Finally, rather than penalize providers for incorrect billing retroactively, the TPE program seeks to identify, correct, and then verify that a provider has made the requisite changes to its billing practices going forward. This new approach may also help reduce the backlog of Medicare claim appeals.

If you find yourself in receipt of a notice that you are subject to a TPE probe, you must treat it with the same level of seriousness as you would with any other governmental audit. Be sure to review the notice letter carefully, understand its scope and any deadlines, and contact any of the listed Roetzel attorneys for additional guidance. If the MAC identifies overpayments or other issues with the claims, you may be obligated to repay any overpayments and/or undertake other corrective actions. Further, any self-audits conducted in connection with the review should be done in coordination with your counsel to ensure attorney-client privilege.

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