

ZPIC Update: The Impact of Being Placed on Medicare Prepayment Review.



(March 9, 2016): Why have the number of prepayment reviews by Medicare contractors increased dramatically in recent years? Approximately seven years, Congress passed, and the President signed into law the Affordable Care Act. Since that time, the Centers for Medicare and Medicaid Services (CMS) and its contractors have accelerated their move away from **“Pay and Chase”** enforcement approaches. Today, Zone Program integrity Contractors (ZPICs), such as AdvanceMed and Health Integrity, AND Supplemental Medical Review Contractors (SMERCs), such as Strategic Health Solutions are rapidly moving towards preventative audit strategies. The purpose of this article is to briefly discuss the types of administrative enforcement actions, such as prepayment reviews, that we are currently seeing around the country.

I. Additional Documentation Requests (ADRs).

Providers should not confuse receiving an **“Additional Document Request”** (ADR), also sometimes referred to as an **“Additional Development Request,”** with being placed on prepayment review.

***ADRs are often initiated by a provider’s Medicare Administrative Contractor (MAC).
ADRs typically relate to a particular probe or edit conducted by the MAC.
ADRs may be focused on specific services, length of stay, a specific provider or a specific diagnosis.***

At some point in time, practically every health care provider and supplier participating in the

Medicare program will receive Additional Documentation Requests (ADRs), asking that the provider or supplier submit all associated supporting documentation for review before the contractor will be able to make a coverage and payment determination with respect to that particular claim. ADRs are not uncommon. Nevertheless, it is important to keep in mind that ADRs serve a purpose. If the supporting documentation submitted to the Medicare contractor in response to an ADR fails to support coverage and payment requirements, the contractor may choose to place provider or supplier on 100% prepayment review.

II. Medicare Prepayment Reviews.

In most instances, a health care provider will not receive advance notice that it has been placed on prepayment review. Notably, this is directly contrary to Medicare's regulations. Chapter 3 of the Medicare Program Integrity Manual (PIM) mandates notice to the provider prior to the initiation of provider-specific prepayment review:

“The Zone Program Integrity Contractors shall notify selected providers prior to beginning a provider-specific review by sending an individual written notice. ZPICs shall indicate whether the review will occur on a prepayment or postpayment basis. ZPICs shall maintain a copy of the letter and the date it was mailed. This notification shall be mailed the same day that the edit request is forwarded to the MAC. Refer to Exhibit 45 for the letter to be sent.”

See § 3.2.2 - Provider Notice, § A. Notice of Provider-Specific Review.

III. Direct Impact of Being Placed on Medicare Prepayment Review.

At first blush, being placed on prepayment review appears reasonable. It's difficult to think of any other industry that gets paid practically **“on demand”** while presenting a payor with little or no proof that a covered service was actually rendered. Unfortunately, unless this administrative condition is promptly handled, prepayment review can ultimately lead to insolvency and / or bankruptcy, depending on the specific payor mix at issue.

How can occur? Most small health care providers assume that Medicare payments will always be timely. As a result, emergency / contingency funds and rainy-day savings accounts are often a thing of the past. Many small providers keep only enough funds in their business accounts to cover the practice's overhead for 1 – 2 months. If your payor mix is 70% Medicare and 30% private payor and self-pay, being placed on prepayment review will effectively cut off most of your income for as long as the prepayment review requirement stays in place.

IV. Having a Medicare Prepayment Review Action Lifted.

We have successfully worked with numerous providers and suppliers in recent years in an effort to have the prepayment review requirement lifted. There is no **“silver bullet”** when it comes to having a provider taken off of prepayment review. It can't be done overnight but it can be accomplished within a relatively short period of time. The key is not to wait – you must take action to address the prepayment review. Failure to do so can result in your practice, home health agency or clinic remaining on prepayment review for up to a year.

As a final point, it is important to keep in mind that being placed on prepayment review is a symptom. It is not the underlying problem. Is a suspension or revocation action around the next corner? Has a qui tam been filed?

V. Possible Follow-up Enforcement Actions.

If your practice, home health agency or clinic is placed on prepayment review, it is essential that you proactively deal, not ignore the problem. Hoping that the prepayment review will just “go away” is wishful thinking. In fact, should you fail to address the problem, you should keep in mind that a poor showing in connection with a prepayment audit, can lead to:

- ***Postpayment audit.***
- ***Referral to CMS for possible suspension action.***
- ***Referral to CMS for possible revocation from the Medicare program.***
- ***Referral to HHS-OIG for possible CMP action.***
- ***Referral to DOJ for possible False Claims Act or criminal review.***

VI. Conclusion.

Left unaddressed, something as mundane as an ADR can lead to a provider or supplier being placed on prepayment review, and ultimately possibly result in even more severe administrative enforcement action. We therefore recommend that you carefully review each ADR you receive and review your submissions of supporting documentation for accuracy and completeness prior to sending it in to the contractor. Prepayment reviews, postpayment audits, suspension actions, revocation actions and referrals to law enforcement are all possible outcomes if your documentation and / or business practices fail to fully comply with applicable regulatory requirements. How can you avoid these adverse events? A huge first step would be for you to develop, implement and adhere to the provisions of an effective Compliance Program.

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Robert W. Liles, M.B.A., M.S., J.D., serves as Managing Partner at Liles Parker, Attorneys & Counselors at Law. Liles Parker is a boutique health law firm, with offices in Washington DC, Houston TX, San Antonio TX, McAllen TX and Baton Rouge LA. Robert represents health care providers and suppliers around the country in connection with Medicare audits by ZPICs, SMERCs, RACs and other CMS-engaged specialty contractors. Our firm also represents health care providers in HIPAA Omnibus Rule risk assessments, privacy breach matters, State Medical Board inquiries and regulatory compliance reviews. For a free consultation, call Robert at: 1 (800) 475-1906.