

## Part B Insider (Multispecialty) Coding Alert

### Compliance: Know These 3 COVID-19-Inspired Changes

#### Get ready for TPE reviews.

With coronavirus spiking again across many states, you may be adapting your policies and procedures to address the pandemic. You may want to consider new federal guidance to ensure your Part B practice is compliant and up to speed on policy revisions.



#### Register 3 Important Updates

With the Department of Health and Human Services (HHS) and the Centers for Medicare & Medicaid Services (CMS) revising their guidance sometimes daily, it's important to verify compliance with federal updates. Check out three recent changes that may impact your practice.

**1. Extension:** On July 23, HHS Secretary **Alex Azar** renewed the public health emergency (PHE). The change was effective on July 25 and extends the PHE through Oct. 23, 2020 for an additional 90 days. This is the second extension Azar has issued after originally declaring the COVID-19 pandemic a PHE on Jan. 31.

The extension is a real boon for providers struggling to combat the virus. "This renewal extends the wide array of waivers and flexibilities that have been issued by HHS in response to COVID-19," says attorney **Madison Pool** with Arnall, Golden, Gregory LLP in online analysis. However, practices must remember that the feds can roll back policies at any time, and the Secretary can terminate the PHE at his discretion.

"The declaration will not extend indefinitely, so providers should keep one eye to the future and be aware of how changes implemented to respond to COVID-19 will have to be reverted once the flexibilities terminate," Pool advises.

Read the PHE update at [www.phe.gov/emergency/news/healthactions/phe/Pages/covid19-23June2020.aspx](http://www.phe.gov/emergency/news/healthactions/phe/Pages/covid19-23June2020.aspx).

**2. Reviews and authorizations:** Whether you're ready or not, Medicare fee-for-service (FFS) claims reviews are back. "Regardless of the status" of the PHE, Medicare carriers reactivated Targeted Probe and Educate (TPE) pre- and post-payment reviews on August 3, according to a CMS Frequently Asked Question (FAQ) set. Supplemental Medical Review Contractor (SMRC) and Recovery Audit Contractor (RAC) audits also restarted that day.

Though the brief points out that COVID-19 hardships will be taken into account, providers should expect things to be back to business as usual. Auditors will follow billing and coding guidelines while adhering to regulations, the FAQ suggests.

"Comment[s] make it clear that services rendered and claims submitted during the COVID-19 public health emergency are fair game for these Medicare contractors," warns attorney **Shannon K. DeBra** with Bricker & Eckler LLP in online analysis.

Providers "that were in the midst of an audit or other medical review process should be ready to reengage in those processes and be prepared for new audit activity," counsel attorneys **Meg Pekarske, Bryan Nowicki, and Emily Park** with Husch Blackwell.



**Tip:** Specifically, "if you were in the middle of a Targeted Probe and Educate audit, receiving ADRs for one or more

services, received a Comparative Billing Report for a service or item provided (or any other audit activity) prior to this pause," you should be on notice, says Delray Beach, Florida-based **Acevedo Consulting** in a message to clients.

If you were already in a review process and haven't already done so, "now would be a good time to stop and ... figure out what you might be able to do better to be in compliance with program rules," Acevedo recommends.

If you "are lucky enough to think 'Nope, none of that applies to me,' review the current OIG Work Plan and your area's last CERT report to see if any targeted areas might impact you," Acevedo advises. "Regardless, now would be a good time to refocus your organization's compliance efforts."

See the FAQ at [www.cms.gov/files/document/provider-burden-relief-faqs.pdf](http://www.cms.gov/files/document/provider-burden-relief-faqs.pdf).

**3. Title VI:** If you're getting financial assistance from the feds, you may want to revisit the rules and requirements under Title VI of the Civil Rights Act of 1964, cautions a recent HHS Office for Civil Rights (OCR) brief.

On July 20, OCR issued new guidance reminding "recipients of federal financial assistance" that they must comply with "federal civil rights laws and regulations that prohibit discrimination on the basis of race, color, and national origin in HHS-funded programs during COVID-19," an agency release warns.

Recent data suggest there's been an increase in discriminatory practices across the healthcare spectrum during the pandemic. This has prompted the agency to work in tandem with the Centers for Disease Control and Prevention (CDC), the HHS Office of Minority Health, and the National Institutes of Health (NIH) to identify, research, and stop racial and ethnic inequities.

Additionally, OCR offers specific guidelines to aid the healthcare community with Title VI compliance - and ensure equal access to care, treatment, and testing. A few of the OCR highlights include:

- Set up stronger policies to circumvent harassment and discrimination.
- Put more COVID-19 testing sites in urban areas where the need is greater.
- Allot beds, services, and medicine "without regard to race, color, or national origin."
- Ensure all neighborhoods receive equal access to ambulances, home health, and healthcare services.

"HHS is committed to helping populations hardest hit by COVID-19, including African-American, Native American, and Hispanic communities," stresses **Roger Severino**, OCR Director. "This guidance reminds providers that unlawful racial discrimination in healthcare will not be tolerated, especially during a pandemic," he adds.

Find the bulletin at [www.hhs.gov/sites/default/files/title-vi-bulletin.pdf](http://www.hhs.gov/sites/default/files/title-vi-bulletin.pdf).