HME Audit Climate

Kelly Grahovac, General Manager, The van Halem Group

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CURRENT AUDIT CLIMATE

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DME MAC

Targeted Probe and Educate (TPE) Program

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DME MAC

Product Category/HCPCS	Product Category/HCPCS
Commodes (E0163, E0165)	Blood Glucose Test Strips (A4253)
Surgical Dressings (A6010, A6021, A6196-A6199, A6203, A6209-A6212, A6231-A6233, A6234-A6241, A6242-A6248, and A6251-A6256)	Ankle-Foot Orthoses (L1900-L1990, L 2000, L2005, L2010-2136, L4350-L4387, L4396-L4397 and L4631)
Urological Supplies (A4351 – A4353, A4355, A4316)	Continuous Airway Positive Pressure (CPAP) (E0601)
Oxygen and Oxygen Equipment (E0424, E0439, E1390, E1391)	Knee Orthoses (L1832-L1833, L1843-L1845, L1851, L1852, L2397)
Therapeutic Shoes for Diabetics (A5500, A5512, A5513)	Immunosuppressive Drugs (J7503, J7507, J7518, J7520, J7527)
Lumbar Sacral Orthosis (L0650)	Manual Wheelchairs (K0001-K0004)
Surgical Dressings – GW Modifier (A4452, A6213, A6219, A6222, A6446)	Urological Supplies – GW Modifier (A4316, A4351-A4353, A4355)
Enteral Nutrition (B4035)	Hospital Beds (E0260, E0261, E0303)
Nebulizers (J7605, J7606, J7613, J7620, J7626)	Spinal Orthoses (L0450-L0651)

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TPE Results – Jurisdiction B

- 10-Claim Preview – 8.5% compliance
- Round 1 – 38.4% compliance
- Round 2 – 36.5% compliance
- Round 3 – 34.7% compliance

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RAC

Recovery Audit Contractor

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RAC Approved Issues Process

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RAC - Complex

DMEPOS Under Complex Reviews	Date Posted
Wearable Automatic External Defibrillators	6/8/2023
Enteral Nutrition Therapy	12/6/2021
Parenteral Nutrition Therapy	12/6/2021
Immunosuppressive Drugs	12/1/2020
Continuous Glucose Monitor	9/8/2020
Hospital Beds	3/1/2020
Manual Wheelchairs	3/1/2020
Surgical Dressings	1/1/2020

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RAC - Automated

DMEPOS Under Automated Reviews	Date Posted
Hip Orthoses within the Reasonable Useful Lifetime: Excessive Units	9/15/2023
Medical Supplies Billed from Consolidated Billing List During a Home Health Episode: Unbundling	6/8/2023
Canes, Crutches, and Walkers within the Reasonable Useful Lifetime: Excessive Units	5/1/2023

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SMRC

Supplemental Medical Review Contractor

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SMRC

- Three types of SMRC Reviews
  - Provider Compliance Group
  - Program Integrity Group
  - Healthcare Fraud Prevention Partnership
- SMRC has only identified actual overpayments and not conducted extrapolations
- PCG audits are generally low impact
- PIG audits involve very large volumes of claims and can have a much bigger impact
- They are not as stringent as UPICs

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SMRC

DMEPOS Under Automated Reviews	DOS under review
Lumbar-Sacral Orthoses (L0631)	January 1, 2021, through December 31, 2022

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UPIC

Unified Program Integrity Contractor

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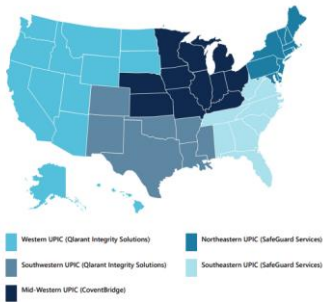
UPICs

- Qlarant Western and Southwest
  - Total Funding = $115,325,516
- CoventBridge Midwest
  - Total Funding = $155,389,846
- Safeguard Services Southeast and Northeast
  - Total Funding = $257,936,858



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UPICs

- Orthotic bracing
- Lower limb Prosthetics (LLPs)
- Ventilators
- Surgical dressings
- CGMs
- Complex Rehabilitation Technology (CRT)
- Oxygen
- Urological Supplies (prepayment)

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UPICs – Urinary Catheters

- National Association of ACOs (NAACOS) identified seven durable medical equipment companies that received over $2 billion in Medicare payments for urinary catheters
- From $153 million in 2021 $2.1 billion in 2023
- Over 450,000 Medicare beneficiaries affected

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OFFICE OF INSPECTOR GENERAL (OIG)

OIG Work Plan, Office of Audit Services and Office of Evaluations and Inspections

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OIG Work Plan

Project Description	Date Posted
Medicare Payments of PAP Devices for OSA Without Conducting a Prior Sleep Study	Revised – Expected Issue Date 2024
Noninvasive Home Ventilators – Compliance with Medicare Requirements	Completed (partial)

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OIG Audit – Hospice claims

- OIG Report, "Medicare Improperly Paid Suppliers an Estimated $117 Million Over 4 Years for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Provided to Hospice Beneficiaries"
- Audited two samples of claims (with/without GW modifier) – 200 claims total
- OIG found 121/200 claims were improperly paid
  - Suppliers were unaware that they had provided items to hospice patients
  - System edits were not effective or did not exist
  - Suppliers inappropriately used the GW modifier
- Expect audit activity of hospice claims to increase

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OIG Audit – PMD Repairs

- "Medicare Improperly Paid DME Suppliers an Estimated $8 Million of the $40 Million Paid for PMD Repairs"
- 100 sampled beneficiaries, 922 PMD repairs: 637 complied, 261 did not
  - Documentation did not support the charges for repairs, labor time was not documented, or charges were not reasonable and necessary
  - $41,137 in improper Medicare payments and $10,494 in associated beneficiary coinsurance payments.
- OIG also questioned charges for 183 repairs associated with 19 sampled beneficiaries citing documentation and services not being medically necessary.
  - $20,692 in questionable Medicare payments and $5,278 in associated beneficiary coinsurance payments.

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OIG Audits

- Another PAP audit is currently underway
- Likely a follow-up to the 2018 report that identified $631.3 million in overpayments after auditing just 100 claims
  - Resulted in significant issues for suppliers throughout the US
  - Led to six-year lookback audit
- This time, OIG has indicated that they are only reviewing to determine that a valid sleep study occurred.

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PROVIDER ENROLLMENT UPDATES

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From ONE to FIVE

National Supplier Clearinghouse (NSC)

- NPE East
- NPE West
- Palmetto GBA
- Deloitte Consulting
- C-HIT

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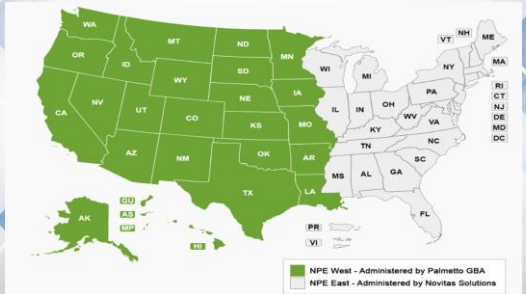
NPE Contractors



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Provider Enrollment Appeals and Rebuttals Contractor (PEARC)

- Effective October 9, 2023
- Provider Enrollment Appeals and Rebuttals Contractor (PEARC)
  - Chags Health Information Technology, LLC (C-HIT)
- Responsible for processing all provider enrollment related appeals, including:
  - Corrective Action Plan (CAP)
  - Reconsideration
  - Rebuttals

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Provider Enrollment Changes

- Effective January 1, 2024
- Changes to Medicare and Medicaid Provider and Supplier Enrollment
- CMS made updates/changes to several regulatory provisions regarding Medicare and Medicaid provider enrollment. These include, but are not limited to, the following:
  - Established several new and revised Medicare denial and revocation authorities
  - Creation of a new Medicare provider enrollment action labeled a "stay of enrollment"

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Revocation Authority

- 42 C.F.R. § 424.535(a) – Revocation of enrollment in the Medicare program
- CMS may revoke a currently enrolled provider or supplier's Medicare enrollment and any corresponding provider agreement or supplier agreement the reasons provided under § 424.535(a)(1) – (23)

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Noncompliance

- 42 C.F.R. §424.535(a)(1)
- The provider or supplier has violated an enrollment requirement listed on the application it/he/she uses for enrollment purposes (e.g., 855S)

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Noncompliance

- Violations most common under use of this authority:
  - Licensure
  - Insurance
  - Surety bond
  - Accreditation
  - Changes of information not reported timely (30 days)

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Supplier Standard Violation

- 42 C.F.R. §424.535(a)(23)
- The DMEPOS supplier is non-compliant with any provision in § 424.57(c) – DMEPOS Supplier Standards

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Why does that matter?

- Only revocations under 42 C.F.R. §424.535(a)(1) will be afforded CAP rights, all others require Reconsideration
- Reconsideration - An opportunity for a provider/supplier to furnish evidence that demonstrates that there was **an error made at the time of the initial determination** affecting participation in the Medicare Program

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CMS Clarifies Intent

- Revocation under §424.535(a)(23) reserved for:
  - Solicitation to beneficiaries (Supplier Standard 11)
  - Violation of DMEPOS Quality Standards (ie accreditation revoked)

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Stay of Enrollment

- A stay of enrollment (or "stay") is a preliminary, interim status representing a pause in enrollment.
- A CMS action that's less burdensome on providers and suppliers than a deactivation or revocation of your Medicare enrollment.
- Two-step process in which:
  - 1) the provider is non-compliant with at least one Medicare enrollment requirement that
  - 2) could be remedied by submitting the appropriate CMS Form, to include the 855 enrollment application or 588 EFT authorization agreement.
- Likely used for non-response to revalidation requests

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Stay of Enrollment

- You remain enrolled in Medicare during the stay
- Your MAC will reject claims you submit with dates of service within the stay period
- Your stay of enrollment lasts no longer than 60 days
- CMS can impose a stay of less than 60 days
- A stay ends on the earlier of the following dates:
  - The date on which we or your contractor decides you resume compliance with all Medicare enrollment requirements
  - The day after the imposed stay period expires

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Revalidation

- Suppliers are required to revalidate every three years
- CMS selects and establishes due dates by which providers and suppliers are required to revalidate
- Lookup tool (https://data.cms.gov/revalidation) for due dates
- The supplier will receive a revalidation letter prompting them to update information in PECOS
- Do not send in revalidation documentation until you are notified, or it will be rejected/returned

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FINAL THOUGHTS

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Audits – Looking Ahead

- Audit volumes will continue to increase
- CMS is concerned over CGM billing increases, but they just want to make sure that the beneficiaries are using the equipment as intended
- There is also a potential for a significant uptick in RAC audit volume in the coming months, due to end of PHE and resolution of ALJ Backlog

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Audit Strategy

- A provider without a compliance program is considered negligent and uncovered compliance issues could result in more severe penalties for providers without a compliance program
- Most important elements:
  - Education and Training
  - Internal Auditing
  - Risk Analysis
  - Policies and Procedures
- Licensing and credentialing is a component of compliance

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Connect with us!

The van Halem Group - A Division of VGM Group, Inc.

https://www.vanhalemgroup.com/blog

Kelly Grahovac and The van Halem Group

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