

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-08 Medicare Program Integrity</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 10132</b>	<b>Date: May 15, 2020</b>
	<b>Change Request 11695</b>

**SUBJECT: Revising Subsection 3.2.5, Targeted Probe and Educate (TPE), in Chapter 3 of Publication (Pub.) 100-08**

**I. SUMMARY OF CHANGES:** The purpose of this Change Request (CR) is to revise subsection 3.2.5, Targeted Probe and Educate (TPE), in Chapter 3 of of Pub. 100-8 to add additional detail regarding next steps after referral to CMS.

**EFFECTIVE DATE: June 16, 2020**

*\*Unless otherwise specified, the effective date is the date of service.*

**IMPLEMENTATION DATE: June 16, 2020**

*Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.*

**II. CHANGES IN MANUAL INSTRUCTIONS:** (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

<b>R/N/D</b>	<b>CHAPTER / SECTION / SUBSECTION / TITLE</b>
R	3/3.2/3.2.5/Targeted Probe and Educate (TPE)

**III. FUNDING:**

**For Medicare Administrative Contractors (MACs):**

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

**IV. ATTACHMENTS:**

**Business Requirements  
Manual Instruction**

# Attachment - Business Requirements

Pub. 100-08	Transmittal: 10132	Date: May 15, 2020	Change Request: 11695
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## I. GENERAL INFORMATION

**A. Background:** CR10249 provided the MACs with detailed instruction regarding the TPE review strategy. Included in that CR is instruction to the MACs to refer providers/suppliers who fail three rounds of TPE to CMS for next steps. In the time since the TPE program has begun, CMS has gained significant experience with regard to the aforementioned next steps. Frequently, CMS has determined that the most appropriate next step is for the MAC to conduct any additional round(s) of TPE review. It was brought to our attention that none of the current CMS guidance references the potential for more than three rounds of TPE review. As a result, CMS is revising the TPE language in section 3.2.5 in Chapter 3 of Pub. 100-08 to include the possibility of addition rounds of TPE review.

**B. Policy:** This CR does not involve any legislative or regulatory policies.

## II. BUSINESS REQUIREMENTS TABLE

*"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.*

Number	Requirement	Responsibility								
		A/B MAC			DM E MA C	Shared-System Maintainers				Othe r
		A	B	HH H		FIS S	MC S	VM S	CW F	
11695.1	The MAC shall note that the TPE process is <i>typically</i> repeated for up to three rounds, <i>but may involve additional rounds at CMS direction.</i> MACs discontinue the process if/when providers/suppliers become compliant.	X	X	X	X					
11695.2	The MAC shall include the following language in the	X	X	X	X					

Number	Requirement	Responsibility								
		A/B MAC			DM E MA C	Shared-System Maintainers				Other
		A	B	HH H		FIS S	MC S	VM S	CW F	
	<p>provider/supplier results letter to remind providers of 42 CFR section 424.535. <i>“In addition, we remind you that the regulation at 42 CFR §424.535 authorizes us to revoke Medicare billing privileges under certain conditions. In particular, we note that per 42 CFR §424.535(a)(8)(ii), CMS has the authority to revoke a currently enrolled provider or supplier’s Medicare billing privileges if CMS determines that the provider or supplier has a pattern or practice of submitting claims that fail to meet Medicare requirements.”</i></p>									
11695.3	<p>The MAC shall calculate the provider/supplier claim error rate and payment error rate at the conclusion of each round of TPE.</p>	X	X	X	X					
11695.4	<p>The MAC shall refer to CMS for further action if a provider/supplier continues to have</p>	X	X	X	X					

Number	Requirement	Responsibility								
		A/B MAC			DM E MA C	Shared-System Maintainers				Other
		A	B	HH H		FIS S	MC S	VM S	CW F	
	a high error rate at the conclusion of three rounds of TPE.									
11695.5	The MAC shall include in all referrals details regarding the reason the provider/supplier was selected for TPE review, TPE review results, <i>results of appealed denials (to the extent available at the time of referral)</i> , any education provided (or offered and refused), and any other relevant information that may be helpful in determining appropriate next steps.	X	X	X	X					
11695.6	After a provider/supplier is referred to CMS, the MAC shall conduct additional rounds of TPE, 100 percent prepayment review, extrapolation, referral to a Recovery Auditor, and/or referral for revocation, as directed by CMS.	X	X	X	X					
11695.7	The MAC shall send the provider/supplier	X	X	X	X					

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FIS	MC S	VM S	CW F	
	a notification letter indicating that an additional round of review is required. These reviews shall be of claims with dates of service at least 45 days after the prior round's post probe education and after the provider/supplier has received the aforementioned notification letter.									

### III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility				
		A/B MAC			DME MAC	CEDI
		A	B	HHH		
	None					

### IV. SUPPORTING INFORMATION

**Section A: Recommendations and supporting information associated with listed requirements: N/A**

*"Should" denotes a recommendation.*

X-Ref Requirement Number	Recommendations or other supporting information:

**Section B: All other recommendations and supporting information: N/A**

### V. CONTACTS

**Pre-Implementation Contact(s):** Heather Wetherson, heather.wetherson@cms.hhs.gov

**Post-Implementation Contact(s):** Contact your Contracting Officer's Representative (COR).

## **VI. FUNDING**

### **Section A: For Medicare Administrative Contractors (MACs):**

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

**ATTACHMENTS: 0**

# **Medicare Program Integrity Manual**

## **Chapter 3 - Verifying Potential Errors and Taking Corrective Actions**

**Table of Contents**  
*(Rev.10132, Issued: 05-15-2020)*

### 3.2.5 - Targeted Probe and Educate (TPE)

*(Rev. 10132; Issued: 05-15-2020; Effective: 06-16-2020; Implementation: 06-16-2020)*

**This section applies to MACs.**

#### A. Overview

The purpose of Targeted Probe and Educate (TPE) is to decrease provider burden, reduce appeals, and improve the medical review/education process.

This section describes requirements that MACs shall follow when performing medical review as part of TPE.

TPE reviews can be either prepayment or postpayment and involve MACs focusing on specific providers/suppliers that bill a particular item or service.

A round of TPE typically involves the review of 20-40 claims, per provider/supplier, per service/item, and corresponding education. In rare circumstances, CMS may approve a probe sample of other than 20-40 claims. This process is *typically* repeated for up to three rounds, *but may involve additional rounds at CMS direction*. MACs discontinue the process if/when providers/suppliers become compliant. Providers/suppliers who remain non-compliant after three rounds of TPE are referred to CMS for further action.

#### B. Provider Selection

The MACs shall initiate a provider-specific, prepayment or postpayment review based upon data analysis, as discussed in §3.2.1. MACs shall also initiate targeted, provider-specific, prepayment or postpayment review upon referral from the Recovery Auditor Contractor (RAC), Comprehensive Error Rate Testing (CERT), Unified Program Integrity Contractor (UPIC), Office of Inspector General (OIG), or Government Accountability Office (GAO) when directed by CMS. MACs shall target providers/suppliers who have historically high claim denial rates, who have billing practices that vary from their peers, or when evidence suggests that there is a potential risk to the Medicare Trust Fund.

##### Probe Selection

The MACs shall select probe samples of typically 20-40 claims. Probe samples of different sizes may be deemed appropriate on a case-by-case basis, with approval by CMS.

##### Provider Notification Letter

The MACs shall send a notification letter to providers/suppliers being targeted for review that:

- Outlines the targeted probe & educate process,
- Explains the process by which providers/suppliers will be able to receive one-on-one education and the types of education that will be available,
- Notifies providers/suppliers that MACs shall have the option to refer providers/suppliers to the RAC or UPIC as a result of non-response to Additional Development Requests (ADRs), and
- Includes the following language to remind providers of 42 CFR §424.535

“In addition, we remind you that *the* regulation at 42 CFR §424.535 authorizes us to revoke Medicare billing privileges under certain conditions. In particular, we note that per 42 CFR §424.535(a)(8)(ii), CMS has the authority to revoke a currently enrolled provider or

supplier's Medicare billing privileges if CMS determines that the provider or supplier has a pattern or practice of submitting claims that fail to meet Medicare requirements.”

### **C. TPE One-On-One Education**

For the TPE process, one-on-one education is defined as teleconference calls, face-to-face visits, electronic visits using webinar technology, or other similar technologies that enable direct communication between the MAC educator and the provider/supplier. MACs shall record these activities in monthly reporting to CMS as well as document and maintain the results of the education, and/or attempts for education, for data analysis and possible future reporting.

#### Intra-Probe Education

The MAC may identify errors in the claim(s) that can be easily resolved during the course of provider's/supplier's probe reviews. Easily curable errors include, but are not limited to, missing documentation that can be resolved through the submission of additional documentation and missing signatures that can be resolved with a signature attestation. When the MAC identifies an easily curable error, the MAC shall contact the provider to address the error and allow the provider to submit missing documentation, etc.

#### Post-Probe Education

The MAC shall contact the provider/supplier via telephone (or face-to-face, electronic visits using webinar technology, or other similar technologies as they become available) to offer a one-on-one educational session after each round of probe review. If the provider/supplier declines the offer for one-on-one education, MACs shall maintain *a* record of the effort and the reason for denial. The purpose of this one-on-one education is to:

- 1) Alert the provider of errors identified and how they may be resolved for future claim submissions; and
- 2) Provide education regarding the review topic to help prevent new issues from arising during future rounds of review. This post-probe one-on-one education should be individualized, claims-specific, and conducted in a format that is interactive, allowing the provider/supplier to ask questions as needed.

The MAC shall provide a minimum of 45 days after each post-probe educational session, before selecting new claims for review, to allow time for the provider/supplier to cure identified errors.

### **D. Post-Probe Activity**

#### Final Results Letter

The MAC shall send the provider/supplier a letter detailing the results of the claims reviewed at the conclusion of each round of review. The MAC shall include details regarding the provider's/supplier's specific claim errors. *For providers/suppliers who will be released from review due to meeting the established error rate goal, results letters shall indicate that the provider is being released from review for one year, with the caveat that additional review may occur at any time should the MAC identified changes in billing pattern. For providers/suppliers who continue to have high error rates after three rounds of TPE review, results letters shall indicate that they have not met the established goal error rate and will be referred to CMS for additional action, which may include additional rounds of TPE review, 100 percent prepayment review, extrapolation, referral to a Recovery Auditor, and/or referral for revocation. Additionally, the letter shall include the following language to remind providers of 42 CFR §424.535.*

*“In addition, we remind you that the regulation at 42 CFR §424.535 authorizes us to revoke Medicare billing privileges under certain conditions. In particular, we note that per 42 CFR §424.535(a)(8)(ii), CMS has the authority to revoke a currently enrolled provider or supplier’s Medicare billing privileges if CMS determines that the provider or supplier has a pattern or practice of submitting claims that fail to meet Medicare requirements.”*

#### Determining the Need for Additional TPE

The MAC shall calculate the provider/supplier claim error rate *and payment error rate* at the conclusion of each round of TPE. The MAC shall use the provider/supplier error rate to determine whether an additional round of TPE is appropriate.

#### Closure and Monitoring

A provider/supplier may be removed from TPE after any round if they demonstrate low error rates or sufficient improvement in error rates, as determined by the MAC. MACs shall use data analysis to monitor the providers/suppliers who have been discontinued from the TPE process. MACs shall conduct follow-up review in one year or sooner if data analysis indicates changes in billing patterns or when potential risk to the Medicare Trust Fund is identified.

#### **E. Referrals**

*If a provider/supplier continues to have a high error rate at the conclusion of three rounds of TPE, the MAC shall refer to CMS for further action.* Referrals shall include details regarding the reason the provider/supplier was selected for TPE review, TPE review results, *results of appealed denials (to the extent available at the time of referral)*, any education provided (or offered and refused), and any other relevant information that may be helpful in determining appropriate next steps.

The MAC shall refer suspected fraudulent providers to the UPIC at any time during the TPE process.

#### **F. Next Steps**

*Once the MAC refers a provider/supplier to CMS, details are reviewed to determine if additional action must be taken by the MAC. Additional actions that may be required include, but are not limited to, additional rounds of TPE review, 100 percent prepayment review, extrapolation, referral to a Recovery Auditor, and/or referral for revocation. If CMS directs the MAC to conduct an additional round of TPE review, the MAC shall send the provider/supplier a notification letter indicating that an additional round of review is required. These reviews shall be of claims with dates of service at least 45 days after the prior round’s post probe education and after the provider/supplier has received the aforementioned notification letter.*