



Weekly Auditing and Compliance Tip

National Alliance of Medical Auditing Specialists | 877-418-5564 | namas.co | namas@namas.co

The PSAVE Pilot Program: Should You Self-Audit Your Medicare Claims?

At last estimate, the Medicare Administrative Contractors (MACs) processed an estimated 1.2 billion claims on behalf of America's seniors.[1] As the Medicare program has grown, the Centers for Medicare and Medicaid Services (CMS) has employed a variety of different claims audit mechanisms to better ensure that the Medicare Trust Fund is protected from waste, fraud and abuse. The Provider Self-Audit Validation and Extrapolation (PSAVE) pilot program is among the agency's most recent efforts to protect the integrity of the Medicare program.

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I. Providers and Suppliers Currently Subject to the PSAVE Pilot Program:

Last November, Noridian Healthcare Solutions LLC (Noridian), the MAC for Jurisdiction F, and CMS launched a pilot Medicare claims self-auditing program. Jurisdiction F is comprised of Alaska, Arizona, Idaho, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.[2] When announced, the program was touted as a way to provide long term educational benefits to Medicare providers, while also granting "immunity" from further audit of Medicare claims by both the provider's MAC and from the Recovery Auditor (RA) contractor assigned to the provider. Is your practice likely to receive an "invitation" to conduct a self-audit of its claims? Let examine the pilot program in more detail to find out.

II. Why Was Your Practice Invited to Participate in the PSAVE Pilot Program?

While Noridian claims that the PSAVE program is open to almost any Medicare Part B healthcare provider, invitations to participate were not sent out to all of the Medicare participating providers in Jurisdiction F. Instead, data analytics

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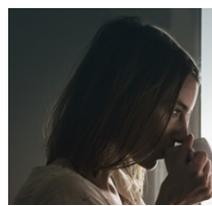
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were used to identify providers with abnormal billing or coding practices, based on the audit findings of Comprehensive Error Rate Testing (CERT) post-payment review data. Initially focusing on only a limited number of medical specialties, providers with irregular billing patterns were first chosen by Noridian to "test" the PSAVE pilot self-auditing program. Primarily relying on sophisticated data mining techniques, Noridian identified certain Part B providers with questionable billing practices and invited them to participate in the PSAVE pilot program.[3] If your practice was invited to participate in this pilot self-auditing program, this practice is an outlier and will likely be subjected to an audit, whether it chooses to participate in the PSAVE pilot program or not.

III. How Does the PSAVE Pilot Program Work?

At the outset, it is important to keep in mind that if your practice was invited to participate, your billing practices have been found to be aberrant by a CERT contractor. As an outlier, your practice's Medicare claims for reimbursement have been targeted for audit.

Potential participants were sent (or will be sent, as the program expands) a notification letter by Noridian which included a sample listing of claims that the MAC has identified for inclusion in your self-audit. In addition, Noridian's letter also specified the elements that it expected each provider to review in connection with the claims. Noridian's notification letter also included an "Appeals Waiver" form that it required participating providers to sign prior to being admitted into the pilot program.

IV. Benefits of Participation in the PSAVE Pilot Program:

Perhaps the greatest benefit of participation is the fact that you are in charge and you are directly involved in the claims audit process. As the audit progresses, you will be aware of any problems that may arise with your claims. In simplified terms, self-audits provide you with a significant degree of control over the process. Nevertheless, just because you may exercise a significant degree of control over the audit process does not mean that you will be able to control the outcome of the audit. As with other self-audit / self-reporting programs administered by CMS and the Office of Inspector General (OIG), a provider's voluntary participation in the PSAVE pilot program allows a provider to present its view of the claims in the best possible light while positioning itself as a "Good Corporate Citizen."

V. PSAVE Pilot Program Risk Issues:

While proponents of the PSAVE pilot program are quick to point out the educational value of participating in the program, a provider should exercise care before deciding to sign on to the program. For example, the Appeals Waiver signed can leave a provider vulnerable at the conclusion of the program, as there is no mechanism of contesting the overpayments that may be identified as owed by Noridian. To



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overpayments that may be reclaimed as owed by Noridian. To make matters worse, the validation review is a blind sample, meaning that the provider will not be fully aware of any potential claims errors until after the validation review has been completed by the MAC. In some cases, Noridian may be willing to permit a provider to submit additional documentation before the MAC concludes its review of the documentation. Since the right to file an administrative appeal of any Medicare overpayment has already been waived, a provider is assuming a significant risk when participating in this program.

Additionally, PSAVE representations extolling the benefits of immunity from subsequent MAC and RAC audits (limited to the specific claims or extrapolated claims set covered by the PSAVE audit) is somewhat misleading. The promised immunity from audit does not apply to Unified Program Integrity Contractor (UPIC) / Zone Program Integrity Contactor (ZPIC) audits, which are far more likely than MAC or RA audits for Medicare Part B providers. Moreover, neither CMS nor its contractors (such as Noridian) have the authority to waive liability on behalf of the OIG or the U.S. Department of Justice (DOJ).

VI. Risks Encountered When Opting-Out of the PSAVE Pilot Program:

Should you decide to decline Noridian's invitation to participate, you need to keep in mind that the likelihood of being subjected to a compulsory audit by Noridian, the UPIC / ZPIC or even OIG is quite high. Your practice's billing practices have already been identified as problematic. If targeted in a future non-PSAVE audit, you will lose the ability to conduct a self-audit and any identified overpayment may still be subjected to extrapolation. Nevertheless, should such an audit lead to unfavorable results, you will still retain the ability to avail yourself of Medicare's administrative appeal process. As we have found when appealing an alleged overpayment on behalf of a Part B provider, the ability of a Medicare contractor to correctly conduct a statistical extrapolation of an identified overpayment varies widely from contractor to contractor. When challenging an overpayment that has been assessed, we regularly challenge the statistical methodology and other errors made by the contractor when it calculated extrapolated damages estimates based on the sample of claims reviewed

VII. Conclusion:

How should you proceed? If your practice is invited to participate in the PSAVE pilot program, you need to carefully consider the risks of choosing to participate. The PSAVE pilot program is merely one of the most recent efforts by CMS to educate providers on their medical necessity, documentation, coding and billing obligations. Although the PSAVE pilot program may advance the agency's overall goal of reducing Medicare waste, fraud and abuse, there are other more effective, less invasive ways for your practice to integrate and encourage a culture of compliance in your organization.

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Conference: Monday, Nov. 12 -
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Adherence to the requirements set out in a well designed Compliance Program is perhaps a Part B provider's best approach to expedite and optimize the proper payment of claims, minimize billing mistakes, and reduce the chances that an audit will be deemed necessary by CMS or one of its program integrity contractors.

[1]<https://www.hhs.gov/sites/default/files/dab/medicare-appeals-backlog.pdf>

[2]<https://www.cms.gov/Medicare/Medicare-Contracting/Medicare-Administrative-Contractors/Who-are-the-MACs-A-B-MAC-Jurisdiction-F-JF.html>

[3]<https://www.csmonitor.com/USA/Society/2017/0530/How-data-crunching-is-cutting-down-on-massive-health-care-fraud>

This Week's Audit Tip Written By:

Robert Liles, JD, MBA, MS

Mr. Liles is the Managing Member of LilesParker, Attorneys & Counselors at Law



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(Hands On Webinar Series)
April 24, 2018
2pm EST
Speaker: Dr. Evan Gwilliam

Auditing Dermatology Records: Biopsy, Destruction & Removal
(Auditing Webinar Series)
May 1, 2018
2pm EST
Speaker: Kelley Larkins

Unbundling Modifiers: What You Need to Know
(What you Need to Know Webinar Series)
May 8, 2018
2pm EST
Speaker: Aimee Wilcox

Overpayments, Clawbacks, Identified Billing Errors & Voluntary Refunds
(Compliance Webinar Series)
May 15, 2018
2pm EST
Speaker: David Glaser, JD

Hands On: Orthopedic Surgery
(Hands on Webinar Series)
May 22, 2018
2pm EST
Speaker: Pam Vanderbilt

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