

Medicare Program Integrity Manual

Chapter 3 - Verifying Potential Errors and Taking Corrective Actions

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3.1 – Introduction

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

All references to Medicare Administrative Contractors (MACs) include Affiliated Contractors (ACs). Affiliated Contractors are FI's and Carriers.

All references to Zone Program Integrity contractors (ZPICs) include Program Safeguard Contractors (PSCs).

A. Goals

This section applies to Medicare Administrative Contractors (MACs), Comprehensive Error Rate Testing (CERT), and Recovery Auditors, as indicated.

The Medicare Administrative Contractors (MACs) shall analyze claims to determine provider compliance with Medicare coverage, coding, and billing rules and take appropriate corrective action when providers are found to be non-compliant. The goal of MAC administrative actions is to correct the behavior in need of change and prevent future inappropriate billing. The priority for MACs is to minimize potential future losses to the Medicare Trust Funds through targeted claims review while using resources efficiently and treating providers and beneficiaries fairly.

For repeated infractions, MACs have the discretion to initiate progressively more severe administrative action, commensurate with the seriousness of the identified problem. (Refer to PIM chapter 3, §3.7.1). MACs shall deal with serious problems using the most substantial administrative actions available, such as 100 percent prepayment review of claims. Minor or isolated inappropriate billing shall be remediated through provider notification or feedback with reevaluation after notification. When medical review (MR) notification and feedback letters are issued, the MAC MR staff shall ensure that Provider Outreach and Education (POE) staff has access to copies of the letters in case a provider requests further education or POE determines that future education is needed. While program savings are realized through denials of payment for inappropriate provider billing, the optimal result occurs when compliance is achieved and providers no longer incorrectly code or bill for non-covered services.

The Medicare Fee For Service Recovery Audit program is a legislatively mandated program (Tax Relief and Health Care Act of 2006) that utilizes Recovery Auditors to identify improper payments paid by Medicare to fee-for-service providers. The Recovery Auditors identify the improper payments, and the MACs adjust the claims, recoup identified overpayments and return underpayments.

MAC, CERT and Recovery Auditor staff shall not expend Medicare Integrity Program (MIP)/ MR resources analyzing provider compliance with Medicare rules that do not affect Medicare payment. Examples of such rules include violations of conditions of participation (COPs), or coverage or coding errors that do not change the Medicare payment amount.

The COPs define specific quality standards that providers shall meet to participate in the Medicare program. A provider's compliance with the COPs is determined by the CMS Regional Office (RO) based on the State survey agency recommendation. If during a review, any contractor believes that a provider does not comply with conditions of participation, the reviewer shall not deny payment solely for this reason. Instead, the contractor shall notify the RO and the applicable State survey agency.

When a potential underpayment or overpayment is identified, certain steps are normally followed to determine if a payment error exists. These steps are referred to as the claims development process. The reviewer generally does the following:

- Investigates the claims and associated documentation;
- Performs appropriate research regarding liability, benefit categories, statutory requirements, etc.;
- Determines if a payment error exists and the nature of the error;
- Notifies the beneficiary and provider/supplier; and
- Starts the payment reconciliation process.

B. New Provider/New Benefit Monitoring

This section applies to the MACs.

The MACs shall analyze data to identify patterns of billing aberrancies of providers new to the Medicare program. The MACs have the option of performing prepayment or postpayment review of claims submitted by new providers as needed. The CMS encourages the MACs to perform these reviews on a prepayment basis to have the greatest chance of identifying and reducing the error rate of new providers. When MACs review the claims of a new provider, the MACs shall perform a limited review of generally 20-40 claims in order to evaluate accurate billing.

The MACs shall also monitor for provider use of new statutory benefits and to ensure correct coverage, coding, and billing from the beginning. New benefit edits shall continue until the MAC is satisfied that the new benefits are being used and billed appropriately or until the MAC determines that resources would best be spent on other types of review.

3.2 – Overview of Prepayment and Postpayment Reviews (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

A. Prepayment and Postpayment Review

Prepayment review occurs when a reviewer makes a claim determination before claim payment has been made. Prepayment review always results in an "initial determination."

Postpayment review occurs when a reviewer makes a claim determination after the claim has been paid. Postpayment review results in either no change to the initial determination or a “revised determination” indicating that an overpayment or underpayment has occurred.

B. Prepayment Edit Capabilities

Prepayment edits shall be able to key on a beneficiary's Health Insurance Claim Number (HICN), a provider's identification number (PIN/UPIN) or National Provider Identifier (NPI) and specialty code, service dates, and diagnosis or procedure code(s) (i.e., Healthcare Common Procedure Coding System [HCPCS] and/or International Classification of Diseases[ICD]-9 diagnoses codes), Type of Bill (TOB), revenue codes, occurrence codes, condition codes, and value codes.

The MAC systems shall be able to select claims for prepayment review using different types of comparisons. At a minimum, those comparisons shall include:

- Procedure to Procedure -permits contractor systems to screen multiple services at the claim level and in history.
- Procedure to Provider - permits selective screening of services that need review for a given provider.
- Frequency to Time- permits contractors to screen for a certain number of services provided within a given time period.
- Diagnosis to Procedure- permits contractors to screen for services submitted with a specific diagnosis. For example, the need for a vitamin B12 injection is related to pernicious anemia, absent of the stomach, or distal ileum. Contractors must be able to establish edits where specific diagnosis/procedure relationships are considered in order to qualify the claim for payment.
- Procedure to Specialty Code or TOB- permits contractors to screen services provided by a certain specialty or TOB.
- Procedure to Place of Service- permits selective screening of claims where the service was provided in a certain setting such as a comprehensive outpatient rehabilitation facility.

Additional MAC system comparisons shall include, but are not limited to the following:

- Diagnoses alone or in combination with related factors.
- Revenue linked to the health care common procedure coding system (HCPCS).

- Charges related to utilization, especially when the service or procedure has an established dollar or number limit.
- Length of stay or number of visits, especially when the service or procedure violates time or number limits.
- Specific providers alone or in combination with other parameters.

The MR edits are coded system logic that either automatically pays all or part of a claim, automatically denies all or part of a claim, or suspends all or part of a claim so that a trained clinician or claims analyst (routine review) can review the claim and associated documentation (including documentation requested after the claim is submitted) in order to make determinations about coverage and payment under Section 1862(a) (1) (A) of the Act. Namely, the claim is for a service or device that is medically reasonable and necessary to diagnose or treat an injury or improve the functioning of a malformed body member. All non-automated review work resulting from MR edits shall:

- Involve activities defined under the MIP at §1893(b)(1) of the Act;
- Be articulated in the MAC's medical review strategy;
- Be designed in such a way as to reduce the MAC's CERT error rate or prevent the MAC's CERT error rate from increasing, or;

Prevent improper payments identified by the Recovery Auditors.

3.2.1 – Setting Priorities and Targeting Reviews

(Rev. 399, Issued: 11-04-11, Effective: 12-05-11, Implementation: 12-05-11)

This section applies to MACs and Recovery Auditors, as indicated. Recovery Auditors perform targeted reviews consistent with their statements of work (SOWs).

The MACs have the authority to review any claim at any time, however, the claims volume of the Medicare Program doesn't allow for review of every claim. The MACs shall target their efforts at error prevention to those services and items that pose the greatest financial risk to the Medicare program and that represent the best investment of resources. This requires establishing a priority setting process to assure MR focuses on areas with the greatest potential for improper payment.

The MACs shall develop a problem-focused, outcome-based MR strategy and Strategy Analysis Report (SAR) that defines what risks to the Medicare trust fund the MAC's MR programs will address and the interventions that will be implemented during the fiscal/option year as addressed in PIM chapter 7.

The MACs shall focus their edits where the services billed have significant potential to be non-covered or incorrectly coded. Medical review staff may decide to focus review on problem areas that demonstrate significant risk to the Medicare program as a result of

inappropriate billing or improper payments. The MACs shall have in place a program of systematic and ongoing analysis of claims and data from Recovery Auditors and CERT, among other sources, in order to focus intervention efforts on the most significant errors.

The MACs shall initiate a targeted provider-specific prepayment review only when there is the likelihood of sustained or high level of payment error. MACs are encouraged to initiate targeted service-specific prepayment review to prevent improper payments for services identified by CERT or Recovery Auditors as problem areas, as well as, problem areas identified by their own data analysis.

The MACs have the discretion to select target areas because of:

- High volume of services;
- High cost;
- Dramatic change in frequency of use;
- High risk problem-prone areas; and/or,
- Recovery Auditor, CERT, Office of Inspector General (OIG) or Government Accounting Office (GAO) data demonstrating vulnerability. Probe reviews are not required when targeted areas are based on data from these entities.

In an effort to identify the claims most likely to contain improper billing, MACs are encouraged to use prepayment and postpayment screening tools or natural language coding software. MACs shall not deny a payment for a service simply because the claim fails a single screening tool criterion. Instead, the reviewer shall make an individual determination on each claim. MACs have the discretion to post the screening tools in use to their Web site or otherwise disclose to the provider community. Recovery Auditors shall use screening tools and disclose their use to the provider community consistent with the requirements in their statements of work (SOWs).

MACs and Recovery Auditors shall NOT target a provider for review solely based on the provider's preferred method of maintaining or submitting documentation. For example, a MAC or Recovery Auditor shall NOT choose a provider for review based only on the fact that the provider uses an electronic health record or responds to documentation requests using the Electronic Submission of Medical Documentation (esMD) mechanism. (More information about esMD can be found in Section (3.2.3.5))

3.2.2 - Provider Notice

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MAC and Recovery Auditors, as indicated.

Because the CERT contractors select claims on a random basis, they are not required to notify providers of their intention to begin a review. The ZPICs are also not required to notify providers before beginning a review.

A. Notice of Provider-Specific Review

When MAC data analysis indicates that a provider-specific potential error exists that cannot be confirmed without requesting and reviewing documentation associated with the claim, the MAC shall review a sample of representative claims. Before deploying significant medical review resources to examine claims identified as potential problems through data analysis, MACs shall take the interim step of selecting a small "probe" sample of generally 20-40 potential problem claims (prepayment or postpayment) to validate the hypothesis that such claims are being billed in error. This ensures that medical review activities are targeted at identified problem areas. The MACs shall ensure that such a sample is large enough to provide confidence in the result, but small enough to limit administrative burden. The CMS encourages the MACs to conduct error validation reviews on a prepayment basis in order to help prevent improper payments. MACs shall select providers for error validation reviews in the following instances, at a minimum:

- The MAC has identified questionable billing practices (e.g., non-covered, incorrectly coded or incorrectly billed services) through data analysis;
- The MAC receives alerts from other MACs, Quality Improvement Organizations (QIOs), CERT, Recovery Auditors, OIG/GAO, or internal/external components that warrant review;
- The MAC receives complaints; or,
- The MAC validates the items bulleted in § 3.2.1.

Provider-specific error validation reviews are undertaken when one or a relatively small number of providers seem to be experiencing the same problem with billing. The MACs shall document their reasons for selecting the provider for the error validation review. In all cases, they shall clearly document the issues noted and cite the applicable law, published national coverage determination, or local coverage determination.

For provider-specific problems, the MAC shall notify providers in writing that a probe sample review is being conducted. MACs have the discretion to use a letter similar to the letters in Exhibit 7 of the PIM when notifying providers of the probe review and requesting documentation. MACs have the discretion to advise providers of the probe sample at the same time that medical documentation or other documentation is requested.

Generally, MACs shall subject a provider to no more than one probe review at any time; however, MACs have the discretion to conduct multiple probes for very large billers as long as they will not constitute undue administrative burden.

MACs

The MACs shall notify selected providers prior to beginning a provider-specific review by sending an individual written notice. MACs shall indicate whether the review will

occur on a prepayment or postpayment basis. This notification may be issued via certified letter with return receipt requested. MACs shall notify providers of the specific reason for selection. If the basis for selection is comparative data, MACs shall provide the data on how the provider varies significantly from other providers in the same specialty, jurisdiction, or locality. Graphic presentations help to communicate the perceived problem more clearly.

Recovery Auditors

The Recovery Auditors are required to post a description of all approved new issues to the Recovery Auditor's Web site before correspondence is sent to the provider. After posting, the Recovery Auditor should issue an additional documentation request (ADR) to the provider, if warranted.

B. Notice of Service-Specific Review

This section applies to MACs and Recovery Auditors, as indicated.

Service-specific reviews are undertaken when the same or similar problematic process is noted to be widespread and affecting one type of service (e.g., providing tube feedings to home health beneficiaries across three (3) States).

MACs

The MACs shall provide notification prior to beginning a service-specific review by either posting a review description on its Web site, or by sending individual written notices, such as an ADR, to the affected providers. MACs have the discretion to issue the notice separately or include it in the ADR.

When MAC data analysis confirms that an improper payment can be prevented through service-specific complex review, the MAC shall install service-specific complex review edits as soon as feasible under their MR Strategy. The MAC is not required to conduct an error validation review prior to installing these edits.

Recovery Auditors

Before beginning widespread service-specific reviews, Recovery Auditors shall notify the provider community that the Recovery Auditor intends to initiate review of certain items/services through a posting on the Recovery Auditor Web site describing the item/service that will be reviewed. Additionally, for complex reviews, the Recovery Auditors shall send ADRs to providers that clearly articulate the items or services under review and indicate the appropriate documentation to be submitted.

3.2.2.1 - Maintaining Provider Information

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MAC.

A. Provider Tracking System (PTS)

The MACs shall have a PTS in place to identify and track all individual providers currently under action plans to correct identified problems, such, as not reasonable and necessary, incorrect coding, and inappropriate billing. MACs shall use the provider tracking system (PTS) to coordinate contacts with providers such as MR notifications, telephone calls directly related to probe reviews, and referrals to POE. The MACs shall ensure that if a provider is to be contacted as a result of more than one problem, redundant contacts are minimized. The MACs shall also coordinate corrective action information with the ZPICs to ensure contacts are not in conflict with benefit integrity related activities. The MAC PTS shall contain the date a provider is put on a provider-specific edit. The MAC shall reassess all providers on provider-specific prepayment or postpayment review on a quarterly basis to determine whether the behavior has improved. The MAC shall note the results of these quarterly assessments in the PTS. If the behavior has improved sufficiently and the edit was turned off, note that date as well in the PTS. When a MAC becomes aware that the provider has appealed a medical review determination to an Administrative Law Judge (ALJ), the MAC should send a letter to the ALJ and describe the information in the PTS to demonstrate the corrective actions that have been taken by the MAC.

B. Recovery Auditor Case Files

The Recovery Auditor shall maintain case files following the guidelines in the Recovery Auditor SOW.

C. Provider Addresses

This section applies to MACs, CERT, and Recovery Auditors, as indicated.

The MACs, CERT and Recovery Auditors shall mail the ADR to the best known address for the provider. MACs are encouraged to indicate the procedure a provider can follow to update address information in their ADRs and on their Web sites. If a provider wishes to have ADRs sent to one address but demand letters sent to a different address, MACs are encouraged to accommodate this request.

Note: Providers and suppliers must complete and submit a Medicare enrollment application (either the paper CMS-855 or a submission via Internet-based Provider Enrollment, Chain & Ownership [PECOS] to change existing information in the Medicare enrollment record.)

D. When the Provider or Supplier No Longer Occupies a Physical Address

This section applies to MACs and ZPICs, as indicated.

When the MACs and ZPICs become aware that the provider or supplier no longer occupies a physical address, any future correspondence shall reference only the claim control numbers and not list the individual beneficiary data (e.g., names and health insurance claim numbers). This process is contingent on current automated system limits.

The following are situations where the MAC and ZPIC can assume the provider or supplier no longer occupies the last known location. This list is not exhaustive and the MACs and ZPICs should use other means to confirm addresses, at their discretion.

- The MAC and ZPIC receive mail that has been returned by the post office indicating no known address;
- An onsite visit has confirmed the address is vacant or is occupied by another occupant; or,
- A beneficiary complaint(s) is on record stating the provider or supplier is no longer at the address and follow up confirms the complaint.

In the above situations, correspondence from the MACs and ZPICs shall only contain the claim control number and advise the provider or supplier to contact them for a list of the specific claims associated with the overpayment. This process will prevent the potential compromise of Medicare beneficiary names and/or HICNs being sent to an abandoned address (or a location with a new occupant). If the letter is returned from the post office, maintain the notification on file for evidence.

3.2.3 - Requesting Additional Documentation During Prepayment and Postpayment Review

(Rev. 418, Issued: 04-20-12, Effective: 05-21-12, Implementation: 05-21-12)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

A. General

In certain circumstances, the MACs, CERT, Recovery Auditors, and ZPICs may not be able to make a determination on a claim they have chosen for review based upon the information on the claim, its attachments, or the billing history found in claims processing system (if applicable) or the Common Working File (CWF). In those instances, the reviewer shall solicit documentation from the provider or supplier by issuing an additional documentation request (ADR). MACs, CERT, Recovery Auditors, and ZPICs have the discretion to collect documentation related to the beneficiary's condition before and after a service in order to get a more complete picture of the beneficiary's clinical condition. The MAC, Recovery Auditor, and ZPIC shall not deny other claims submitted before or after the claim in question unless appropriate consideration is given to the actual additional claims and associated documentation. The

CERT contractor shall solicit documentation in those circumstances in accordance with its Statement of Work (SOW).

The term “additional documentation” refers to medical documentation and other documents such as supplier/lab/ambulance notes and includes:

- Clinical evaluations, physician evaluations, consultations, progress notes, physician’s office records, hospital records, nursing home records, home health agency records, records from other healthcare professionals and test reports. This documentation is maintained by the physician and/or provider.
- Supplier/lab/ambulance notes include all documents that are submitted by suppliers, labs, and ambulance companies in support of the claim (e.g., Certificates of Medical Necessity, supplier records of a home assessment for a power wheelchair).
- Other documents include any records needed from a biller in order to conduct a review and reach a conclusion about the claim.

NOTE: Reviewers shall consider documentation in accordance with other sections of this manual

B. Authority to Collect Medical Documentation

Contractors are authorized to collect medical documentation by the Social Security Act. Section 1833(e) states “No payment shall be made to any provider of services or other person under this part unless there has been furnished such information as may be necessary in order to determine the amounts due such provider or other person under this part for the period with respect to which the amounts are being paid or for any prior period.” Section 1815(a) states “...no such payments shall be made to any provider unless it has furnished such information as the Secretary may request in order to determine the amounts due such provider under this part for the period with respect to which the amounts are being paid or any prior period.”

The OMB Paperwork Reduction Act collection number is 0938-0969. This number shall be on every additional documentation request or any other type of written request for additional documentation for medical review. It can be in the header, footer or body of the document. We suggest the information read “OMB #: 0938-0969” or OMB Control #: 0938-0969.”

3.2.3.1 - Additional Documentation Requests (ADR)

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, Recovery Auditors, CERT and ZPICs, as indicated.

The MACs, CERT, Recovery Auditors, and ZPICs shall specify in the ADR only those individual pieces of documentation needed to make a determination. When reviewing documentation, the reviewer shall give appropriate consideration to all documentation that is provided in accordance with other sections of this manual.

A. Outcome Assessment Information Set (OASIS)

Medicare's Home Health PPS Rate Update for CY 2010 final rule, published in the November 10, 2009 Federal Register, includes a provision to require the submission of the OASIS as a condition of payment, that is codified in regulations 42 CFR§484.210(e). Beginning January 1, 2010, home health agencies (HHAs) are required to submit an OASIS as a condition for payment. The MACs shall deny the claim if providers do not meet this regulatory requirement. The assessment must be patient specific, accurate and reflect the current health status of the patient. This status includes certain OASIS elements used for calculation of payment. These include documentation of clinical needs, functional status, and service utilization.

B. Plan of Care (POC)

Comprehensive care planning is essential to good patient care under the Medicare program. In fact, it is specifically written into the coverage and/or certification requirements for a number of healthcare settings. For purposes of the Part A benefit for home health, inpatient rehabilitation facility and hospice, the Social Security Act describes criteria and standards used for covering these services. This includes establishing an individualized POC.

The POC identifies treatment goals and coordination of services to meet patient needs as set forth in CFR §418.200 requirement for coverage. The POC must be established by a physician(s). However, in the case of a hospice, in addition to the physician, an interdisciplinary group shall establish a POC.

Section 1814(a)(2)(C), Part B 1835(a)(2)(A) of the Act, and CFR §409.43 state that a POC established by a treating physician must contain all pertinent information, such as, the patient history, initial status, treatment goals, procedures/services duration, and progress notes.

CFR§ 412.622 requires an individualized POC by a rehabilitation physician that meets the requirements listed in the regulation. MACs shall deny the claim as not meeting statutory requirements under the Social Security Act when the provider of services fails to comply with the POC requirements.

Pursuant to 42 CFR §489.21, a provider of services shall not charge a beneficiary for services that have been denied for the reasons stated above.

3.2.3.2 - Time - Frames for Submission

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, Recovery Auditors, CERT, and ZPICs, as indicated.

A. Prepayment Review Time Frames

When requesting documentation for prepayment review, the MAC and ZPIC shall notify providers that the requested documentation is to be submitted within 30 calendar days of the request. The reviewer has the discretion to grant extensions to providers who need more time to comply with the request. Reviewers shall deny claims for which the requested documentation was not received by day 45.

B. Postpayment Review Time Frames

When requesting documentation for postpayment review, the Recovery Auditor shall notify providers that the requested documents are to be submitted within 45 calendar days of the request. MACs, CERT and ZPICs shall notify providers that requested documents are to be submitted within 30 calendar days of the request. MACs, CERT, and ZPICs have the discretion to grant extensions to providers who need more time to comply with the request. The number of submission extensions and the number of days for each extension is solely within the discretion of the MACs, CERT and ZPICs. Recovery Auditors shall follow the time requirements outlined in their SOW.

3.2.3.3 - Third-party Additional Documentation Request (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, Recovery Auditors, CERT and ZPICs, as indicated.

Unless otherwise specified, the MAC, Recovery Auditor and ZPIC shall request information from the billing provider/supplier. The treating physician, another clinician, provider, or supplier should submit the requested documentation. However, because the provider selected for review is the one whose payment is at risk, it is this provider who is ultimately responsible for submitting, within the established timelines, the documentation requested by the MAC, CERT, Recovery Auditor and ZPIC.

The MAC, ZPIC and Recovery Auditor have the discretion to send a separate ADR to third-party entities involved in the beneficiary's care. They shall not solicit documentation from a third party unless they first or simultaneously solicit the same information from the billing provider or supplier. The following requirements also apply:

- The MACs, ZPICs and Recovery Auditors shall notify the third party and the billing provider or supplier that they have 30 calendar days to respond for a prepayment review or 45 calendar days for a postpayment review for MACs and Recovery Auditors and 30 calendar days for ZPICs.

- For prepayment review, the MACs and ZPICs shall pend the claim for 45 calendar days. This 45 day time period may run concurrently as the 45 days that the billing provider or supplier has to respond to the ADR letter;
- The MACs and ZPICs have the discretion to issue as many reminder notices as they deem appropriate to the third party via email, letter or phone call prior to the 30th or 45th calendar day , as discussed above;
- When information is requested from both the billing provider or supplier and a third party and a response is received from one or both that fails to support the medical necessity of the service, the MACs and ZPICs shall deny the claim, in full or in part, using the appropriate denial code. Contractors shall count these denials as complex review.
- Contractors shall include language in the denial notice reminding providers that beneficiaries cannot be held liable for these denials unless they received proper liability notification before services were rendered, as detailed in CMS Pub. IOM 100-04, chapter 30.
- Refer to §3.2.3.7 for ADR to ordering providers for lab services.

3.2.3.4 - Additional Documentation Request Required and Optional Elements

(Rev. 422, Issued: 05-25-12, Effective: 06-26-12, Implementation: 06-26-12)

This section applies to MACs, Recovery Auditors, CERT, and ZPICs, as indicated.

- The MAC shall use discretion to ensure that the amount of medical documentation requested does not negatively impact the provider's ability to provide care.
- The Recovery Auditors shall issue ADRs in accordance with limits established by their Contract Officer Technical representative (COTR) for each calendar year.
- *The MACs, CERT, and Recovery Auditors, shall request records related to the claim(s) being reviewed and have the discretion to collect documentation related to the beneficiary's condition before and after a service.*
- The MACs, Recovery Auditors, and ZPICs have the discretion to issue as many reminder notices as they deem appropriate. Reminder notices can be issued via email or letter.
- The CERT shall issue reminder notices in accordance with its SOW.

- MACs, Recovery Auditors, and ZPICs shall not target their ADRs to providers based solely on the provider’s electronic health record status or chosen method of submitting records.

3.2.3.5 - Acceptable Submission Methods

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, Recovery Auditors, CERT, and ZPICs, as indicated.

Reviewers shall be clear in their ADR letters about what documentation submission methods they will accept from a provider or HIH. The table below indicates for each contractor type whether it shall or has the discretion to include in their ADRs various documentation submission options.

	MAC MR Units	CERT	Recovery Auditors
Paper	Shall give provider the option	Shall give provider the option	Shall give provider the option
Fax	Have the discretion to give provider the option	Shall give provider the option	Shall give provider the option
CD/DVD	Have the discretion to give provider the option	Shall give provider the option	Shall give provider the option
Electronic Submission of Medical Documentation (esMD)	Have the discretion to give provider the option	Will have the discretion to give provider the option	Have the discretion to give provider the option

Table 1: Acceptable submission methods for providers/HIHs when responding to ADRs from MACs, CERT, and Recovery Auditors.

A. Paper

The MACs, CERT, and Recovery Auditors are encouraged to state in the ADRs that paper medical documentation can be mailed by any means including US Postal Service, FedEx, UPS, or certified mail. To facilitate delivery of documentation, CERT and Recovery Auditors should provide a physical mailing address instead of a P.O. Box. MACs are encouraged to use physical mailing addresses.

B. Fax

If the MACs, CERT, or Recovery Auditors have the capability to offer fax confirmation, they are encouraged to send such confirmations with every successfully received fax.

C. Imaged Medical Documentation File(s) Sent on CD/DVD

The MACs or CERT that accept this form of documentation submission from providers/HHs shall state in the ADR that imaged medical documentation files on CD/DVD are permitted to be mailed by any means. Recovery Auditor ADRs shall provide a Web site link or phone number that provides information regarding the requirements for submitting imaged documentation on CD or DVD.

D. Medical Documentation Sent via Electronic Submission of Medical Documentation (esMD) Transmission

Electronic Submission of Medical Documentation (esMD) is a system that will allow providers/HHs to submit medical documentation over secure electronic means. Information about the esMD system can be found at www.cms.gov/esMD.

All MACs, CERT and Recovery Auditors are encouraged to post a statement to their Web sites indicating whether they do or do not accept esMD transactions along with a link to a Web site about how a provider HH can submit medical documentation via the esMD mechanism.

MACs, and CERT that accept this form of documentation submission from providers/HHs are encouraged to state in their ADRs how providers can get more information about submitting medical documentation via the esMD mechanism.

3.2.3.6 - Reimbursing Providers and HHs for Additional Documentation

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to Recovery Auditors, MACs, CERT, and ZPICs, as indicated.

- The MACs, CERT and ZPICs are not required to pay for medical documentation for either prepayment or postpayment review.
- The Recovery Auditors performing postpayment review of hospital inpatient prospective payment system (PPS) and long term care facilities are required to pay the providers for photocopying and submitting hard copy documents sent via mail. Recovery Auditors shall follow the payment rate methodology established in 42 CFR§476.78.
- The Recovery Auditors shall pay the same per-page rate established in 42 CFR§476.78 for the submission of imaged or electronic documentation sent via the esMD mechanism or on CD/DVD.
- The Recovery Auditors that accept esMD transactions shall pay a transaction fee of \$2.00/case in lieu of postage.

- The Recovery Auditors performing postpayment review of any other provider types are not required to pay providers for photocopying and submitting documentation.
- The Recovery Auditors shall issue photocopying payments on at least a monthly basis and shall issue all photocopying payments within 45 calendar days of receiving the documentation.
- The Recovery Auditors shall honor all requests from providers to issue photocopying payments to HIHs. Recovery Auditors should gather from the provider all necessary information, such as, the HIH's name, phone number and bank routing number, etc.

3.2.3.7 - Special Provisions for Lab Additional Documentation Requests (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

Use ICD-9 until such time as ICD-10 is in effect. Further instructions will be issued regarding claims containing ICD-9 codes with dates of service prior to the ICD-10 implementation that are submitted after ICD-10 is in effect.

When the MACs, CERT, Recovery Auditors and ZPICs send an ADR for a lab service, the following documentation shall be requested from the billing lab:

- The order for the service billed (including sufficient information to allow the reviewer to identify and contact the ordering provider);
- Verification of accurate processing of the order and submission of the claim; and
- Diagnostic or other medical information supplied to the lab by the ordering provider, including any ICD-9 codes or narratives.

The contractor shall deny the claim if a benefit category, statutory exclusion, or coding issue is in question, or send an ADR to the ordering provider in order to determine medical necessity. The contractor shall review information from the lab and find it insufficient before the ordering provider is contacted. The contractor shall send an ADR to the ordering provider that shall include sufficient information to identify the claim in question.

If the documentation received does not demonstrate that the service was reasonable and necessary, the contractor shall deny the claim. These denials count as complex reviews. Contractor denial notices shall remind providers that beneficiaries cannot be held liable for these denials unless they have received proper liability notification before services were rendered, as detailed in CMS Pub. IOM 100-04, chapter 30.

The MACs, CERT and Recovery Auditors shall implement these requirements to the extent possible without shared systems changes.

3.2.3.8 - No or Insufficient Response to Additional Documentation Requests

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, Recovery Auditors, and ZPICs, as indicated.

A. Additional Documentation Requests

If information is requested from both the billing provider or supplier and a third party and no response is received from either within 45 calendar days for MACs and Recovery Auditors or 30 calendar days for ZPICs after the date of the request (or within a reasonable time following an extension), the MACs, Recovery Auditors and ZPICs shall deny the claim, in full or in part, as not reasonable and necessary. These claims denials are issued with Remittance Advice Code N102/56900 that reads “This claim has been denied without reviewing the medical record because the requested records were not received or were not received timely.” Contractors shall count these denials as automated review or manual review depending on the method of development.

B. No Response

During prepayment review, if no response is received within 45 calendar days after the date of the ADR, the MACs, and ZPICs shall deny the claim.

During postpayment review, if no response is received within 45 calendar days after the date of the ADR (or extension), the MACs and Recovery Auditors shall deny the claim as not reasonable and necessary and count these denials as non-complex reviews. ZPICs shall deny the claim as not meeting reasonable and necessary criteria if no response is received within 30 calendar days. Recovery Auditors shall report these denials as “No Response Denials.” Recovery Auditors shall not count these as complex or non-complex reviews. Ambulance claims may be denied based on §1861(s) (7) of the Act.

C. Insufficient Response

If the MAC, CERT, Recovery Auditor, or ZPIC requests additional documentation to verify compliance with a benefit category requirement, and the submitted documentation lacks evidence that the benefit category requirements were met, the reviewer shall issue a benefit category denial. If the submitted documentation includes defective information (the documentation does not support the physician’s certification), the reviewer shall deny the claim as not meeting the reasonable and necessary criteria.

3.2.3.9 - Reopening Claims with Additional Information or Denied due to Late or No Submission of Requested Information

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

If the MACs and CERT receive the requested information from a provider or supplier after a denial has been issued but within a reasonable number of days (generally 15 calendar days after the denial date), they have the discretion to reopen the claim. MACs and CERT who choose to reopen shall notify the provider or supplier of their intent to reopen, make a MR determination on the lines previously denied due to failure to submit requested documentation, and do one of the following, within 60 calendar days of receiving documentation in the mailroom. Processing claims with additional information follows these general provisions:

- For claims originally selected for postpayment review, the reviewer shall issue a new letter containing the revised denial reason and the information required by PIM chapter 3 §3.6.4;
- For claims originally selected for prepayment review, the MAC shall enter the revised MR determination into the shared system, generating a new Medicare Summary Notice (MSN) and remittance advice with the new denial reason and appeals information;
- The workload, costs, and savings associated with this activity shall be allocated to the appropriate MR activity (e.g., postpayment complex);
- In cases where the MAC or ZPIC denied a claim under Remittance Advice Code N102 56900 and the denial is appealed, the appeals entity will send the claim to the contractor's MR department for reopening in accordance with CMS Pub. IOM 100-04, chapter 34, § 10.3.
- The MACs and CERT who choose not to reopen claims when documentation is received past the deadline shall retain the information (hardcopy or electronic) in a location where it can be easily accessed.

If the Recovery Auditor receives requested documentation from a supplier after a denial has been issued they shall not reopen the claim.

- If a Recovery Auditor receives documentation after the submission deadline, but before they have issued a demand letter, the Recovery Auditor shall review and consider the late documentation when making a claim determination;
- If the Recovery Auditor receives a late response to a documentation request after they have issued a demand letter, the Recovery Auditor shall retain the documentation so that it is available for review during the appeal process

3.2.3.10 - Record Retention and Storage

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

The MACs, CERT, and ZPICs shall abide by all documentation retention requirements listed in all litigation holds issued via Joint Signature Memoranda or Technical Direction Letters (JSM/TDL). Recovery Auditors shall comply with the record retention requirements in its SOWs.

3.2.4 - Use of Claims History Information in Claim Payment Determinations

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

A. Contractors to Which This Section Applies

This section applies to ACs, MACs, CERT and Recovery Auditors.

B. General

In general, AC, MAC, CERT and Recovery Auditor reviewers shall not use claims history information to make a payment determination on a claim. However, this policy does not prevent contractors from using claims history for other purposes such as data mining.

The AC, MAC, CERT and Recovery Auditor reviewers shall use claims history information as a supplement to the medical record only in the following circumstances when making complex review determinations about payment on a claim.

1. AC, MAC, CERT and Recovery Auditor reviewers have the discretion to use beneficiary payment history to identify other providers, other than the billing entity, who may have documentation to support payment of a claim. AC, MAC, CERT and Recovery Auditor reviewers have the discretion to contact identified providers for supporting documentation.

Example: A diabetic beneficiary may have an order from a family practitioner but is also seeing an endocrinologist. The documentation from the family practitioner does not support the level of diabetic testing, but medical records from the endocrinologist do support the level of testing.

2. AC, MAC, CERT and Recovery Auditor reviewers have the discretion to use claims history information to document an event, such as a surgical procedure, that supports the need for a service or item billed in limited circumstances. In some cases, this event occurs a number of years prior to the date of service on the claim being reviewed, making it difficult to collect medical record documentation. If repeated attempts to collect medical record of the event are unsuccessful, contractors have the discretion to consider claims history information as documentation of the event. Contractors shall document their repeated attempts to collect the medical record if they chose to consider claims history information as documentation of the event. Claims history information shall be used only to validate specific events; not as a substitute for the medical record.

Example: A beneficiary is eligible for immunosuppressant drugs only if they received an organ transplant. Patients generally remain on these life-saving drugs for the rest of their life so it is possible for the transplant to have occurred many years prior to the date of service being reviewed. If there was no record of the transplant in the medical documentation provided by the ordering physician, the contractor may use claims history to validate the transplant occurred.

3. AC, MAC, CERT and Recovery Auditor reviewers shall use claims history information to verify that the frequency or quantity of supplies provided to a beneficiary do not exceed policy guidelines.

4. AC, MAC, CERT and Recovery Auditor reviewers shall use claims history information to make a determination of the quantity of items to be covered based on policy guidelines. Information obtained on a claim being reviewed may be applied to a prior paid claim to make a determination of how long the quantity of items provided/billed on the paid claim should last. If a new quantity of items is billed prior to the projected end date of the previously paid claim (based on policy guidelines), the new quantity should be denied.

Example: Twice per day testing of blood sugars is ordered for a non-insulin treated beneficiary with diabetes. A 3 month quantity of supplies (for twice per day testing) is provided on July 1 and is paid without review. Another 3 month quantity of supplies is provided on 10/1. That claim is developed and reviewed and a determination is made that the medically necessary frequency of testing is once per day. Therefore, the 10/1 claim should be denied because the quantity of supplies paid for on 7/1 was sufficient to last beyond 10/1 if testing was done once per day.

5. AC, MAC, CERT and Recovery Auditor reviewers shall use claims history information to identify duplication and overutilization of services.

3.3 – Policies and Guidelines Applied During Review

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

A. Statutes, Regulations, the CMS' Rulings, National Coverage Determinations, Coverage Provisions in Interpretive Medicare Manuals, and Local Coverage Determinations

The primary authority for all coverage provisions and subsequent policies is the Social Security Act. The MACs, CERT, Recovery Auditors, and ZPICs shall use Medicare policies in the form of regulations, CMS rulings, national coverage determinations (NCDs), coverage provisions in interpretive Medicare manuals, local coverage determinations (LCDs) and MAC policy articles attached to an LCD or listed in the Medicare Coverage Database to apply the provisions of the Act. Coverage provisions in

interpretive Medicare manuals are instructions that are used to further define when and under what circumstances services are or are not covered.

B. Coding Guidelines

The MACs, CERT, Recovery Auditors, and ZPICs shall apply coding guidelines to services selected for review. All contractors shall determine that an item/service is correctly coded when it meets all the coding guidelines listed in the Current Procedural Terminology-4 (CPT) book, ICD-9, HCPCS and CMS policy or guideline requirements, LCDs, or MAC articles.

C. Internal Medical Review Guidelines

The MAC, CERT, Recovery Auditor, and ZPIC staffs have the discretion to develop detailed written review guidelines to guide staff during claim reviews. Internal MR guidelines shall specify the information to be reviewed by reviewers and the appropriate resulting determination. Recovery Auditors are required to develop written review guidelines in accordance with their SOW. The MACs, CERT, Recovery Auditors, and ZPICs shall make their internal MR guidelines available to their staff, as needed. Internal MR Guidelines shall not create or change the CMS policy.

**3.3.1 - Types of Review: Complex and Non-Complex
(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)**

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

For Recovery Auditors, non-complex and automated reviews are synonymous.

A. General

Most of the claim review activities completed for the purpose of identifying inappropriate billing and avoiding improper payments are divided into two distinct types: Complex Review and Non-Complex Review. Each can occur on either a prepayment or postpayment basis.

The chart below indicates which contractors perform which types of review:

	Prepayment		Postpayment	
	Complex	Non-Complex	Complex	Non-Complex
MACs	Yes	Yes	Yes	Yes
CERT	No	No	Yes	Yes
Recovery Auditors	No	No	Yes	Yes
ZPICs	Yes	Yes	Yes	Yes

Complex reviews involve requesting, receiving, and medical review of additional documentation associated with a claim.

3.3.1.1 - Complex Medical Review

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

A. Credentials of Reviewers

The MACs, CERT, and ZPICs shall ensure that complex reviews for the purpose of making coverage determinations are performed by licensed nurses (RNs and LPNs) or physicians, unless this task is delegated to other licensed health care professionals. Recovery Auditors shall ensure that the credentials of their reviewers are consistent with the requirements in the Recovery Auditor SOW.

During a complex review, nurse and physician reviewers may call upon other health care professionals (e.g., dietitians or physician specialists) for advice. The MACs, CERT, and ZPICs shall ensure that services reviewed by other licensed health care professionals are within their scope of practice and that their MR strategy supports the need for their specialized expertise in the adjudication of particular claim type (i.e., speech therapy claim, physical therapy). Recovery Auditors shall follow guidance related to calling upon other healthcare professionals as outlined in the Recovery auditor SOW.

The CERT and Recovery Auditors shall ensure that complex reviews for the purpose of making coding determinations are performed by certified coders. MACs are encouraged to make coding determinations by using certified coders. ZPICs have the discretion to make coding determinations using certified coders.

B. Credential Files

The MACs, CERT, Recovery Auditors, and ZPICs shall maintain a credentials file for each reviewer (including consultants, contract staff, subcontractors, and temporary staff) who performs complex reviews. The credentials file shall contain at least a copy of the reviewer's active professional license.

C. Quality Improvement (QI) Process

The MACs, CERT, and ZPICs shall establish a Quality Improvement (QI) process that verifies the accuracy of MR decisions made by licensed health care professionals. This includes contractor-developed annual training on clinical review judgment and inter-rater reliability assessments.

D. Advanced Beneficiary Notice (ABN)

The MACs, CERT, Recovery Auditors and ZPICs shall request as part of the ADR, during a complex medical record review, a copy of any mandatory ABNs, as defined in IOM 100-04, Medicare Claims Processing Manual Chapter 30 §50.3.1. If the claim is

determined not to be reasonable and necessary, the contractor will perform a face validity assessment of the ABN in accordance with the instructions stated in IOM 100-04 Medicare Claims Processing Manual chapter 30 § 50.6.3.

The Face Validity assessments do not include contacting beneficiaries or providers to ensure the accuracy or authenticity of the information. Face Validity assessments will assist in ensuring that liability is assigned in accordance with the Limitations of Liability Provisions of § 1879 of the Social Security Act.

E. MAC Funding Issues

The MAC complex medical review work performed by medical review staff for purposes other than MR (e.g., appeals) shall be charged, for expenditure reporting purposes, to the area requiring medical review services.

All complex review work performed by MACs shall:

- Involve activities defined under the Medicare Integrity Program (MIP) at Section 1893(b)(1) of the Act;
- Be articulated in its medical review strategy; and,
- Be designed in such a way as to reduce its Comprehensive Error Rate Testing (CERT) error rate or prevent the contractor's error rate from increasing.

The MACs shall be mindful that edits suspending a claim for manual review to check for issues other than inappropriate billing (i.e. completeness of claims, conditions of participation, quality of care) are not medical review edits as defined under Section 1893(b)(1) of the Act and cannot be funded by MIP. Therefore, edits resulting in work other than that defined in Section 1893 (b) (1) shall be charged to the appropriate Program Management activity cost center.

F. Review Timeliness Requirement

For Prepayment Reviews

When a MAC receives requested documentation for prepayment review within 45 calendar days, the MAC shall do the following within 60 calendar days of receiving the requested documentation: 1) make and document the review determination, and 2) enter the decision into the Fiscal Intermediary Shared System (FISS), Multi-Carrier System (MCS), or the VIPS Medicare System (VMS).

For prepayment reviews, the MAC shall count day one as the date each new medical record is received in the mailroom. Each new medical record received would have an independent 60-day review time period associated with it.

For Postpayment Reviews

The MAC or Recovery Auditor shall make a review determination, and mail the review results notification letter to the provider within 60 calendar days of receiving the requested documentation, provided the documentation is received within 45 calendar days of the date of the ADR.

The MAC has the option to either:

- Begin counting the 60 days at the receipt of each medical record in the mailroom. Each new medical record would have an independent 60 day time period associated with it; or
- Wait until all requested medical documentation is received in the mailroom. The date on which the last of the requested medical documentation is received would represent the beginning of the 60 day time period.

G. Auto Denial of Claim Line Item(s) Submitted with a GZ Modifier

Effective for dates of service on and after July 1, 2011, all MACs, PSCs and ZPICs shall automatically deny claim line(s) items submitted with a GZ modifier. Contractors shall not perform complex medical review on claim line(s) items submitted with the GZ modifier. The GZ modifier indicates that an ABN was not issued to the beneficiary and signifies that the provider expects denial due to a lack of medical necessity based on an informed knowledge of Medicare policy. All MACs shall make all language published in educational outreach materials, articles, and on their Web sites, consistent to state all claim line(s) items submitted with a GZ modifier shall be denied automatically and will not be subject to complex medical review. See Pub. 100-04, Medicare Claims Processing Manual, chapter 23, section 20.9.1.1. under paragraph F “GZ Modifier” for codes and the MSN to be used when automatically denying claim line(s) items submitted with a GZ modifier.

3.3.1.2 - Non-Complex Review

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

A. Terminology

Non-complex reviews occur when the MAC, CERT, Recovery Auditor, or ZPIC makes a claim determination without clinical review of medical documentation submitted by the provider. Appropriate non-complex reviews increase the efficiency and consistency of payment decisions. MACs shall implement automated prepayment review whenever appropriate.

The MACs and ZPICs refer to two categories of non-complex reviews:

1. “Routine review” requires some human intervention (e.g., for instance, to verify durable medical equipment [DME] delivery dates)
2. “Automated review” requires no human intervention.

The Recovery Auditors refer to all reviews where no documentation was requested as “automated review.”

CERT refers to all reviews where no documentation was requested as “T-claim review.” T-claims are a particular category of claim reviewed by CERT. T-claims are claims that were automatically denied by the MAC.

B. Basis for Automated Reviews

The MAC, Recovery Auditor, CERT, and ZPIC shall ensure that automated prepayment and postpayment denials are based on clear policy that serves as the basis for denial; or a medically unlikely edit (MUE); or occurs when no timely response is received to an ADR.

When a clear policy exists (or in the case of a MUE), MACs, Recovery Auditors, and ZPICs have the discretion to automatically deny the services without stopping the claim for human review, even if documentation is attached or simultaneously submitted. Reviewers shall still make a determination based on the liability limitations of §1879 of the Act. The term “clear policy” means a statute, regulation, NCD, coverage provision in an interpretive manual, coding guideline, LCD or MAC article that specifies the circumstances under which a service will always be considered non-covered, incorrectly coded, or improperly billed.

A Medically Unlikely Edit (MUE) is a unit of service (UOS) edit for a Healthcare Common Procedure Coding system (HCPCS)/Current Procedural Terminology (CPT) code for services rendered by a single provider/supplier to a single beneficiary on the same date of service. The ideal MUE is the maximum UOS that would be reported for a HCPCS/CPT code on the vast majority of appropriately reported claims. The MUE program provides a method to report medically reasonable and necessary UOS in excess of a MUE.

C. Basis for Reviews that Involve Utilization Parameters

The MACs, Recovery Auditors, and ZPICs shall base utilization denials on one of the following:

- Clear policy that contains utilization guidelines;
- Apparent typographical errors (e.g., 10,000 blood cultures for the same beneficiary on the same day);
- MUEs;

- The ADR response failed to support the coverage or coding of the claim; or,
- The ADR response was not received in a timely manner.

D. Basis for Documentation Compliance Reviews

Documentation Compliance Reviews are nonclinical, technical reviews to evaluate the presence or absence of particular pieces of documentation. MACs, Recovery Auditors, and ZPICs have the discretion to conduct documentation compliance reviews as they deem appropriate. MACs, Recovery Auditors and ZPICs may find this type of review to be an efficient way to review claims where there is a pattern of insufficient documentation.

3.3.1.3 - Basis for Clinical Review Judgment

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors and ZPICs, as indicated.

Clinical review judgment involves two steps:

1. The synthesis of all submitted medical record information (e.g. progress notes, diagnostic findings, medications, nursing notes, etc.) to create a longitudinal clinical picture of the patient and,
2. The application of this clinical picture to the review criteria to make a reviewer determination on whether the clinical requirements in the relevant policy have been met. MAC, CERT, Recovery Auditor, and ZPIC clinical review staff shall use clinical review judgment when making complex review determinations about a claim.

Clinical review judgment does not replace poor or inadequate medical records. Clinical review judgment by definition is not a process that MACs, CERT, Recovery Auditors and ZPICs can use to override, supersede or disregard a policy requirement. Policies include laws, regulations, the CMS' rulings, manual instructions, MAC policy articles attached to an LCD or listed in the Medicare Coverage Database, national coverage decisions, and local coverage determinations.

3.3.2 - Medical Review Guidance

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

This section describes the requirements that MACs, CERT, Recovery Auditors, and ZPICs shall follow when reviewing submitted documentation. Additional requirements for ZPICs are located in PIM chapter 4. When ZPIC staff is performing benefit integrity reviews, their focus is different than that of MACs, CERT, and Recovery Auditors. For

example, ZPIC staff looks for some of the following situations when reviewing documentation:

- Possible falsification or other evidence of alterations including, but not limited to: obliterated sections; missing pages, inserted pages, white out; and excessive late entries;
- Evidence that the service billed for was actually provided; or,
- Patterns and trends that may indicate potential fraud.

3.3.2.1 - Documents on Which to Base a Determination (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

The MACs, CERT, Recovery Auditors, and ZPICs shall review any information necessary to make a prepayment and/or postpayment claim determination, unless otherwise directed in this manual. This includes reviewing any documentation submitted with the claim and any other documentation subsequently requested from the provider or other entity when necessary. Reviewers also have the discretion to consider billing history or other information obtained from the Common Working File (in limited circumstances), outcome assessment and information set (OASIS), or the minimum data set (MDS), among others.

For Medicare to consider coverage and payment for any item or service, the information submitted by the supplier or provider must corroborate the documentation in the beneficiary's medical documentation and confirm that Medicare coverage criteria have been met.

3.3.2.2 - Absolute Words and Prerequisite Therapies (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

The MACs, CERT, Recovery Auditors, and ZPICs shall not deviate from coverage provisions if absolute words such as “never” or “only if” are used when making claim determinations where a regulation, CMS ruling, NCD, LCD, or MAC policy article exists. In these cases, reviewers shall not make any exceptions or give individual consideration.

Requirements for prerequisite therapies shall be followed when deciding whether to cover a service if listed in coverage provisions in interpretive manuals (e.g., “conservative treatment has been tried, but failed”).

3.3.2.3 - Mandatory Policy Provisions

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, Recovery Auditors, CERT and ZPICs, as indicated.

CERT contractors select claims for review on a random basis and do not select claims that are suspect. The CERT reviewers shall review every line on the randomly selected claim that affects payment to determine if the following types of requirements are met:

- Coding requirements;
- Benefit category requirements;
- The reasonable and necessary requirements of the NCDs and LCDs, among others.

The MACs and ZPICs select claims to prevent or identify an improper payment. They are only required to review the suspect line and not every line on the selected claims. The selected line does not need to be completely reviewed. Along with reviewing the line for coding accuracy, the MACs should review for medical necessity if the provider has been notified that both types of review will occur. The ZPICs shall use discretion in notifying the provider.

3.3.2.4 - Signature Requirements

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section is applicable for MACs, CERT, and ZPICs. This section does not apply to Recovery Auditors.

For medical review purposes, Medicare requires that services provided/ordered be authenticated by the author. The method used shall be a handwritten or electronic signature. Stamped signatures are not acceptable.

EXCEPTION 1: Facsimiles of original written or electronic signatures are acceptable for the certifications of terminal illness for hospice.

EXCEPTION 2: There are some circumstances for which an order does not need to be signed. For example, orders for some clinical diagnostic tests are not required to be signed. The rules in 42 CFR 410 and Pub.100-02 chapter 15, §80.6.1 state that if the order for the clinical diagnostic test is unsigned, there must be medical documentation (e.g., a progress note) by the treating physician that he/she intended the clinical diagnostic test be performed. This documentation showing the intent that the test be performed must be authenticated by the author via a handwritten or electronic signature.

EXCEPTION 3: Other regulations and the CMS' instructions regarding conditions of payment related to signatures (such as timeliness standards for particular benefits) take precedence. For medical review purposes, if the relevant regulation, NCD, LCD and CMS manuals are silent on whether the signature needs to be legible or present and the signature is illegible/missing, the reviewer shall follow the guidelines listed below to

discern the identity and credentials (e.g., MD, RN, etc) of the signator. In cases where the relevant regulation, NCD, LCD and CMS manuals have specific signature requirements, those signature requirements take precedence.

NOTE: Conditions of participation (COP) are not conditions of payment.

If MAC and CERT reviewers find reasons for denial unrelated to signature requirements, the reviewer need not proceed to signature authentication. If the criteria in the relevant Medicare policy cannot be met but for a key piece of medical documentation that contains a missing or illegible signature, the reviewer shall proceed to the signature assessment.

Providers should not add late signatures to the medical record, (beyond the short delay that occurs during the transcription process) but instead should make use of the signature authentication process. The signature authentication process described below should also be used for illegible signatures.

A. Handwritten Signature

A handwritten signature is a mark or sign by an individual on a document signifying knowledge, approval, acceptance or obligation.

- If the signature is illegible, MACs, ZPICs and CERT shall consider evidence in a signature log or attestation statement to determine the identity of the author of a medical record entry.
- If the signature is missing from an order, MACs and CERT **shall disregard the order** during the review of the claim (e.g., the reviewer will proceed as if the order was not received).
- If the signature is missing from any other medical documentation (other than an order), MACs and CERT shall accept a signature attestation from the author of the medical record entry.

B. Signature Log

Providers will sometimes include a signature log in the documentation they submit that lists the typed or printed name of the author associated with initials or illegible signature. The signature log might be included on the actual page where the initials or illegible signature are used or might be a separate document. Reviewers should encourage providers to list their credentials in the log. However, reviewers shall not deny a claim for a signature log that is missing credentials. Reviewers shall consider all submitted signature logs regardless of the date they were created. Reviewers are encouraged to file signature logs in an easily accessible manner to minimize the cost of future reviews where the signature log may be needed again.

C. Signature Attestation Statement

Providers will sometimes include an attestation statement in the documentation they submit. In order to be considered valid for Medicare medical review purposes, an attestation statement must be signed and dated by the author of the medical record entry and must contain sufficient information to identify the beneficiary.

Should a provider choose to submit an attestation statement, they may choose to use the following statement:

“I, _____ [print full name of the physician/practitioner] _____, hereby attest that the medical record entry for _____ [date of service] _____ accurately reflects signatures/notations that I made in my capacity as _____ [insert provider credentials, e.g., M.D.] _____ when I treated/diagnosed the above listed Medicare beneficiary. I do hereby attest that this information is true, accurate and complete to the best of my knowledge and I understand that any falsification, omission, or concealment of material fact may subject me to administrative, civil, or criminal liability.”

Although this format is acceptable, the CMS currently neither requires nor instructs providers to use a certain form or format. A general request for signature attestation shall be considered a non-standardized follow-up question from the contractors to the providers. However, since no form for signature attestation has been approved by the Office of Management and Budget (OMB), the contractors should not give the providers any standard format on which to submit the attestation. Once the OMB has assigned an OMB Paperwork Reduction Act number to this attestation form, its use will be mandatory.

Note: The MACs and CERT shall NOT consider attestation statements where there is no associated medical record entry. Reviewers shall NOT consider attestation statements from someone other than the author of the medical record entry in question (even in cases where two individuals are in the same group, one should not sign for the other in medical record entries or attestation statements). Reviewers shall consider all attestations that meet the above requirements regardless of the date the attestation was created, except in those cases where the regulations or policy indicate that a signature must be in place prior to a given event or a given date. For example, if a policy states the physician must sign the plan of care before therapy begins, an attestation can be used to clarify the identity associated with an illegible signature. However, such attestation cannot be used to “backdate” the plan of care.

D. Signature Guidelines

The guidelines below will assist in determining whether to consider the signature requirements met:

- In the situations where the guidelines indicate “**signature requirements met,**” the reviewer shall consider the entry.

- In situations where the guidelines indicate “**contact billing provider and ask a non-standardized follow up question,**” the reviewer shall contact the person or organization that billed the claim and ask if the billing entity would like to submit an attestation statement or signature log within 20 calendar days. The 20 day timeframe begins on the date of the telephone contact with the provider or on the date the request letter is received by the provider. If the biller submits a signature log or attestation, the reviewer shall consider the contents of the medical record entry.
- In cases where a reviewer has requested a signature attestation or log, the time for completing the review is extended by 15 days. This extension starts upon receipt of the signature attestation or log.
- The MACs, CERT and ZPICs shall document all contacts with the provider and/or other efforts to authenticate the signature.

Note: The MACs, CERT and ZPICs shall **NOT** contact the **biller when the claim should be denied for reasons unrelated** to the signature requirement.

		Signature Requirement Met	Contact billing provider and ask a non-standardized follow up question
1	Legible full signature	X	
2	Legible first initial and last name	X	
3	Illegible signature over a typed or printed name Example :  John Whigg, MD	X	
4	Illegible signature where the letterhead, addressograph or other information on the page indicates the identity of the signatory. Example: An illegible signature appears on a prescription. The letterhead of the prescription lists (3) physicians' names. One of the names is circled.	X	
5	Illegible signature NOT over a typed/printed name and NOT on letterhead, but the submitted documentation is accompanied by: a signature log, or an attestation statement	X	
6	Illegible signature NOT over a typed/printed name,		X

	NOT on letterhead and the documentation is UNaccompanied by: a signature log, or an attestation statement Example: 		
7	Initials over a typed or printed name	X	
8	Initials NOT over a typed/printed name but accompanied by: a signature log, or an attestation statement	X	
9	Initials NOT over a typed/printed name UNaccompanied by: a signature log, or an attestation statement		X
10	Unsigned typed note with provider's typed name Example: John Whigg, MD		X
11	Unsigned typed note without providers typed/printed name		X
12	Unsigned handwritten note, the only entry on the page		X
13	Unsigned handwritten note where other entries on the same page in the same handwriting are signed.	X	
14	"signature on file"		X

E. Electronic Signatures

Providers using electronic systems need to recognize that there is a potential for misuse or abuse with alternate signature methods. For example, providers need a system and software products that are protected against modification, etc., and should apply adequate administrative procedures that correspond to recognized standards and laws. The individual whose name is on the alternate signature method and the provider bear the responsibility for the authenticity of the information for which an attestation has been provided. Physicians are encouraged to check with their attorneys and malpractice insurers concerning the use of alternative signature methods.

F. Electronic Prescribing

Electronic prescribing (e-prescribing) is the transmission of prescription or prescription-related information through electronic media. E-prescribing takes place between a prescriber and dispenser, pharmacy benefit manager (PBM), or health plan. It can take place directly or through an e-prescribing network. With e-prescribing, health care professionals can electronically transmit both new prescriptions and responses to renewal

requests to a pharmacy without having to write or fax the prescription. E-prescribing can save time, enhance office and pharmacy productivity, and improve beneficiary safety and quality of care.

A “qualified” e-prescribing system is one that meets the Medicare Part D requirements described in 42 CFR 423.160 (Standards for Electronic Prescribing).

1. E-Prescribing for Part B Medications (Other than Controlled Substances)

The MAC, CERT and ZPIC reviewers shall accept as a valid order any Part B medications, other than controlled substances, ordered through a qualified e-prescribing system. For Medicare Part B medical review purposes, a qualified e-prescribing system is one that meets all 42 CFR_§423.160 requirements. When Part B medications have been ordered through a qualified e-prescribing system, the reviewer shall NOT require the provider to produce hardcopy pen and ink signatures as evidence of a medication order.

2. E-Prescribing for Part B Controlled Substance Medications

Historically, the Drug Enforcement Agency (DEA) has not permitted the prescribing of controlled substance medications through e-prescribing systems. Therefore, when reviewing claims for controlled substance medications, MAC, CERT and ZPIC reviewers shall only accept hardcopy pen and ink signatures as evidence of a medication order. However, the DEA is in the process of establishing requirements for electronic prescriptions for controlled substances. Refer to 21 CFR §§1300, 1304, 1306 and 1311 for further information.

3. E-Prescribing for Medications Incident to DME

The MAC, CERT and ZPIC reviewers shall accept as valid any e-prescribed order for medications incident to Durable Medical Equipment (DME), other than controlled substances. For the purpose of conducting Medicare medical review of medications incident to DME, a qualified e-prescribing system is one that meets all §42 CFR 423.160 requirements. When medications incident to DME have been ordered through a qualified e-prescribing system, the reviewer shall NOT require the provider to produce hardcopy pen and ink signatures as evidence of a medication order.

G. Additional Signature Requirements for Durable Medical Equipment, Prosthetics, Orthotics, & Supplies (DMEPOS)

Refer to PIM chapter 5 for further details regarding additional signature requirements for DMEPOS.

H. Signature Dating Requirements

For medical review purposes, if the relevant regulation, NCD, LCD and other CMS manuals are silent on whether the signature must be dated, the MACs, CERT and ZPICs shall ensure that the documentation contains enough information for the reviewer to determine the date on which the service was performed/ ordered.

Example: The claim selected for review is for a hospital visit on October 4. The ADR response is one page from the hospital medical record containing three (3) entries. The first entry is dated October 4 and is a physical therapy note. The second entry is a physician visit note that is undated. The third entry is a nursing note dated October 4. The reviewer should conclude that the physician visit was conducted on October 4.

I. Additional Documentation Request Language Regarding Signatures

The CERT contractor shall use language in its ADR letters reminding providers that the provider may need to contact another entity to obtain the signed version of a document. For example, a hospital discharge summary in the physician's office files may be unsigned, whereas the version of the discharge summary in the hospital files should be signed and dated. MACs are encouraged to use such language in their letters. In addition, MACs, CERT and ZPICs have the discretion to add language to their ADRs stating that the provider is encouraged to review their documentation prior to submission, to ensure that all services and orders are signed appropriately. In cases where a reviewer finds a note with a missing or illegible signature, the ADR may inform the provider that it should submit a signature log or signature attestation as part of the ADR response.

The following is sample language that reviewers may choose to use in certain ADRs:

“Medicare requires that medical record entries for services provided/ordered be authenticated by the author. The method used shall be a handwritten or electronic signature. Stamp signatures are not acceptable. Beneficiary identification, date of service, and provider of the service should be clearly identified on the submitted documentation.

The documentation you submit in response to this request should comply with these requirements. This may require you to contact the hospital or other facility where you provided the service and obtain your signed progress notes, plan of care, discharge summary, etc.

If you question the legibility of your signature, you may submit an attestation statement in your ADR response.

If the signature requirements are not met, the reviewer will conduct the review without considering the documentation with the missing or illegible signature. This could lead the reviewer to determine that the medical necessity for the service billed has not been substantiated.”

J. Potential Fraud Referrals

At any time, suspected fraud shall result in a referral to the ZPIC for development. If MAC, Recovery Auditor or CERT reviewers identify a pattern of missing/illegible signatures, the reviewer shall refer to the appropriate ZPIC for further development.

3.3.2.5 - Late Entries in Medical Documentation

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

A provider may discover that certain documents were misfiled or needed to be filed in the medical documentation during the process of responding to an ADR. Providers are encouraged to add to the medical record or notes file all relevant documents that were created at the time of service or within a few days of the date of service.

The MACs, CERT, Recovery Auditors, and ZPICs shall give less weight when making review determinations to documentation, including a provider's internal query responses, created more than 30 calendar days following the date of service. If the MACs, CERT, or Recovery Auditors identify providers with patterns of making late (more than 30 calendar days past the date of service) entries in the medical documentation, including the query responses, the reviewers shall refer the cases to ZPIC and may consider referring to the RO and State Agency.

A query is a communication tool used between facility coding personnel and the physician and/or other health care practitioners whereby the coder obtains additional documentation to improve the specificity and completeness of the data used to assign diagnosis and procedure codes in a beneficiary's health record. The process may take place concurrently (while the beneficiary is in the facility) or retrospectively (after discharge).

3.3.2.6 - Psychotherapy Notes

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors or ZPICs, as indicated.

Psychotherapy notes are defined in 45 CFR§164.501 as “notes recorded by a mental health professional which document or analyze the contents of a counseling session and that are separated from the rest of a medical record.” The definition of psychotherapy notes excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of administered treatment, results of clinical tests, and any summary of diagnosis, functional status, treatment plan, symptoms prognosis, ongoing progress and progress to date. This class of information does not qualify as psychotherapy note material. Physically integrating information excluded from the definition of psychotherapy notes and protected information into one document or record does not transform the non-protected information into protected psychotherapy notes.

Under no circumstances shall the MACs, CERT, Recovery Auditors or ZPICs request that a provider submit psychotherapy notes defined in 45 CFR §164.501. The refusal of a provider to submit such information shall not result in the automatic denial of a claim.

If the medical documentation includes any of the information included in the definition of psychotherapy notes in §164.501, as stated above, the provider is responsible for extracting information required to support that the claim is for reasonable and necessary services. MACs, Recovery Auditors, CERT or ZPICs shall review the claim using the supporting documentation submitted by the provider. If the provider does not submit information sufficient to demonstrate that services were medically necessary, the claim shall be denied. Beneficiaries cannot be held liable for these denials unless they received proper liability notification before services were rendered, as detailed in CMS Pub. IOM, 100-04 chapter 30, §30.1.

3.3.2.7 - Review Guidelines for Therapy Services

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

Financial limitations on therapy services (therapy caps) were originally initiated by the Balanced Budget Act of 1997 and have been implemented at times without an exceptions process. During a time when no exceptions process exists, contractors shall deny claims for Part B occupational, physical, and speech-language pathology therapy services, except for hospital outpatient therapy services, which exceed the therapy cap. There is no therapy cap for hospital outpatient therapy services.

Automatic Process for Exception from the Therapy Cap

Section 1833(g)(5) of the Social Security Act provides that contractors shall, at the request of the individual enrolled under the Part B benefit or a person acting on behalf of that individual, grant an exception to the therapy cap in certain circumstances.

For therapy services provided during a time when a therapy cap exceptions process is in effect, the contractor shall presume the beneficiary to be excepted from the therapy cap without submission of request for exception or supporting documentation if:

- The beneficiary meets specific conditions listed in CMS Pub.100-04, chapter 5, §10.2 for exception from the therapy cap, or
- The beneficiary does not meet the specific criteria in CMS Pub.100-04, chapter 5, §10.2, but has a need for medically necessary therapy services above the therapy cap.

In both of these situations, the contractor shall require that the therapist maintain on file, necessary documentation to support the medical necessity of therapy services. Documentation requirements are found in CMS Pub.100-02, chapter 15, section 230.3.

Request for Exception from Therapy Caps

Contractors shall not require providers to submit written requests for exception from the therapy cap. Instead, the placement of the KX modifier on the claim shall be interpreted as a request for exception from the cap. For beneficiaries who the clinician believes will require therapy treatment days in excess of those payable under the therapy cap, and who meet the above bulleted criteria for automatic exception, the Medicare contractor shall require the provider to maintain sufficient documentation on file to support the medical necessity for this service. Use of the KX modifier shall be interpreted as the therapist's attestation that services provided above the cap are medically necessary.

The contractor shall require the provider to maintain on file documentation in accordance with CMS Pub.100-02, chapter 15, section 220.3 and CMS Pub.100-04, chapter 5, sections 10.2 and 20 with the request for treatment days in excess of those payable under the therapy cap.

If the clinician attests that the requested services are medically necessary by using a KX modifier on the claim line, the contractor may make the determination that the claim is medically necessary. That determination is binding on the contractor in the absence of:

- potential fraud; or
- evidence of misrepresentation of facts presented to the contractor, or
- A pattern of aberrant billing by a provider.

Should such evidence of potential fraud, misrepresentation, or aberrant billing patterns by a provider be found, claims are subject to medical review regardless of whether the KX modifier was used on the claim.

Progressive corrective action (PCA) and medical review have a role in the therapy exception process. Although the services may meet the criteria for exception from the cap due to condition or complexity, they are still subject to review to determine that the services are otherwise covered and appropriately provided. The exception is granted on the clinician's assertion that there is documentation in the record justifying that the services meet the criteria for reasonable and necessary services. For example, the documentation must accurately represent the facts, and there shall be no evidence of patterns of aberrant billing of the services by the provider/supplier. Services deemed medically necessary are still subject to review related to fraud or abuse. An example of inappropriate use of the process is the routine use of the KX modifier on every claim for a patient that has an excepted condition or complexity, regardless of the impact of the condition on the need for services above the cap.

3.3.2.8 - MAC Articles

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

A. General

The MACs have the discretion to publish articles communicating certain information to providers, such as any newly developed educational materials, coding instructions or clarification of existing medical review related billing or claims policy. The MACs are required to enter articles that address LCDs, coding or medical review-related billing and claims considerations into the Medicare Coverage Database (MCD).

For the purposes of this manual, the term "publish" will be used to describe any form of dissemination including posting on a Web site, distributing at a seminar, e-mailing, or printing in a hardcopy bulletin. The MAC Medical Review Departments are responsible for the development of articles associated with new or revised LCDs and for entering those articles into the Medicare Coverage Database. Other widespread educational articles shall not be charged to MR.

The MAC medical review departments shall send articles to the appropriate department within the MAC for publishing. All newly created articles shall be posted on the MAC's Web site where duplicate copies can be obtained by providers/suppliers.

When NCDs or other coverage instructions issued by the CMS include specific conditions or parameters for covered services, the MACs have the discretion to develop and publish a list of covered codes associated with the coverage provision. MACs have the discretion to automate denials for codes not included on the list without the development of a LCD if the NCD indicates or states that no other condition or parameters will be covered.

MACs also have the discretion to:

- Publish definitions of procedure codes, lists of items that may be billed under a particular code, or minimum requirements that providers must meet in order to bill using a certain code.
- Publish a product classification list that instructs providers about which specific products meet the definitional requirements of a particular HCPCS code. Developing or revising an LCD for this article is unnecessary.
- Explain which off-labeled uses of the Food and Drug Administration (FDA) approved drugs are considered reasonable and necessary within the ICD-9 codes that reflect such uses.
- Explain the benefit category decisions and publish a list of drugs/biologicals that are considered usually self-administered. MACs should enter their self-administered medication exclusion list into the Medicare Coverage Database. This database can be accessed at www.cms.gov/mcd.

- MACs have the discretion to explain which HCPCS code or group of codes properly describes a particular service.
- MACs have the discretion to publish State non-physician licensure information that governs services billed by the physician under the "incident to" provision.

The MACs shall ensure that articles do not conflict with NCDs, LCDs, policy, or coverage provisions in interpretive manuals. Although a comment and notice process is not required, MACs are encouraged to consult with stakeholders in the provider community when developing articles. MACs shall monitor comments about articles from clinician providers and respond to their concerns, as needed, by issuing revised or clarifying articles.

NOTE: Nothing in this section precludes the MACs or ZPICs from making individual claim determinations, even in the absence of an article or LCD.

3.3.3 - Reviewing Claims in the Absence of Policies and Guidelines (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

The MACs, CERT, Recovery Auditors, and ZPICs have the discretion to review claims, in the absence of polices, whether a NCD, coverage provision in an interpretive Medicare manual, or LCD exists for that service. When making individual claim determinations, they shall determine that the service in question is covered based on whether the service meets all of the conditions listed in section 3.6.2.1.

3.4 - Prepayment Review of Claims (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

A. General

The MACs shall initiate targeted provider-specific prepayment review only when there is the likelihood of a sustained or high level of payment error. MACs are encouraged to initiate targeted service-specific prepayment review to prevent improper payments for services identified by CERT or Recovery Auditors as problem areas.

3.4.1 - Electronic and Paper Claims (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

The Administrative Simplification Compliance Act (ASCA, Section 3 of Pub. L, 107-105, 42 CFR 424.32) requires that all Medicare claims be submitted electronically with few exceptions. MACs shall not require providers to submit paper claims when they are targeted for prepayment complex medical review. The MACs shall allow providers that

qualify for an ASCA mandatory electronic billing exception to submit paper claims when they are targeted for prepayment review (See IOM Pub.100-04, chapter 24, §90 for exceptions).

A. Supporting Documentation Submitted with Claims

The MACs shall not require or request providers to submit supporting documentation with the initial claim(s) through MAC-developed forms, local policies, or any other communications with providers. The MACs shall only request supporting documentation through the ADR process or an alternate MAC process that permits matching the claim number to the submitted documentation.

The MACs shall match supporting documentation with claims as part of the ongoing medical review process. The MACs have the discretion to consider unsolicited documentation, but are not required to. The MACs shall inform providers in their jurisdiction if they allow supporting paper documentation to be submitted with the claim for medical review purposes.

The MACs may choose to suspend for medical review claims for lab services coded with one of the laboratory-negotiated rulemaking ICD-9 “Codes that Do Not Support Medical Necessity (where documentation could result in payment)” only if identified as a prioritized problem in their medical review strategy, and consistent with PIM chapter 11, §11. In these cases, MACs shall continue to use the documentation submitted with the claim in order to determine whether the lab service was reasonable and necessary for that particular ICD-9 code.

3.4.1.1 - Linking LCD and NCD ID Numbers to Edits

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

The MACs shall ensure that any edit that could result in a denial based on a LCD or NCD includes the LCD or NCD ID number(s) associated with the denial. The MACs shall ensure that any edit that could result in a denial based on a lab negotiated NCD includes the NCD ID number(s) associated with the denial.

3.4.1.2 - Not Otherwise Classified (NOC) Codes

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

The MAC MR staff should assist claims processing staff in making coverage and pricing determinations on NOC HCPCS/CPT codes. The claims processing staff will need information from the MR staff so that they can price the service in accordance with CMS pricing methodologies described in the Claims Processing Manual (IOM Pub. 100-04). MACs shall keep track of pricing determinations for frequently billed services so that the claims processing staff can price future claims using established MR pricing guidelines for that service.

3.4.1.3 - Diagnosis Code Requirements

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs and ZPICs, as indicated.

Use ICD-9 until such time as ICD-10 is in effect. Further instructions will be issued regarding claims containing ICD-9 codes with dates of service prior to the ICD-10 implementation that are submitted after ICD-10 is in effect.

Section 1833(e) of the Act states that no payment should be made “under this part unless there has been furnished such information as may be necessary in order to determine the amounts due such provider or other person...” MACs and ZPICs should require submission of information, in accordance with the requirements below, that they deem necessary to make a claim determination and determine appropriate payment. Some provider types are required to submit diagnosis codes on all claims while other provider types are required to submit diagnosis codes only if such information is required by a LCD.

A. Claims Submitted by Physicians or Certain Non-Physician Practitioners Must Contain Diagnosis Codes.

Section 1842 (p) (1) of the Act states that for each claim submitted by physicians or certain non-physician practitioners (defined in 1842(b) (18) (C) of the Act) “shall include the appropriate diagnosis code (or codes)...” For claims submitted with invalid, truncated, or missing ICD-9 codes, MACs and ZPICs shall classify the claim as rejected as unprocessable within the MCS. See the Claims Processing Manuals IOM Pub.100-04.

B. Claims Submitted by All Other Provider Types Must Contain Diagnosis Codes if required by a LCD

During a service-specific review to address potential abuse or overutilization, MACs and ZPICs should require that ICD-9 codes be submitted with each claim for the targeted service. The diagnosis information is used to determine if the services are covered and correctly coded. MACs and ZPICs should require that ICD-9 diagnosis codes be submitted by all non-physician billers with every claim for a targeted service only if such a requirement appears in a LCD for that service. This outreach shall occur via Web site, bulletin articles, etc.

For provider-specific reviews, MACs and ZPICs have the discretion to require submission of ICD-9 diagnosis codes to support that the reasonable and necessary criteria has been met on all claims submitted by individual non-physician providers who have been targeted because of unusual billing practices, fraud referrals, etc., even if no LCD exists requiring such codes. For claims submitted with invalid, truncated, or missing ICD-9 codes, reviewers shall classify the claim as unable to be processed, and return the claim to the provider (RTP). See the Claims Processing Manual IOM Pub.100-04.

C. Requirements for Lab Claims

The American Medical Association's (AMA) 1998 edition of the Current Procedural Terminology (CPT) established three new and one revised Organ and Disease Oriented laboratory panels. Since these panels are composed of clinically relevant groupings of automated multichannel tests there is a general presumption of medical necessity. If there is data or reason to suspect abuse of the panel codes, contractors may review these claims. Should contractors determine the need to develop a LCD for laboratory panel codes the MAC shall develop these policies at the panel code level. In some instances of perceived abuse of the panel codes, the contractors may review the panel and deny component tests on a case-by-case basis or evaluate the need for the component level test.

3.4.1.4 - Prepayment Review of Claims Involving Utilization Parameters (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

A. For Non-lab Claims

The MACs shall implement prepayment edits that will prevent payment to providers who have a pattern of billing for items or services that are not covered, incorrectly coded or inappropriately billed. The MACs shall respond quickly when they identify providers who seem to have egregious overutilization of a non-lab item or service and who bill for egregious amounts. The identification of, and response to these providers shall be within the context of the MAC's MR Strategy and prioritization of review targets.

B. Utilization Denials

The MACs have the discretion to establish edits to automatically deny services when overutilization of a non-lab service is identified and clear policy serves as the basis for denial.

The MACs shall establish complex review edits and make individual claim determinations when overutilization of a non-lab service is identified and there is not clear policy to serve as the basis for denial.

The MACs shall establish complex review edits that do not involve utilization parameters and make individual claim determinations when overutilization of a lab service is identified and there is no clear policy to serve as the basis for denial. For example, if the problem is limited to a few laboratory providers, the MAC could develop a provider-specific prepayment edit to suspend payment for all of the lab services in question from the problem providers. If the problem is widespread, the MAC could develop a service-specific edit to suspend payment for all of the lab services in question or all of the services in question for a particular diagnosis or revenue code. Based on data analysis within each MAC jurisdiction, the MACs shall focus the edit by provider, diagnosis, procedure code, or in any other way except by use of a utilization parameter.

3.4.1.5 - Prepayment Review Edits

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

A. Automated Edits

Automated prepayment edits, designed by MAC staff, are put in place to prevent payment for non-covered, incorrectly coded, or inappropriately billed services. Most automated payment edits will be service-specific. The MAC will rarely install a provider-specific automated prepayment edit.

B. Limits on Automated Prepayment Review

The MACs shall not install edits that result in the automatic denial of payment for items or services based solely on the diagnosis of a progressively debilitating disease when treatment may be reasonable and necessary. The appearance of a progressively debilitating disease on a claim or history does not permit automated denials that presume a stage of that disease that negates the effectiveness of treatment. Likewise, when a beneficiary with a progressively debilitating disease experiences an illness or injury unrelated to his or her progressively debilitating disease, the provider should submit a claim with a primary diagnosis that most accurately reflects the need for the provided item or service. For instance, a claim for treatment for an acute urinary tract infection cannot be denied by automatic edit just because the beneficiary has a diagnosis of multiple sclerosis.

3.4.2 – Complex Prepayment Review Edits

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

The MACs shall focus complex prepayment edits to suspend only claims with a high probability of aberrant billing practices. Focused edits reduce provider burdens and increase the efficiency of MR activities. The MACs shall ensure that edits are specific enough to identify only the services that they determine to be questionable based on data analysis. MACs are encouraged to ensure that most MR edits are located in the table driven portion of the system and are not hard coded. It is important to have the flexibility to modify MR edits based on workload demands and changes in provider behavior. The MACs have the discretion to establish complex prepayment edits that are either service-specific or provider-specific. Provider-specific edits can suspend all claims from a particular provider or focus on selected service(s), place of service, or other parameters.

3.5 - Postpayment Review of Claims

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

The MACs shall initiate targeted provider-specific postpayment review only when there is the likelihood of a sustained or high level of payment error. MACs are encouraged to initiate targeted service-specific postpayment review to recoup improper payments. Recovery Auditors shall perform postpayment review of claims as outlined in their SOW.

3.5.1 - Re-opening Claims

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

The MACs, CERT, Recovery Auditors, and ZPICs shall adhere to the rules found in CFR 405.980 through 986 when conducting automated or complex postpayment reviews. High error rate and/or potential overutilization, identified by data analysis, are reasons to perform postpayment review and represent sufficient cause to reopen claims in accordance with 42 CFR 405.986. See Pub. 100-04, chapter 34 for more information on good cause for reopening.

3.5.2 - Case Selection

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated

Case review and development provisions:

The MACs shall not perform postpayment review of unassigned claims. A claim submitted for a service or supply by a provider who has not accepted the Medicare fee schedule is an unassigned claim.

- The MACs, Recovery Auditors, and ZPICs have the discretion to select cases for postpayment review on a claim-by-claim basis or use statistical sampling for overpayment estimation.
 - When MACs, Recovery Auditors, and ZPICs conduct claim-by-claim postpayment review, they shall only collect or refund the actual overpayment or underpayment amount.
 - When MACs, Recovery Auditors, and ZPICs conduct statistical sampling for overpayment estimation as specified in PIM chapter 8, they shall extrapolate the sampling results to the known universe of similar claims when calculating the projected overpayment or underpayment amount.
- The MACs, CERT, Recovery Auditors, and ZPICs have the discretion to conduct the postpayment review offsite at the provider or supplier's location.
- The MAC staff shall review their provider tracking system (PTS) and consult with the ZPIC to ensure non-duplication during the process of selecting providers for postpayment review.

- The Recovery Auditor staff shall check the Recovery Auditor Data Warehouse to ensure they do not choose claims for review that have been reviewed by another entity.
- When the MACs, CERT, Recovery Auditors, and ZPICs choose to send the provider an ADR for a postpayment review, they shall do so in accordance with PIM chapter 3, §3.2.3.2. The contractors may grant an extension of the submission timeframes at their discretion or in accordance with their SOWs.
- The MACs, CERT, Recovery Auditors, and ZPICs make coverage, coding, limitation of liability, waiver of recoupment, and/or other determinations when re-adjudicating claims.
- The MACs, CERT, Recovery Auditors, and ZPICs shall document all incorrectly paid, denied, or under-coded (e.g., billed using a HCPCS or other code that is lower than what is supported by medical documentation) items or services.
- Services newly denied as a result of re-adjudication shall be reported as positive values.
- Services that were denied, but are reinstated as a result of re-adjudication shall be reported as negative values.
- The MACs, CERT, Recovery Auditors, and ZPICs shall document the rationale for denial and include the basis for revisions in each case (important for provider appeals). MACs, CERT, and ZPICs should include copies of the NCD, coverage provisions from interpretive manuals, or LCD and any applicable references needed to support individual case determinations. Recovery Auditors shall include detailed rationale as outlined in their SOW.
- The MACs have the discretion to deny payment without the review of the claim with a medically unlikely service edit.

3.5.3 – CMS Mandated Edits

(Rev. 174, Issued: 11-17-06; Effective: 10-01-2006; Implementation: 10-06-06)

In past years, CMS created mandated edits that suspend certain claims for manual coverage and coding review. However, more recently, CMS has given the contractors the discretion to prioritize workload to effectively lower the error rate. CMS is now in the process of removing such mandated coverage and coding review edits from CWF, pricer, grouper, fee schedules, etc.

Contractors may override CMS mandated edits that suspend for manual coverage and coding review without performing review if one or more of the following conditions apply:

1. The contractor does not have MR responsibility for the claim, or
2. The contractor's data analysis/priority setting/ MR strategy does not indicate this service is a problem in their jurisdiction, or

It is not a SNF (excluding swing beds) or HHA demand bill (these demand bills must be reviewed).

3.6 - Determinations Made During Review

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

A. General

The MACs, CERT, Recovery Auditors, and ZPICs shall be able to differentiate the type of determination made, ensuring that limitation of liability determinations are appropriate.

When the MAC determines, through prepayment data analysis or postpayment review, that an inappropriate claim has been submitted; or the Recovery Auditor determines, in post-payment review, that an improper payment has been made, the MAC and Recovery Auditor shall verify that the error represents an unacceptable practice and not just an explainable aberrancy. Some legitimate reasons for anomalous data include:

- The provider may be associated with a medical school, research center, or may be a highly specialized facility, for instance, the facility may be a Medicare-dependant hospital or CAH, which might skew the type of claims submitted; or
- The community in which the provider practices may have special characteristics such as socio-economic level or a concentration of a specific age group that leads to an apparent aberrancy in the use of certain services.

The MACs, CERT, Recovery Auditors, and ZPICs have the discretion to make other determinations during the review of a claim to avoid or identify improper payments for such things as duplicate claims, etc. Other examples are listed below:

Example 1: A Medicare policy states that when three (3) procedures are performed during the same operative session, Medicare pays 100 percent for the first, 50 percent for the second and 25 percent for the third. A claim is identified where all three (3) procedures were paid at 100 percent.

Example 2: A claim was paid using the fee schedule from the prior year.

Example 3: A Medicare payment policy states that in order to pay for a capped rental item, consideration shall be given to whether the item was in “continuous use” by the beneficiary for a specified time period. A claim is found to have been paid out of compliance with this policy provision.

If, at any time, the medical review detects potential fraud, MACs, CERT, and Recovery Auditors, shall refer the issue to the appropriate ZPIC.

3.6.1 - Determining Overpayments and Underpayments (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, and ZPICs. It does not apply to CERT or Recovery Auditors.

A. General

The results of the re-adjudication are used to determine the overpayment or underpayment amount for each claim. Re-adjudicating claims may not result in a payment correction. Where statistical sampling for overpayment estimation is used, refer to instructions in the PIM chapter 8, §8.4 and to Exhibits 9, 10, 11 and 12 for projection methodologies based on FFS claims. For claims paid under PPS rules, MACs and ZPICs shall develop projection methodologies in conjunction with their statisticians that are consistent with the requirements found in PIM chapter 8, §8.4. MACs and ZPICs shall net out the dollar amount of services underpaid during the cost accounting period, meaning that amounts owed to providers are balanced against amounts owed from providers.

Amounts of the following overpayments are to be included in each provider's or supplier's estimate for the reviewed sample:

- According to the provisions of §1879 of the Act, the provider or supplier is liable for the overpayment of initially paid claims that were later denied on re-adjudication if :
 - (1) The basis for denial is by reason of §1862(a) (1) or (9) of the Act
 - (2) The provider or supplier knew or could reasonably have been expected to know that the items or services were excluded from coverage, and
- For denials of non-assigned claims make a §1842(1) determination on denials for §1862(a)(1)
- The provider or supplier was not without fault for the overpayment as defined in §1870 of the Act.

For appeal purposes, overpayment estimations applicable under §1879 of the Act will be identified separately from denials in which §1879 of the Act does not apply. Where both

types of denials occur in the sample, MACs and ZPICs calculate and document separate under/overpayments for each type of denial. For recovery purposes, however, both denial results are combined.

3.6.2 - Verifying Errors

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, and ZPICs, as indicated.

Understanding the characteristics of the service area of the provider is a key element of claim data analysis. The areas selected for review by the contractor (e.g., providers, services) must be deemed high priority and contractors must be able to document the rationale for selection.

3.6.2.1 - Coverage Determinations

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

The MACs, CERT, Recovery Auditors, and ZPICs shall deny an item or service if it does not meet any of the conditions listed below:

- The item or service does not fall into a Medicare benefit category.
- The item or service is statutorily excluded on grounds other than §1862(a) (1) (A) of the Act.
- The item or service is not reasonable and necessary under §1862(a) (1) (A) of the Act.
- The item or service does not meet other Medicare program requirements for payment.

3.6.2.2 - Reasonable and Necessary Criteria

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

CMS issues national coverage determinations (NCDs) that specify whether certain items, services, procedures or technologies are reasonable and necessary under §1862(a) (1) (A) of the Act. In the absence of an NCD, Medicare contractors are responsible for determining whether services are reasonable and necessary. If no local coverage determination (LCD) exists for a particular item or service, the MACs, CERT, Recovery Auditors, and ZPICs shall consider an item or service to be reasonable and necessary if the item or service meets the following criteria:

- It is safe and effective;

- It is not experimental or investigational; and
- It is appropriate, including the duration and frequency in terms of whether the service or item is:
 - Furnished in accordance with accepted standards of medical practice for the diagnosis or treatment of the beneficiary's condition or to improve the function of a malformed body member;
 - Furnished in a setting appropriate to the beneficiary's medical needs and condition;
 - Ordered and furnished by qualified personnel; and,
 - One that meets, but does not exceed, the beneficiary's medical need.

There are several exceptions to the requirement that a service be reasonable and necessary for diagnosis or treatment of illness or injury in order to be considered for payment. The exceptions appear in the full text of §1862(a) (1) (A) of the Act. See also PIM chapters 13, §5.1 and 7.1.

3.6.2.3 - Limitation of Liability Determinations

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

Section 1879(a)-(g) of the Act limits the financial liability of beneficiaries, providers, and suppliers by permitting Medicare payments, or requiring refunds, for certain services and items for which Medicare payment would otherwise be denied. The purpose of this provision is to protect beneficiaries from liability in certain cases of denied services. The limitation of liability provisions apply only to claims for services not statutorily excluded, that are denied for the following reasons:

- The service or item did not meet the reasonable and necessary criteria;
- The beneficiary or provider did not know, or could not have been reasonably expected to know that the service or item would not be covered; and
- The beneficiary receives certain screening tests and preventive services in excess of the guidelines.

(See IOM Pub. 100-04, chapter30, §20_for more information).

The MACs, CERT, and ZPICs shall first examine benefit categories and statutory exclusions to determine if a service or item is covered. Recovery Auditors shall examine categories and exclusions as outlined in their SOW. If the item or service meets the

requirements of the appropriate benefit category and is not excluded by statute, the next consideration is whether the service was reasonable and necessary. When a claim is denied, in full or in part, because an item or service is not reasonable and necessary, MACs, CERT, Recovery Auditors, and ZPICs shall make and document determinations as appropriate to §§1879, 1870, and 1842(l) of the Act. Because the determinations can be appealed, it is important that the rationale for the determination be documented initially and at each level of appeal.

Limitations of liability provisions do not apply if there is a statutory exclusion, even if the service meets the reasonable and necessary criteria.

3.6.2.4 - Coding Determinations

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

Use ICD-9 until such time as ICD-10 is in effect. Further instructions will be issued regarding claims containing ICD-9 codes with dates of service prior to the ICD-10 implementation that are submitted after ICD-10 is in effect.

The MACs, CERT, Recovery Auditors, and ZPICs shall determine that an item/service is correctly coded when it meets all the coding guidelines listed in the Current Procedural Terminology-4 (CPT-4), Coding Clinic for ICD-9, Coding Clinic for HCPCS, and any coding requirements listed in CMS manuals or MAC articles.

3.6.2.5 - Denial Types

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

A. Distinguishing Between Benefit Category, Statutory Exclusion and Reasonable and Necessary Denials

The MACs, CERT, Recovery Auditors, and ZPICs shall be cognizant that the denial type may affect the financial liability of beneficiaries. They shall ensure that benefit category denials take precedence over statutory exclusion and reasonable and necessary denials. They shall ensure that statutory exclusion denials take precedence over reasonable and necessary denials. MACs, CERT, and ZPICs shall use the guidelines listed below in selecting the appropriate denial reason. Recovery Auditors shall follow denial reason guidance outlined in their SOW.

- If additional documentation was requested from the provider or other entity for any MR reason (benefit category, statutory exclusion, reasonable/necessary, or coding), and the information is not received within 45 calendar days or a reasonable time thereafter, the MACS, CERT, and ZPICs shall issue a reasonable and necessary denial, in full or in part.

- If additional documentation was requested because compliance with a benefit category requirement is questioned and the documentation received fails to support compliance with the benefit category, the MACs, CERT, and ZPICs shall issue a benefit category denial.
- If additional documentation was requested because compliance with a benefit category requirement is questioned and the received documentation shows evidence that the benefit category requirement is present but is defective, the MACs, and ZPICs shall issue a reasonable and necessary denial.

EXAMPLE 1: A MAC is conducting a review of partial hospitalization (PH) claims from a provider who has a pattern of failing to comply with the benefit category requirement that there be a signed certification in the medical record. In the first medical record, the MAC finds that there is no signed certification present in the medical record. The MAC shall deny all PH services for this beneficiary under §1835(a) (2) (F) of the Act (a benefit category denial). However, in the second medical record, the MAC determines that a signed certification is present in the medical record, but the documentation does not support the physician's certification, the services shall be denied under §1862(a) (1) (A) of the Act (a reasonable and necessary denial) because the certification is present but defective.

Example 2: The MAC performs a routine review on a surgical procedure claim and determines that the procedure was cosmetic in nature and was not reasonable and necessary; the denial reason would be that the service is statutorily excluded since statutory exclusion denials take precedence over reasonable and necessary denials.

The MACs, CERT, Recovery Auditors, and ZPICs shall deny payment on claims either partially (e.g., by down coding or denying one line item on a multi-line claim) or in full, and provide the specific reason for the denial whenever there is evidence that a service:

- Does not meet the Benefit Category requirements described in Title XVIII of the Act, NCD, or coverage provision in an interpretive manual;
- Is statutorily excluded by other than §1862(a)(1) of the Act;
- Is not reasonable and necessary as defined under §1862(a) (1) of the Act. MACs, CERT, Recovery Auditors, and ZPICs shall use this denial reason for all non-responses to documentation requests;
- Was not billed in compliance with the national and local coding, payment or billing requirements; and/or
- Was not delivered or provided to the beneficiary, or not provided as billed.

The Recovery Auditors shall only deny items or services for which they have accurately determined that the provider is liable for the improper payment. The Recovery Auditor SOW does not allow the Recovery Auditors to review items or services for which the beneficiary is liable. If, in the course of claims review, a Recovery Auditor determines that payment for an item or service should be denied and the beneficiary is liable, these claims should be referred to the MAC to recoup/refund. The Recovery Auditors will not receive a contingency for these claims.

The denial explanation needs to be more specific than merely repeating one of the above bullets. The general exception to the need for a full denial explanation is in the event of a clerical error, for example, the billing entity transposes two digits in the HICN on a claim. The claim is quickly returned, usually electronically, to the provider for correction. In the case of dual-eligible beneficiaries where there is a State-specific policy, see CMS IOM Pub. 100-04, chapter 30, §60.5 A for a detailed explanation of handling administrative denials.

B. Denial Reasons

The ZPICs shall deny payment on claims either partially (e.g., by denying one line item on a multi-line claim) or in full whenever there is evidence that a service:

- Was furnished in violation of the self-referral prohibition, which prohibits physicians from referring beneficiaries to entities in which the physician has a financial interest; or
- Was furnished, ordered or prescribed on or after the effective date of exclusion by a provider excluded from the Medicare program and that provider does not meet the exceptions identified below in PIM, chapter 4, §4.19.2.6.

The ZPICs shall deny payment whenever there is evidence that an item or service was not furnished, or not furnished as billed. The denial should occur even while developing the case for referral to OIG or if the case has been accepted by the OIG. In cases where there is apparent fraud, ZPICs shall deny the claim(s) and identify the overpayment where there is potential fraud after notifying law enforcement. It is necessary to document each denial thoroughly to sustain denials in the appeals process. MACs shall make adjustments in cost reports, as appropriate.

The MACs, CERT, Recovery Auditors, and ZPICs shall deny claims, in full or in part, and recoup the overpayment (MACs recoup the overpayment for ZPICs and Recovery Auditors) under the circumstances listed above. MACs shall not “Return to Provider” or reject claims under these circumstances. Unless the denied claims were the basis for an overpayment extrapolation, MACs shall reverse the claims denied on postpayment review in the claims processing system so they do not appear on the Provider Statistical and Reimbursement Report.

3.6.3 - Beneficiary Notification

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

A. General

If a claim is denied through prepayment or postpayment review, the MAC shall notify the beneficiary consistent with the requirements in PIM chapter 3, §3.6.2.3. The MAC shall include limitation of liability and appeals information. Notification can occur via Medicare Summary Notice (MSN). The CERT, Recovery Auditors, and ZPICs are not required to issue beneficiary notices for claims they deny. Instead, CERT, Recovery Auditors, and ZPICs shall communicate sufficient information to the MAC to allow the MAC to develop an appropriate beneficiary notice.

The MACs are required to give notice to Medicare beneficiaries when claims are denied in part or in whole based on application of a LCD. All denials that result from LCDs shall provide the MSN message 15.19 in addition to the current applicable message. Message 15.19 states (IOM Pub. 100-04, chapter 21):

“A local coverage determination (LCD) was used when we made this decision. A LCD provides a guide to assist in determining whether a particular item or service is covered by Medicare. A copy of this policy is available from your local intermediary, carrier or (Medicare Administrative Contractor) by calling the number in the customer service information box on page one. You can compare the facts in your case to the guidelines set out in the LCD to see whether additional information from your physician would change our decision.”

The MACs shall make these messages available in Spanish where appropriate. The 15.19 portion of the MSN message states:

Una Determinación de Cobertura Local (LCD, por sus siglas en inglés) fue utilizada cuando se tomó esta decisión. La LCD es una guía que ayuda a determinar si un artículo o servicio en particular está cubierto por Medicare. Una copia de esta póliza está disponible en su intermediario, local o en su empresa de seguros Medicare, o en su Contratista Administrative de Medicare, al llamar al número que aparece en la información de Servicios al Cliente en la página uno. Usted puede comparar los datos de su caso con las reglas establecidas en la LCD para ver si obteniendo información adicional de su médico pudiera cambiar nuestra decisión.

The MACs shall use the above message in every instance of a prepayment denial where a LCD was used in reviewing the claim. Use this message, and message 15.20 (now for FISS MACs, and when 15.20 is fully implemented for contractors on the MCS/VMS systems) on both full and partial denials, whether the denial was made following automated, routine, or complex review. MACs shall not use this message on denials not involving LCDs. For claims reviewed on a postpayment basis, include the language

exactly as contained in the MSN message above if sending the beneficiary a new MSN. If sending a letter, include the language exactly as contained in the MSN message above. Message 15.20 currently states:

“The following policies [insert LCD ID# and NCD#] were used when we made this decision.”(Pub.100-04,chapter 21).

The MACs shall continue to use 15.19 in conjunction with the MSN message 15.20, where 15.19 is applicable. MACs should, at their discretion, combine these messages if necessary, but 15.19 shall not be deleted.

In the case where the results of claims sampling are extrapolated to the universe, only those beneficiaries in the sample need to be notified. In Recovery Auditor cases, the Recovery Auditor and MAC Joint Operating Agreement(JOA) shall specify what information the Recovery Auditor will supply to allow the MAC to notify the beneficiary when re-adjudication results in a change to the initial determination.

3.6.4 - Notifying the Provider

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to, MACs, Recovery Auditors, and ZPICs, as indicated.

A. General

The MACs shall send a Review Results Letter to the provider. If the MACs choose to send a Review Results Letter separately from the demand letter they shall do so within the timeframes listed in PIM chapter 3, §3.3.1.1F. Likewise, the Recovery Auditors shall issue a Review Results Letter for complex audits as outlined in their SOW requirements. ZPICs shall comply with the requirements listed below when issuing Review Results Letters.

Each Review Results Letter shall include:

- Identification of the provider or supplier—name, address, and NPI;
- Reason for conducting the review or good cause for reopening;
- A narrative description of the overpayment situation that states the specific issues involved in the overpayment as well as any recommended corrective actions;
- The findings for each claim in the sample, including a specific explanation of why any services were determined to be non-covered, or incorrectly coded;
- A list of all individual claims that includes the actual non-covered amount, the reason for non-coverage, the denied amounts, under/overpayment amounts, the

§1879 and §1870 of the Act determinations made for each specific claim, along with the amounts that will and will not be recovered from the provider or supplier;

- Any information required by PIM chapter 8, §8.4 for statistical sampling for overpayment estimation reviews;
- Total underpayment amounts;
- Total overpayment amounts that the provider or supplier is responsible for;
- Total overpayment amounts the provider or supplier is not responsible for because the provider or supplier was found to be without fault;
- MACs shall include an explanation that subsequent adjustments may be made at cost settlement to reflect final settled costs;
- An explanation of the procedures for recovery of overpayments including Medicare's right to recover overpayments and charge interest on debts not repaid within 30 days (not applicable to Recovery Auditors or ZPICs);
- The provider's or supplier's right to request an extended repayment schedule (not applicable to Recovery Auditors or ZPICs);
- The MACs and ZPICs shall include limitation of liability and appeals information in the provider notices;
- The MACs shall include appeals information in the provider notices;
- The MACs shall include the provider or supplier financial rebuttal rights under PIM chapter 3, §3.6.5; and,
- For MAC Review Results Letter only, a description of any additional corrective actions or follow-up activity the MAC is planning (i.e., prepayment review, re-review in 6 months).

If a claim is denied through prepayment review, the MACs and ZPICs are encouraged to issue a notification letter to the provider but may use a remittance notice to meet this requirement. However, if a claim is denied through postpayment review, the MAC and Recovery Auditor shall notify the provider by issuing a notification letter to meet this requirement. The ZPIC shall use discretion on whether to issue a notification letter.

The CERT contractor is NOT required to issue provider notices for claims they deny. Instead, the CERT contractor shall communicate sufficient information to the MAC to allow the MAC to develop an appropriate provider notice.

B. MACs

The MACs need provide only high-level information to providers when informing them of a prepayment denial via a remittance advice. In other words, the shared system remittance advice messages are sufficient notices to the provider. However, for complex review, the provider should be notified through the shared system, but the MAC shall retain more detailed information in an accessible location so that upon written or verbal request from the provider, the MAC can explain the specific reason the claim was denied as incorrectly coded or otherwise inappropriate.

C. Recovery Auditors

For overpayments detected through **complex** review, the Recovery Auditor shall send a review results letter as indicated in the Recovery Auditor SOW. In addition, the Recovery Auditor shall communicate sufficient information to the MAC so that the MAC can send a remittance advice to the provider and collect the overpayment.

For overpayments detected through **non-complex** review, the Recovery Auditor shall notify the provider as indicated in the Recovery auditor SOW and will communicate sufficient information to the MAC so that the MAC can send a Remittance Advice to the provider.

For underpayments, the Recovery Auditor shall notify the provider as indicated in the Recovery Auditor SOW. In addition, the Recovery Auditor shall communicate sufficient information to the MAC so that the MAC can send Remittance Advice to the provider and pay back the underpayment.

D. ZPICs

For overpayments detected through **complex** review, and after coordination between the ZPIC and OIG, the ZPIC shall send a review results letter (the MAC sends the demand letter). In addition, the ZPIC shall communicate sufficient information to the MAC so that the MAC can send a demand letter to the provider and collect the overpayment. The ZPIC shall use discretion on whether to send the review results letter.

E. Indicate in the Denial Notice Whether Records Were Reviewed

For claims where the MAC or ZPIC had sent an ADR letter and no timely response was received, they shall issue a denial and indicate in the provider denial notice, using remittance advice code N102/56900, that the denial was made without reviewing the documentation because the requested documentation was not received or was not received within the allowable time frame (§1862(a) (1) of the Act). This information will be useful to the provider in deciding whether to appeal the decision.

For claims where the reviewer makes a denial following complex review, the reviewer has the discretion to indicate in the denial notice, using remittance advice code N109 that the denial was made after review of submitted documentation. This includes those claims where the provider submits documentation along with the claim and the reviewer selects that claim for review.

3.6.5 - Provider Financial Rebuttal of Findings

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to the MACs. It does not apply to Recovery Auditors, CERT, and ZPICs.

A. General

Providers or suppliers have the right to submit a financial rebuttal statement in accordance with 42 CFR 405.370-375 following receipt of the review results letter and prior to recoupment of the overpayment. The rebuttal statement and any accompanying evidence must be submitted within 15 calendar days from the date of the results letter unless the MAC staff find cause to extend or shorten the time frame.

B. Review of Financial Rebuttal Statement(s)

Within 15 calendar days of receipt of a financial rebuttal, MAC staff shall consider the statement and any evidence submitted to reach a determination regarding whether the facts justify the recoupment. However, the MAC shall not delay recovery of any overpayment beyond the date indicated in the review results letter in order to review and respond to the rebuttal statement even if the principal of the debt is modified after reviewing the rebuttal statement (See 42 CFR 405.375(a)). The MAC shall provide a copy of the rebuttal request and a copy of the MAC's response on the rebuttal outcome to the ZPIC.

C. Cost Report Issues

Because of the cost report relationship to the overpayment, it is important to note that the projected overpayment recovered from a provider as a result of a postpayment review using statistical sampling for overpayment estimation is based on the interim payment rate in effect at the time of the review.

3.6.6 - Review Determination Documentation Requirements

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs, CERT, Recovery Auditors, and ZPICs, as indicated.

For each claim denied, in full or in part, the MACs, CERT, and ZPICs shall carefully document the basis for the denial in the internal claim record. If there are several reasons for denial they shall document each reason in the internal claim record. In addition, the

internal claim record should document the date and content of the provider notice of review (§ 3.2.2), additional documentation requests (§3.2.3), and third party documentation requests and response (§3.2.3.3).

In verifying an overpayment, MACs, CERT, Recovery Auditors, and ZPICs shall carefully document claims for services not furnished or not furnished as billed so that the denials are more likely to be sustained upon appeal and judicial review.

3.7 - Corrective Actions

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

The MACs shall take corrective actions they deem necessary based upon their findings during or after a review. These actions may include payment suspension, imposition of civil money penalties, institution of prepayment or postpayment review, additional edits, etc.

Providers/suppliers who show a pattern of failing to comply with requests for additional supporting documentation for any claims submitted to CMS may be subject to complex medical review for all claims. This paragraph applies to both providers and suppliers and to instances in which CMS or its contractors request documentation directly from these entities to support services billed on the claim. This paragraph does not change or diminish the provider's or supplier's responsibility to provide required documentation. For purposes of this paragraph, a pattern is two or more ADRs that have gone unanswered.

3.7.1 - Progressive Corrective Action (PCA)

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

The MACs shall ensure that actions imposed upon Medicare providers or suppliers for failure to meet Medicare rules, regulations and other requirements are appropriate given the level of non-compliance.

When an error has been validated through MR, the corrective action imposed by the MACs should match the severity of the error. PCA is a means of evaluating the relative risk of the error and assigning appropriate corrective actions. The principles of PCA are:

- It is data-driven. Errors are validated by prepayment and postpayment claims review. (See below).
- Hypotheses and edits are tested prior to implementation to determine facility, utility, and return on investment.

- Workloads are targeted, specific, and prioritized.
- Money is collected when errors are validated.
- Referrals for potential fraud are made when necessary.
- Provider feedback and education are mandatory.
- Medical review resources should be used efficiently.

For each provider data identifies as being at risk, the potential error is validated with prepayment or postpayment review of generally 20-40 potentially erroneous claims. Payments are either denied or recouped. Any underpayments by Medicare will be netted out during the financial reconciliation process. Corrective actions are then implemented based on whether the error represents a minor, moderate, or major concern.

For potentially risky services, errors are validated by prepayment and postpayment review of generally up to 100 potential problem claims for that service from a representative sample of providers. Service-specific errors may require more widespread education for providers and may require the implementation of service-specific prepayment edits.

An example of a minor concern would be a provider with a low error rate and no pattern of errors who has made a relatively minor error with low financial impact. Education and collection of the overpayment may be sufficient corrective actions.

For moderate concerns, where a provider with a low error rate has made an error with substantial financial impact, some level of prepayment review should be considered. The prepayment review should be tracked and adjusted or eliminated according to the provider's response.

A major concern would be a provider with a high error rate who has made a high-dollar error with no mitigating circumstances, indicating the need for stringent administrative action. A high level prepayment review should be considered along with possible payment suspension and referral to the ZPICs.

3.7.1.1 - Provider Error Rate

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

If the MAC identifies a provider-specific problem, the provider error rate is an important consideration in deciding how to address the problem. For instance, a provider with a low error rate with no history of patterns of errors may require a fairly minor corrective action plan such as education with recoupment of overpayment. Other factors such as the total dollar value of the problem and the past history of the provider also deserve

consideration. The MAC assesses the nature of the problem as minor, moderate or significant and uses available tools such as data analysis and evaluation of other information to validate the problem.

A. Provider Error Rate Formula

The MACs shall use the following formula for prepayment review to calculate the provider's service specific error rate:

Dollar amount of allowable** charges for services billed in error as determined by MR***

Dollar amount of allowable** charges for services medically reviewed

For postpayment review, use the following formula to calculate the provider's service specific error rate:

Dollar amount of services paid in error as determined by MR***

Dollar amount of services medically reviewed

**If allowable charges are not available, submitted charges may be used until system changes are made.

***Net out (subtract) the dollar amount of charges under billed

3.7.1.2 - Vignettes

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

The following vignettes provide guidance on how the MACs shall characterize and respond to varying levels of confirmed errors. These are examples of results from medical review accompanied by suggested corrective actions. This information should only be used as a guide and is not meant to be a comprehensive list of vignettes nor an inclusive list of administrative actions. The MAC MR department shall include communication and follow-up with provider outreach and education (POE) throughout the PCA process to coordinate efforts toward problem resolution. The MACs shall monitor trends indicating widespread educational need and shall ensure that POE staff has access to copies of all MR provider notification and feedback letters so they are prepared for provider requests for education (See IOM Pub. 100-04, chapter 20, §3.4.2, for further information).

1. Twenty claims from one provider are reviewed. Once claim is denied because a physician signature is lacking on the plan of care. The denial reflects 7 percent of the dollar amount of claims reviewed. Judicious assessment of medical review resources indicates no further review is necessary at this time. The MAC uses data analysis to determine where to target medical review activities in the future.

2. Forty claims from one provider are reviewed. Twenty claims are for services determined to be not reasonable and necessary. These denials reflect 50 percent of the dollar amount of claims reviewed. One hundred percent prepayment review is initiated due to the high number of claims denied and the high dollar amount denied. The MAC provides notification to the provider about specific errors made and makes a priority referral to POE to inform them of the severity of the problem.
3. Forty claims from one provider are reviewed. Thirty-five claims are denied. These denials reflect 70 percent of the dollar amount of claims reviewed. Payment suspension is initiated due to the high denial percentage and the Medicare dollars at risk. The MAC provides notification to the provider about the specific errors made and makes a priority referral to POE to inform them of the severity of the problem.
4. Forty claims from one provider are reviewed. Thirty-three claims are denied. These denials reflect 25 percent of the dollar amount of the claims reviewed. The MAC provides notification to the provider about the specific errors made. The MAC initiates a moderate amount (e.g., 30 percent) of prepayment medical review to ensure proper billing.
5. Thirty-five claims from one provider are reviewed. Thirty claims are denied representing 75 percent of the dollar amount of the claims reviewed. Many of the denials represent services provided to beneficiaries who did not meet the Medicare eligibility requirements. The MAC provides notification to the provider about specific errors made and makes a priority referral to POE to inform them of the severity of the problem. A consent settlement offer is made but declined by the provider. A postpayment review of statistical sampling for overpayment estimation is performed and an overpayment is projected to the universe of similar claims from the provider. Overpayment collection is initiated.
6. Twenty-five claims from one supplier are reviewed. Five claims representing 5 percent of the dollar amount of the claims are denied. This supplier is known to the DME MAC as one who has a significant decrease in billing volume when targeted medical review is initiated. The DME MAC is concerned that this supplier may be selectively submitting bills when placed on medical review and chooses to continue some level of prepayment medical review despite the low error rate.
7. Twenty claims from one provider are reviewed. Ten claims are denied for incomplete physician orders representing 65 percent of the dollar amount of the claims. The MAC issues a letter to inform the home health agency (HHA) about the denials and the reason for the denials. In response to the notification letter, the agency owner initiated a mandatory training program for select staff. The HHA was put on 30 percent prepayment medical review. Results of the review

indicated an improvement in the error rate to 30 percent (based on dollars denied divided by dollars reviewed). On appeal, most of the denials were overturned. The MAC consults with the ALJ to understand why the cases are being overturned and consults with the RO on appropriate next steps.

3.7.1.3 - Provider Notification and Feedback

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

Direct communication between the MAC and the provider is an essential part of solving problems. This process is carried out through written communication or by telephone as a result of specific claims or a group of reviewed claims. The overall goal of providing notification and feedback is to ensure proper billing practices and appropriate consideration of coverage criteria so claims will be submitted and paid correctly.

The MACs shall include an offer to provide individualized education in the notification letter along with contact information for POE. When inquiries are received in response to a provider notification or feedback letter, only responses to those inquiries directly related to a specific claim or group of claims reviewed on probe or targeted medical review shall be charged to medical review. This charge must be in the appropriate activity code or applicable SOW section for the type of review performed.

3.7.2 - Comparative Billing Reports (CBRs)

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

The MACs have the discretion to develop and issue comparative billing reports in the following three (3) situations:

1. Provider-specific CBRs for providers with aberrant billing patterns.

The MACs have the discretion to give provider-specific comparative billing reports to providers with the highest utilization for the services they bill in order to address potential over-utilization. The MACs have the discretion to send the CBRs based solely on data analysis, without further review or CBRs may be included in the feedback and notification information issued as a result of probe and targeted medical review. These reports shall provide comparative data on how the provider varies from other providers in the same specialty payment area or locality. MACs should not charge a fee for providing these reports.

2. Provider-specific or specialty-specific CBRs requestors.

To provide good customer service, MACs have the discretion to provide specific reports to providers or provider associations who request such a report. They may

charge a fee for providing these discretionary reports. However, any money collected shall be reported as a credit in the appropriate activity code or the applicable SOW section and be accompanied with a rationale for charging the fee. Revenues collected from these discretionary activities shall be used only to cover the cost of these activities, and shall not be used to supplement other MAC activities. If the MACs choose to make such reports available, the MACs shall describe on their Web site the mechanism by which a provider or provider association can request the report and state the associated fee.

3. CBRs for service-specific problems

When widespread problems are verified, MACs shall refer that information to their POE department for possible Web site posting. For example, data analysis may reveal that home health providers in a particular state bill three (3) times more of a particular code than do home health providers in other surrounding states. The MACs shall not charge a fee for posting these reports.

The MACs shall ensure that POE staff has ready access to copies of all MR provider notification and feedback letters so that they will have this information available in the event that a provider contacts POE requesting education. If the problem identified by MR is of medium or high priority, the MAC shall make a priority referral to POE, alerting POE staff to the degree of severity and educational need.

3.7.3 - Evaluating the Effectiveness of Corrective Actions

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

The MACs shall evaluate the effectiveness of their corrective actions on targeted providers or problem areas at least every three (3) months until there is evidence that the poor practice has been corrected. MACs shall establish a method to determine the disposition of educational referrals made to POE to ensure coordination of efforts and resolution of identified problems. MACs have the discretion to use the PTS to perform this function, but are not mandated to do so. MACs shall use the PTS to coordinate contacts with providers regarding MR activities. MACs shall also coordinate this information with the ZPICs to ensure contacts are not in conflict with fraud related activities.

3.7.3.1 - Evaluation of Prepayment Edits

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

The MACs shall develop prepayment edits based on the findings of data analysis, followed by identification and prioritization of identified problems. The MACs shall evaluate all service-specific and provider-specific prepayment edits as follows:

- Automated edits shall be evaluated annually, and
- Routine or complex review edits shall be evaluated quarterly.

The edit evaluations are to determine their effectiveness on the provider or service area while assessing the affect of the edit tasks on workload. The MACs shall consider an edit to be effective when it has a reasonable rate of denial relative to suspensions and a reasonable dollar return on cost of operation or potential to avoid significant risk to beneficiaries. The MACs shall revise or replace edits that are ineffective. Edits may be ineffective when payments or claims denied are very small in proportion to the volume of claims suspended for review. It is appropriate to leave edits in place if sufficient data are not available to evaluate effectiveness, for instance, a measurable impact is expected, or a quarter is too brief a time period to observe a change. The MACs shall analyze prepayment edits in conjunction with data analysis to confirm or re-establish priorities. The MACs should replace existing effective edits to address problems that are potentially more costly, if appropriate.

3.7.3.2 - Evaluating Effectiveness of Established Automated Edits (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

MACs shall consider the following factors when looking at edit effectiveness for established automated edits:

- Time and staffing needs for review and appeal reviews. MACs shall implement mechanisms (e.g., manual logs, automated tracking systems) to allow the appeals unit to communicate to the MR unit information such as when denial categories are causing the greatest impact on appeals, the outcome of the appeal, and
- MACs shall maintain and make available to the appropriate CMS staff documentation demonstrating that they consider appeals in their edit evaluation process; and specificity of edits in relation to identified problem(s).

The MACs should note that even an automated edit that results in no denials may be effective as long as the presence of the edit is not preventing the installation of other automated edits. The MAC shall provide the claims data necessary to the ZPIC to evaluate the effectiveness of edits implemented at ZPIC request. The MACs shall provide this report on a monthly basis by the 15th business day of each month. This requirement could also be met by the ZPICs retrieving claim data necessary directly from the EDC if available.

A. Edit Effectiveness for all Other Edits

The MACs shall consider the following factors when looking at edit effectiveness for all other edits:

- Time and staffing needs for review and appeal reviews. MACs shall implement mechanisms (e.g., manual logs, automated tracking systems) to allow the appeals unit to communicate to the MAC MR unit and the ZPIC just specific to ZPIC edits information such as which denial categories are causing the greatest impact on appeals, and the outcome of the appeal. MACs shall maintain and make available to CMS documentation demonstrating that appeal outcomes are considered in their edit evaluation process;
- Specificity of edits in relation to identified problem(s);
- Demonstrated change in provider behavior, i.e., the MAC can show a decrease in frequency of services per beneficiary, the decrease in the number of beneficiaries receiving the services, the service is no longer billed, or another valid measure can be used to reflect a change in provider behavior over time;
- Impact of educational or deterrent effect in relation to review costs; and
- The relative priorities or competing edits in terms of the number of claims/days/charges.

The MACs shall test each edit before implementation to verify that the edit accomplishes the objective of efficiently selecting claims for review and to determine the edit's impact on workload.

3.7.3.3 - Evaluation of Postpayment Review Effectiveness (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

The MACs shall determine if any other corrective actions are necessary such as:

- Uncovering potential fraud in the course of MR postpayment review activities. The MR unit shall refer these cases to the ZPIC. If it is believed that the overpayment resulted from potential fraud, a refund may not be requested from the provider until the potential fraud issue is resolved.
- Initiating provider or supplier specific edits to focus prepayment view on the problem provider or supplier or group of providers or suppliers, if appropriate ;
- Working with the CMS Central Office Division of Benefit Integrity Management Operations (DBIMO) Fraud and Abuse Suspensions and Sanctions (FASS) Team to suspend payment to the provider or group of providers;
- Referring provider certification issues to the State survey agency through CMS staff;

- Referring quality issues involving inpatient hospital services to the RO and QIO; and
- Coordinating with the QIO and MAC on interrelated billing problems

The MACs periodically perform a follow-up analysis of the provider(s) or supplier(s) for as long as necessary to determine if further corrective actions are required. In some cases, it may be feasible and timely to perform the follow-up analysis of the provider or supplier after the three (3) month time period. The MACs shall continue to monitor the provider(s) or supplier(s) until there is a referral to the ZPIC for potential fraud, evidence that the utilization or billing problem is corrected, or data analysis indicating resources would be better utilized elsewhere.

3.7.4 - Tracking Appeals

(Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs.

The MACs shall track and evaluate the results of appeals. It is not an efficient use of medical review resources to deny claims that are routinely reversed upon appeal. When such outcomes are identified, MACs shall take steps to understand why hearing or appeals officers viewed the case differently from them, and discuss appropriate changes in policy, procedure, outreach or review strategies with the regional office.

3.7.5 - Corrective Action Reporting Requirements

(Rev. 398, Issued: 11-04-11, Effective: 12-05-11, Implementation: 12-05-11)

A. General

This section applies to MACs and ACs.

The MACs shall submit their first reports for both corrective actions and overpayment recovery on March 1, 2011.

The CMS will provide information to the Contractors regarding CMS and OIG- identified vulnerabilities via Joint Signature Memoranda/Technical Direction Letters (JSM/TDLs). The JSM/TDLs will be sent to the MACs and ACs each quarter on or around January 1, April 1, July 1 and October 1.

B. Corrective Action Reporting on CMS and OIG Identified Vulnerabilities

The CMS will provide MACs and ACs with a list of errors/vulnerabilities on a quarterly basis. These errors/vulnerabilities may be uncovered by the CERT program, the Recovery Auditor program, OIG audits, through internal CMS analysis or other means. MACS and ACs shall review the list and provide detailed comments back to the CMS.

The detailed comments shall include any corrective actions 1) taken by the MACS and ACs 2) in progress by the MACS and ACs 3) planned by the MACS and ACs for future action, or 4) suggested by the MACS and ACs for CMS to undertake in the future. Detailed comments may also include any pertinent background or other information deemed important by the MACS and ACs.

MACS and ACs shall submit their response, including detailed comments to CMS on or before March 1, June 1, September 1, and December 1. If the due dates fall on a weekend or a federal holiday, the Contractor shall submit the report on the closest business day after the weekend or holiday. MACS and ACs shall submit the Corrective Action Reporting on CMS and OIG Identified Vulnerabilities spreadsheet in Excel via email to both the CMS contact indicated in the most recent JSM/TDL from CMS which includes the list of errors/vulnerabilities and their appropriate PSC/ZPIC. MACS and ACs shall use the format “Corrective Actions Taken on CMS and OIG-Identified Vulnerabilities Format” located in Exhibit 18 for reporting purposes. Contractors have the discretion to readjust the format for use in Excel but all fields shall be completed.

C. Overpayment Recovery Reporting

The CMS will provide the MACs with specific claims information from Office of the Inspector General (OIG) audits on a quarterly basis via JSM/TDLs. These specific claims have not been reviewed by the OIG and overpayments have not yet been identified. The MACs have the discretion to review these specific OIG-identified claims. The MACs shall report overpayment recoveries pertaining to the specific OIG-identified claims to the CMS on a quarterly basis. If the MAC does not plan on conducting review or cannot conduct review on the specific OIG-identified claims, the MAC shall indicate that no medical review will be conducted and shall also indicate the reason why no medical review and/or overpayment recovery will be conducted on the particular claims set. The reporting shall include the Medicare contractor number, the OIG audit number (e.g. A-01-08-00528, OEI-01-04-0060) and the cumulative amount collected on the overpayments resulting from the specific set of OIG-identified claims. The cumulative amount shall include appeals. The CMS will indicate the “final reporting date” in the reporting document when the recovery process has been completed for a specific set of OIG-identified claims. CMS will indicate when the report shall be closed. The MACs have the discretion to report on overpayments that have been referred or are uncollectable at this time resulting from the specific set of OIG-identified claims.

The MACs shall submit their response to CMS on or before March 1, June 1, September 1, and December 1. If the due dates fall on a weekend or a federal holiday, the MACs shall submit the report on the closest business day after the weekend or holiday. The MACs shall submit their response in Excel via email to the CMS contact indicated in the most recent JSM/TDL from CMS which includes the claim information and report number. The MACs shall use the format titled “Overpayment Recovery on OIG Claims Format” located in Exhibit 18 for reporting purposes. The MAC has the discretion to readjust the format for use in Excel. The MAC shall complete all fields in the format

except for the one optional column. The MACs have the discretion to complete the column titled “Overpayments referred or uncollectable (in dollars).”

3.8 - Administrative Relief from MR During a Disaster (Rev. 377, Issued: 05-27-11, Effective: 06-28-11, Implementation: 06-28-11)

This section applies to MACs and Recovery Auditors. ZPICs refer to the PIM chapter 4.

A. General

When a disaster occurs, whether natural or man-made, MACs and Recovery Auditors shall anticipate both an increased demand for emergency and other health care services, and a corresponding disruption to normal health care delivery systems and networks. In disaster situations, MACs should do whatever they can to ensure that all Medicare beneficiaries have access to the emergency or urgent care they need. MACs are encouraged to let providers know (via Web site, responses to provider calls, etc.) that the provider's first responsibility, as in any emergency, is to provide the needed emergency or urgent service or treatment. The MACs should assure providers they will work with providers to ensure that they receive payment for all covered services. The administrative flexibility available to MACs and Recovery Auditors is discussed below. These actions will prevent most inappropriate denials and subsequent appeals.

B. Definition of Disaster

A disaster is defined as any natural or man-made catastrophe (such as hurricane, tornado, earthquake, volcanic eruption, mudslide, snowstorm, tsunami, terrorist attack, bombing, fire, flood, or explosion) which causes damage of sufficient severity and magnitude to partially or completely destroy medical records and associated documentation that could be requested by the MACs and Recovery Auditors in the course of a Medicare audit, interrupt normal mail service (including US Postal delivery, overnight parcel delivery services, etc.), and/or otherwise significantly limit the provider's daily operations.

A disaster may be widespread and impact multiple structures (e.g., a regional flood) or isolated and impact a single site only (e.g., water main failure). The fact that a provider is located in a presidentially declared disaster area under the power of the Stafford Act is not sufficient in itself to justify administrative relief, as not all structures in the disaster area may have been subject to the same amount of damage. Damage must be of sufficient severity and extent to compromise retrieval of medical documentation.

C. Basis for Providing Administrative Relief

In the event of a disaster, MACs and Recovery Auditors shall grant temporary administrative relief to any affected providers for up to 6 months (or longer with good cause). Administrative relief is to be granted to providers on a case-by-case basis in accordance with the following guidelines:

- The MACs and Recovery Auditors shall make every effort to be responsive to providers who are victims of the disaster and whose medical documentation may be partially or completely destroyed.
- Providers must maintain and submit verification upon contractor request by the MAC or Recovery Auditor that (1) a disaster has occurred and (2) medical record loss resulted from this disaster to the point where administrative relief from medical review requirements is necessary to allow the provider sufficient time to retrieve copies of, or restore damaged, medical documentation.

Verification of the disaster and the resultant damage should include but is not limited to: (1) copies of claims filed by the provider with his/her insurance and liability company, (2) copies of police reports filed to report the damage, (3) copies of claims submitted to FEMA for financial assistance, (4) copies of tax reports filed to report the losses, or (5) photographs of damage. MACs and Recovery Auditors shall not routinely request providers to submit verification of damage or loss of medical record documentation.

D. Types of Relief

Providers Directly Affected By Disaster

The MACs and Recovery Auditors shall stop sending ADR letters to providers who have been directly affected for at least 60 calendar days. The MACs and Recovery Auditors shall allow up to an additional six months beyond the original due date for the submission of requested records. Requests for extensions beyond this date can be granted with good cause at the discretion of the MAC or Recovery Auditor.

In the case of complete destruction of medical records where no backup records exist, MACs and Recovery Auditors shall accept an attestation that no medical records exist and consider the services covered and correctly coded. In the case of partial destruction, MACs and Recovery Auditors should instruct providers to reconstruct the records as much as possible with whatever original records can be salvaged. Providers should note on the face sheet of the completely or partially reconstructed medical record: "This record was reconstructed because of disaster."

Providers Indirectly Affected By Disaster

For providers that are indirectly affected by a disaster (e.g., an interruption of mail service caused by a grounding of US commercial air flights), MACs and Recovery Auditors shall take the following actions:

For ADRs, extend the parameter that triggers denial for non-receipt of medical records from 45 calendar days to 90 calendar days. ADRs shall reflect that the response is due in 90 calendar days rather than 45 calendar days. This action will prevent most inappropriate denials and unnecessary increases in appeals workload.

If the MAC or Recovery Auditor receives the requested documentation after a denial has been issued but within a reasonable number of days beyond the denial date, the MAC or Recovery Auditor has the discretion to reopen the claim and make a medical review determination. Many reviewers follow a standard 15 calendar days although MACs and Recovery Auditors shall make these decisions on a case-by-case basis. The MACs and Recovery Auditors shall allocate the workload, costs and savings to the appropriate MR activity.

The MACs and Recovery Auditors shall review reopened claims retroactively to the date of the disaster. The MAC's data analyses shall take into consideration the expected increase in certain services in disaster areas.

E. Impact on MAC Performance Evaluations

During performance evaluations, CMS will consider a waiver to all MAC MR requirements, as necessary, to allow MACs the flexibility to handle issues that arise in the aftermath of a disaster. Examples of such waived requirements include workload targets and any other MR administrative rules. MACs shall retain documentation of how their MR operations were affected during the disaster and make it available to Performance Evaluation Teams and other CMS Staff, upon request.

Transmittals Issued for this Chapter

Rev #	Issue Date	Subject	Impl Date	CR#
<u>R422PI</u>	05/25/2012	Request Records Related to the Claim Being Reviewed	06/26/2012	7837
<u>R418PI</u>	04/20/2012	OMB Collection Number	05/21/2012	7750
<u>R399PI</u>	11/04/2011	Revision of PIM Chapter 3, Section 3.2.1 Setting Priorities and Targeting Reviews	12/05/2011	7622
<u>R398PI</u>	11/04/2011	Revision of PIM Chapter 3, Section 3.7.5, Part B, Corrective Action Reporting on CMS and OIG Identified Vulnerabilities Spreadsheet Submission Instructions	12/05/2011	7479
<u>R383PI</u>	08/26/2011	Update to Pub. 100-08, Medicare Program Integrity Manual-Chapter 3	09/26/2011	7536
<u>R377PI</u>	05/27/2011	Program Integrity Manual Reorganization of Chapters 3 and 8	06/28/2011	6560
<u>R367PI</u>	02/25/2011	Use of Claims History Information in Claim Payment Determination	03/25/2011	7305
<u>R366PI</u>	02/04/2011	Auto Denial of Claim Line(s) Items Submitted with a GZ Modifier	07/05/2011	7228
<u>R360PI</u>	12/10/2010	Corrective Action Reporting	01/12/2011	7241
<u>R343PI</u>	06/18/2010	Medical Review Resolutions in the Absence of a Plan of Care (POC) and the Outcome Assessment Information Set (OASIS)	07/19/2010	6982
<u>R338PI</u>	05/14/2010	Clinical Review Judgment (CRJ)	06/15/2010	6954
<u>R327PI</u>	03/16/2010	Signature Guidelines for Medical Review Purposes	04/16/2010	6698
<u>R303PI</u>	09/25/2009	Local Coverage Determinations (LCD) Exceptions - Rescinded	10/13/2009	6586
<u>R302PI</u>	09/11/2009	Local Coverage Determinations (LCD) Exceptions - Rescinded and replaced by Transmittal 303	10/13/2009	6586
<u>R282PI</u>	01/08/2009	Zone Program Integrity Contractor (ZPIC) Updates	01/26/2009	6170
<u>R278PI</u>	12/19/2008	Zone Program Integrity Contractor (ZPIC) Updates - Rescinded and replaced by Transmittal 282	01/26/2009	6170
<u>R264PI</u>	08/07/2008	Transition of Responsibility for Medical Review From Quality Improvement Organizations (QIOs)	08/15/2008	5849

Rev #	Issue Date	Subject	Impl Date	CR#
<u>R248PI</u>	03/28/2008	Signature Requirements Clarification	04/28/2008	5971
<u>R245PI</u>	02/29/2008	Processing Part B Therapy Claims While the Therapy Cap Exceptions Process is in Effect	03/31/2008	5945
<u>R220PI</u>	08/24/2007	Various Medical Review Clarifications	09/03/2007	5550
<u>R185PI</u>	01/26/2007	Updating Financial Reporting Requirements for Workload and Cost Associated With the Return of Demand Bills	02/26/2007	4378
<u>R184PI</u>	01/26/2007	Revisions for MACs and PSCs	02/26/2007	5399
<u>R181PI</u>	12/29/2006	Outpatient Therapy Cap Exceptions Process for Calendar Year (CY) 2007	01/29/2007	5478
<u>R179PI</u>	12/15/2006	Revised Medical Review Timeliness and Reopening Requirements for Medical Review	01/16/2007	5252
<u>R174PI</u>	11/17/2006	Transition of Medical Review Educational Activities	10/06/2006	5275
<u>R171PI</u>	11/09/2006	Outpatient Therapy Cap Clarifications	12/09/2006	5271
<u>R170PI</u>	11/03/2006	Transition of Medical Review Educational Activities – Replaced by Transmittal 174	10/06/2006	5275
<u>R167PI</u>	10/27/2006	New DMEPOS Certificates of Medical Necessity (CMNs) and DME Information Forms (DIFS) for Claims Processing	10/01/2006	4296
<u>R163PI</u>	09/29/2006	Transition of Medical Review Educational Activities – Replaced by Transmittal 170	10/06/2006	5275
<u>R159PI</u>	09/22/2006	New DMEPOS Certificates of Medical Necessity (CMNs) and DME Information Forms (DIFS) for Claims Processing - Replaced by Transmittal 167	10/02/2006	4296
<u>R149PI</u>	06/30/2006	Notification to Providers, Suppliers, and Beneficiaries of Postpayment Review Results	07/31/2006	5115
<u>R142PI</u>	03/02/2006	New DMEPOS Certificates of Medical Necessity (CMNs) and DME MAC Information Forms (DIFS) for Claims Processing – Replaced by Transmittal 159	10/02/2006	4296
<u>R140PI</u>	02/15/2006	Therapy Caps Exception Process	03/13/2006	4364
<u>R139PI</u>	02/13/2006	Therapy Caps Exception Process - Replaced by Transmittal 140	03/13/2006	4364
<u>R138PI</u>	02/10/2006	New DMEPOS Certificates of Medical Necessity (CMNs) and DME MAC Information Forms (DIFS) for Claims	10/03/2006	4296

Rev #	Issue Date	Subject	Impl Date	CR#
		Processing - Replaced by Transmittal 142		
<u>R135PI</u>	01/06/2006	Changes to the GTL Titles	02/06/2006	4228
<u>R131PI</u>	10/10/2005	Medical Review Matching of Electronic Claims and Additional Documentation in the Medical Review Process	02/10/2006	4052
<u>R125PI</u>	09/30/2005	Medical Review Additional Documentation Requests	12/30/2005	4022
<u>R123PI</u>	09/23/2005	MMA Section 935	10/24/2005	3703
<u>R122PI</u>	09/16/2005	Medical Review Collection Number Requirements	10/17/2005	4091
<u>R120PI</u>	08/25/2005	Correction to Change Request (CR) 3222: Local Medical Review Policy/ Local Coverage Determination Medicare Summary Notice (MSN) Message Revision	N/A	3880
<u>R118PI</u>	08/12/2005	Various Benefit Integrity (BI) Clarifications	09/12/2005	3896
<u>R114PI</u>	06/10/2005	Change in Statistical Sampling Instructions	05/31/2005	3734
<u>R108PI</u>	04/29/2005	Change in Statistical Sampling Instructions	05/31/2005	3734
<u>R100PI</u>	01/21/2005	Review of Documentation During Medical Review	02/22/2005	3644
<u>R098PI</u>	01/21/2005	Psychotherapy Notes	02/22/2005	3457
<u>R096PI</u>	01/14/2005	Consent Settlements	02/14/2005	3626
<u>R094PI</u>	01/14/2005	Informing Beneficiaries About Which Local Medical Review Policy (LMRP) and/or Local Coverage Determination (LCD) and/or National Coverage Determination (NCD) is Associated with Their Claim Denial	07/05/2005	3602
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		Medical Review Policy (LMRP) and/or Local Coverage Determination (LCD) and/or National Coverage Determination (NCD) is Associated with Their Claim Denial - Replaced by Transmittal 87		
<u>R084PI</u>	10/22/2004	Payment for Emergency Medical Treatment and Labor Act (EMTALA) - Mandated Screening and Stabilization Services - Replaced by Transmittal 86	11/22/2004	3437
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<u>R076PI</u>	05/28/2004	Clarification of Complex Medical Review	06/28/2004	3211
<u>R075PI</u>	05/14/2004	Informing Beneficiaries About Which Local Medical Review Policy (LMRP) and/or Local Coverage Determination (LCD) and/or National Coverage Determination (NCD) is Associated with Their Claim Denial	10/04/2004	3089
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<u>R066PI</u>	02/20/2004	Progressive Corrective Action Program Memorandum and Updated Instructions on How Contractors Must Identify, Verify, and Correct Billing Errors	04/02/2004	3124
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<u>R054PI</u>	10/31/2003	Denial Notices	04/05/2004	2936
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<u>R032PI</u>	10/25/2002	Consent Settlements, CMPs Delegated to CMS and Referrals to OIG	10/25/2002	2333
<u>R031PI</u>	10/25/2002	Revised Prepayment Edits	09/01/2002	1793
<u>R017PIM</u>	12/12/2001	Reorganizes chapter 3, sections 4, 5, and 6 and Removes reference to outdated MCM and MIM overpayment collection instructions and lists the more current CFR citations instead.	04/01/2002	1891
<u>R016PIM</u>	11/28/2001	Adds Various Program Memoranda for BI Requests for Information, Organizational Requirements, Unsolicited Voluntary Refund Checks, Anti-Kickback Statute Implications	11/28/2001	1732
<u>R013PIM</u>	09/26/2001	Administrative Relief from Medical Review and Benefit Integrity in Disaster Situations	09/26/2001	1879
<u>R003PIM</u>	11/22/2000	Complete Replacement of PIM Revision 1.	NA	1292
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