

## Eli's Hospice Insider

### Medical Review: Brace For Return Of Medical Review

#### The review pause is over.

Hospices may feel like their pandemic-related burdens are heavier than ever, but Medicare has decided it's time to bring back claims scrutiny.

On July 7, the **Centers for Medicare & Medicaid Services** made a very low-key announcement that medical review would resume Aug. 3 for all provider types.

"As states reopen, and given the importance of medical review activities to CMS' program integrity efforts, CMS expects to discontinue exercising enforcement discretion beginning on August 3, 2020, regardless of the status of the public health emergency," says a four-page "Coronavirus Disease 2019 (COVID-19) Provider Burden Relief Frequently Asked Questions (FAQs)" document. The FAQ refers to "Medicare Fee-For-Service (FFS) medical review."

The Aug. 3 resumption addresses Medicare Administrative Contractor Targeted Probe and Educate (TPE), Supplemental Medical Review Contractor, and Recovery Audit Contractor activity, points out billing expert **M. Aaron Little** with **BKD** in Springfield, Missouri.

The resumption applies to "both prepayment and postpayment medical reviews," highlight attorneys **Howard Young**, **Gregory Etzel**, and **Kathleen Rubinstein** with **Morgan Lewis** in online analysis.



**Then:** In a Frequently Asked Question set issued in March, CMS said "no additional documentation requests will be issued for the duration of the PHE for the COVID-19 pandemic."

**Now:** CMS says claims review is going ahead anyway. "This is in direct opposition to the position previously stated by CMS since the PHE has not yet ended," Little stresses. "All in all, this is very concerning for providers."

#### Expect Telehealth-Related Scrutiny

**Watch out:** 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**.

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.

"Providers should be on alert beginning August 3, 2020, for requests from government auditors regarding pre- or post-payment reviews," Pekarske, Nowicki, and Park advise in online analysis.

**Expect these targets:** "It is likely that auditors will be testing hospice documentation related to other recent waivers, rule changes or flexibilities issued by CMS, including waivers related to virtual visits and telehealth services," the Husch Blackwell attorneys predict.

Providers hoping for a further total reprieve from medical review are likely out of luck, industry veterans expect. But they may see some tempering of review re-implementation.

CMS officials have told other provider types that the agency is not looking to ramp up to a large volume of audits immediately, and the same likely will go for hospice providers. CMS officials also have indicated to representatives of other providers that it would focus first on postpayment reviews, so as not to affect incoming cash flow from new claims.

CMS also assured provider reps that it will stagger new audits and will focus on auditing claims from before the COVID-19 PHE time period, news reports say.

And in the FAQ, CMS pledges that "if selected for review, providers should discuss with their contractor any COVID-19-related hardships they are experiencing that could affect audit response timeliness." MACs will be able to use their discretion on this issue, though, which may not be favorable for providers.

**Do this:** 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 counsels. "Regardless, now would be a good time to refocus your organization's compliance efforts."

Note: The FAQs are at [www.cms.gov/files/document/provider-burden-relief-faqs.pdf](https://www.cms.gov/files/document/provider-burden-relief-faqs.pdf).