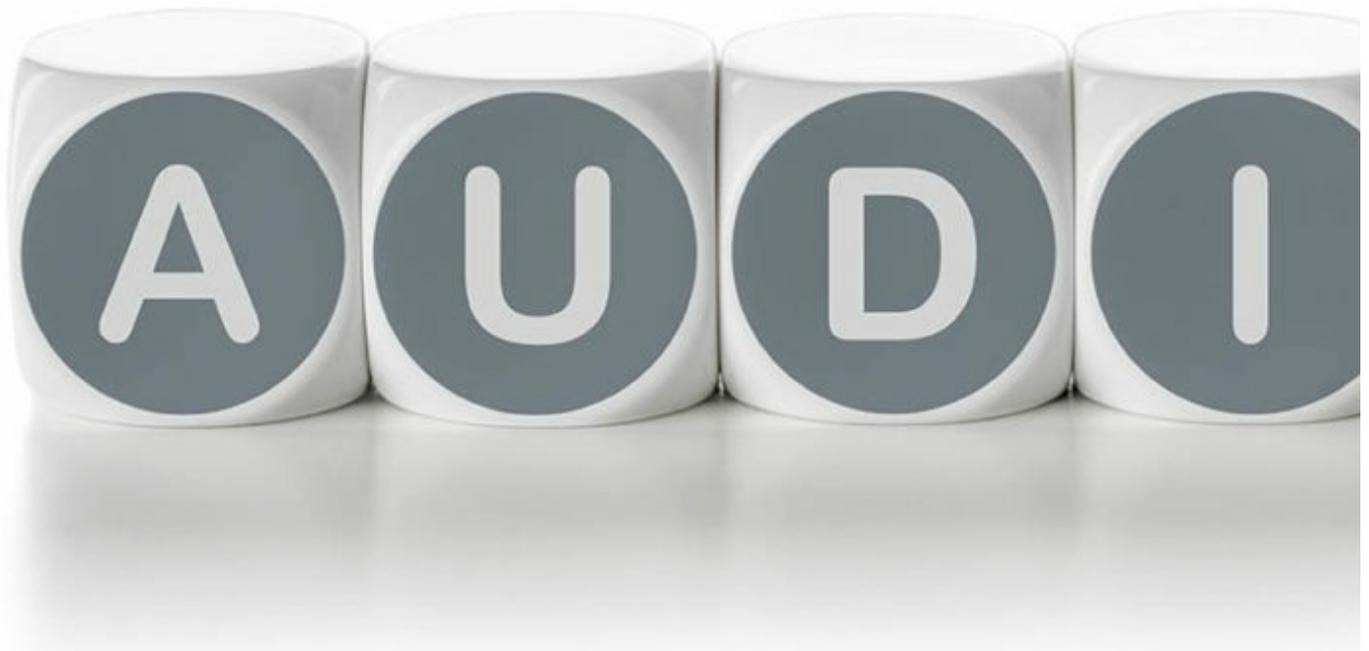

Is Your Facility a TPE Target? A Primer for CMS's Latest Audit Initiative . . .

BLOG | OCTOBER 24, 2018

Medicare audits are nothing new for long-term care facilities, but the **Targeted Probe and Educate (TPE)** initiative is not your average audit. In November 2017, the **Centers for Medicare and Medicaid Services (CMS)** announced it was ushering in a new audit model designed to help providers “quickly improve” the accuracy of their Medicare claims. For those facilities that have been “targeted” for these audits, TPE is a scary new world, with new procedures and high-stake potential risks—including 100-percent pre-payment review, extrapolation, and referral to a Recovery Audit Contractor (RAC). Selection for TPE review is ongoing, so even facilities that have not yet entered the program may find themselves wrestling with it in the months and years to come. This post seeks to shed some light on the TPE process as administered by Palmetto GBA and to help providers navigate some of the pitfalls that await.



How It Works

CMS's stated goal for TPE is to reduce Medicare claim denials and appeals through one-on-one interactions between claim reviewers and providers. TPE focuses on enhancing accuracy only in very narrow areas, and each Medicare Administrative Contractor (MAC) determines what criteria it will use to target facilities based on its own data analytics. The MAC for North Carolina facilities, Palmetto GBA, has chosen to focus its initial audits on billing for "ultra-high" (RU) and "very-high" (RV) rehabilitation categories. CMS also delegated authority to the MACs to create their own protocols for reviewing the charts they audit, giving each MAC substantial freedom to shape the process.

When Palmetto selects a facility for TPE, it notifies the facility by letter. Palmetto then sends an Additional Documentation Request (ADR) for 20-40 claims. For the first round of review, a few of the requested claims may be post-payment, but TPE focuses heavily on pre-payment audits. Under CMS requirements, Palmetto has 30 days from submission to review pre-payment claims.

Palmetto's medical reviewers use an internal checklist to evaluate each claim. If 20% or more of the reviewed claims contain an error, the facility is thrust into a second round of the audit. Likewise, if the reviewer denies 20% or more of the total amount of the submitted claims, the audit will continue. Partial denials count toward the 20% threshold, as do down-codes from one RUG to another.

The round of review ends with a telephone conference from the reviewer and "individualized education" to help facilities avoid the errors identified. If a facility's denials and down-codes do not reach the 20% threshold, the probe terminates at this time, and Palmetto cannot target the facility on the same audit topic for one year. If a facility is referred to the second round, Palmetto must give the facility 45-56 days after education to "improve" before sending ADRs for 20-40 additional claims. Subsequent rounds follow the same process.

Facilities who fail three rounds of a TPE audit face an array of daunting consequences. Palmetto must refer those facilities to CMS, which will decide whether to impose a 100-percent pre-payment review requirement, extrapolation,

RAC referral, or another remedy of its choosing. How CMS will respond to these referrals remains to be seen.

CMS and Palmetto note that the introduction of TPE has not changed the appeals process for denials of Medicare claims. Facilities should request Redetermination by Palmetto when a reviewer denies a claim just as they have with prior audits and, if unsuccessful, proceed to Reconsideration and beyond. Palmetto has made clear, however, that success on appeal does not change whether a facility is required to endure additional rounds of TPE. Palmetto looks at appeal data to see which denials have been overturned, but it does so only for purposes of improving its reviews and its provider education after the fact.

Common Facility Complaints

Economics: Pre-payment audits of 20-40 claims are tying up substantial amounts of revenue for facilities subject to TPE. While Palmetto reported earlier this year that it was completing reviews well ahead of the 30-day deadline, each round of TPE places a significant burden on day-to-day operations at many facilities.

Reviewer Errors: Facilities report a high rate of errors in interpreting billing codes, interpreting regulatory requirements, and identifying portions of the documentation Palmetto has requested. When facility personnel have brought errors to reviewers' attention during a round or at the end-of-round education session, reviewers have stated that they do not have discretion to reverse themselves once they have made a decision about a claim. While a facility may be able to secure payment of the claim on appeal, the lack of flexibility within the TPE probe itself means that facility could face additional rounds of ADRs and even referral to CMS based on obvious reviewer mistakes.

Education: Successful education begins with a thorough understanding of the error to be corrected, and facilities report Palmetto is falling short in explaining why it has denied or down-coded claims. Palmetto sends out results reports to facilities only after the education session, so facilities do not have the information they need to have meaningful discussions with reviewers. Some facilities also report that the education provided has been vague and less-than-helpful in ensuring they can "improve" enough to pass the next round of review.

What Your Facility or Agency Can Do

- For facilities not yet included in a TPE cycle, consider checking your PEPPER to see how your RU and RV statistics compare. PEPPER is not a fool-proof indicator of a facility's audit exposure because Palmetto is targeting based on its own analytics, but it may provide some warning that a facility is at heightened risk.
- For facilities at risk for inclusion in TPE and for facilities already in the probe, implement simple, systemic changes now. CMS states—and provider experience confirms—that most denials during TPE audits result from technicalities. For instance, Palmetto interprets the regulations to require a specific "admit to SNF" order from a physician. While the language of the regulations does not support that interpretation, incorporating "admit to SNF" orders as a matter of course is an easy way to avoid denials on that basis. Likewise, ensure you have a signature log for providers if they are still signing notes and orders by hand so that Palmetto cannot object that a signature is illegible. Anticipating potential issues with an easy fix may save major headaches down the road.
- Consider calling on third-party assistance. TPE is complicated, expensive, and time-consuming for facility personnel. In addition, if a facility fails a TPE audit and faces referral to CMS, or if TPE uncovers systemic non-compliance the facility has not previously identified, the consequences may be dire. Fortunately, there are

Medicare consultants and attorneys who can help with various phases of the TPE process, from improving your documentation practices to challenging advancement to the next TPE round based on reviewer errors. If your facility is concerned about TPE or in need of guidance, think about asking for additional help.

David Senter is a member of the firm's health care industry group and advises health care providers concerning regulatory compliance matters. David also advises and represents clients in state and federal court in a number of areas including business litigation, products liability, and trucking and transportation. Contact David at (919) 861-5095 or David.Senter@youngmoorelaw.com.

Helpful Links:

- CMS TPE Q&A: <https://go.cms.gov/2O62UAm>
- CMS TPE Graphic: <https://go.cms.gov/2Jiql8Y>
- Palmetto GBA Explanation of TPE Process: <http://bit.ly/2O0pk5T>
- Wilhide Consulting: <https://www.judywilhide.com/>
- RC Consulting: http://bit.ly/LI_RC-Consulting

CONTACT US

Phone: 919-782-6860

Fax: 919-782-6753

OFFICE

Young Moore and Henderson, P.A.

3101 Glenwood Ave. Suite 200

Raleigh, N.C. 27612

MAILING ADDRESS

Young Moore and Henderson, P.A.

P.O. Box 31627

Raleigh, N.C. 27622-1627