

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (CMS)
Transmittal 1640	Date: April 1, 2016
	Change Request 9534

SUBJECT: End Stage Renal Disease (ESRD) Cost Audits

I. SUMMARY OF CHANGES: Section 2991 of the Social Security Amendments of 1972 established the ESRD program under Medicare. The law extended Medicare coverage to individuals regardless of age who have permanent kidney failure, requiring dialysis or kidney transplantation to maintain life, and meet certain other eligibility criteria.

Section 217 (e) of The Protecting Access to Medicare Act of 2014 (PAMA) authorized CMS to conduct audits of Medicare ESRD cost reports, beginning during 2012, for a representative sample of providers to determine if the reported costs are supported by facilities' accounting records, reasonable and related to patient care, and to also assess the appropriateness of transactions with related organizations.

The CMS awarded the ESRD Cost Audit Contract to Figliozi & Company CPA PC (Figliozi) on September 16, 2015. This change request is to document CMS' expectations and requirements for the Medicare Administrative Contractors (MACs) and Figliozi in completing the ESRD cost reports selected for the cost audits.

EFFECTIVE DATE: September 16, 2015

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

IMPLEMENTATION DATE: May 2, 2016

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

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

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

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
N/A	N/A

III. FUNDING:

For Medicare Administrative Contractors (MACs):

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

regarding continued performance requirements.

IV. ATTACHMENTS:

One Time Notification

Attachment - One-Time Notification

Pub. 100-20	Transmittal: 1640	Date: April 1, 2016	Change Request: 9534
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SUBJECT: End Stage Renal Disease (ESRD) Cost Audits

EFFECTIVE DATE: September 16, 2015

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IMPLEMENTATION DATE: May 2, 2016

I. GENERAL INFORMATION

A. Background: Section 2991 of the Social Security Amendments of 1972 established the ESRD program under Medicare. The law extended Medicare coverage to individuals regardless of age who have permanent kidney failure, requiring dialysis or kidney transplantation to maintain life, and meet certain other eligibility criteria.

The enactment of the Omnibus Budget Reconciliation Act of 1981 resulted in changes to the ESRD payment system. Final regulations implementing a composite payment system was published on May 11, 1983. This composite payment system was relatively comprehensive; however, over time, a substantial portion of expenditures for renal dialysis services became excluded from the composite payment system and reimbursed in accordance with fee schedules or other payment methodologies.

Section 623 of The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 required significant revisions to the composite payment system; the final rule implementing these provisions, known as the “basic case-mix adjusted composite payment system,” was published on November 15, 2004. The Medicare Improvements for Patients and Providers Act of 2008 required the implementation of an ESRD bundled payment system (ESRD PPS), effective January 1, 2011. To improve the ESRD PPS, the Medicare Payment Advisory Committee recommended that the Congress direct the Secretary to include a measure that assesses poor outcomes related to anemia in the ESRD Quality Incentive Program, redesign the low-volume payment adjustment to consider a low-volume facility’s proximity to other dialysis facilities, and audit dialysis facilities’ cost report data.

Section 217 (e) of The Protecting Access to Medicare Act of 2014 (PAMA) authorized CMS to conduct audits of Medicare cost reports, beginning during 2012, for a representative sample of providers of services and renal dialysis facilities furnishing renal dialysis services, to determine if the costs are supported by facilities’ accounting records, reasonable and related to patient care, and to also assess the appropriateness of transactions with related organizations.

The CMS awarded the ESRD Cost Audit Contract to Figlioizzi & Company CPAs P.C (Figlioizzi) on September 16, 2015. This change request is to document CMS’ expectations and requirements between the Medicare Administrative Contractors (MACs) and Figlioizzi in completing the ESRD cost reports selected for the cost audits.

B. Policy: The CMS has selected a sample of 1,484 ESRD providers and home offices for cost Audits as mandated by the PAMA of 2014. This change request is to introduce the ESRD cost audit contractor, Figlioizzi to the Medicare Administrative Contractors (MACs), and to document CMS’ expectations and requirements for the MACs in the completion of these cost audits.

II. BUSINESS REQUIREMENTS TABLE

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

Number	Requirement	Responsibility								
		A/B MAC			D M E M A C	Shared- System Maintainers				Other
		A	B	H H H		F I S S	M C S	V M S	C W F	
9534.1	The Sampled ESRD Provider Listing (Attachment A) is a list of cost reports and cost statements selected for the ESRD cost audit.	X								
9534.2	The MACs shall issue a Notice of Reopening (NOR) within 45 days of issuance of this CR for any cost report included in Attachment A that has been issued a Notice of Program Reimbursement (NPR).	X								
9534.2.1	The MACs shall indicate on the reopening letter that the cost report has been selected for a cost audit as mandated by the Protecting Access to Medicare Act of 2014 (PAMA of 2014). The cost report indicated on Attachment A is being reopened to perform a cost audit.	X								
9534.2.2	The MACs shall indicate on the reopening letter that Figlioizzi will be conducting the cost audits.	X								
9534.2.3	The MACs shall attach an audit notification letter (Attachment B) to the reopening letter.	X								
9534.3	The MACs shall send the audit notification letter within 45 days of the issuance of this CR informing the provider or home office that it has been selected for a cost audit as mandated by the PAMA of 2014 for those cost reports/ cost statements listed on Attachment A that have not received a NPR or final settlement.	X								
9534.3.1	The MACs shall send the audit notification letter within 45 days of the issuance of this CR to a home office listed on Attachment A with a finalized open home office cost statement that it has been selected for a cost audit as mandated by the PAMA of 2014	X								
9534.3.2	The MACs shall indicate on the audit notification letter that the provider has been selected for a cost	X								

Number	Requirement	Responsibility								
		A/B MAC			D M E M A C	Shared- System Maintainers				Other
		A	B	H H H		F I S S	M C S	V M S	C W F	
	audit and that Figlioizzi will be conducting the cost audits.									
9534.4	The MACs shall coordinate with Figlioizzi on how the provider files necessary for the audit will be transferred to the ESRD cost audit contractor.	X								
9534.4.1	The MACs shall send the requested provider information to Figlioizzi within 10 business days of Figlioizzi’s request.	X								
9534.5	The CMS will provide Figlioizzi access to obtain summary Provider Statistical and Reimbursement Report (PS&R) report.								PS&R	
9534.6	Figlioizzi shall return each completed audit package to the MAC for final settlement. The MAC shall issue a NPR or a Revised NPR within 15 business days of receipt of the completed audit package from Figlioizzi.	X								
9534.7	The MACs shall enter into STAR the date the provider files are transferred to the ESRD cost audit contractor within 10 business days from the date the files are transferred.	X							STAR	
9534.7.1	The MACs shall enter in STAR the date the audit starts within 10 business days of receipt of the date from the ESRD cost audit contractor.	X							STAR	
9534.7.2	The MACs shall enter in STAR the audit complete date within 10 business days of receipt of the date from the ESRD cost audit contractor.	X							STAR	
9534.7.3	The MACs shall enter in STAR within 10 business days the date the completed audit packages are returned from the ESRD cost audit contractor.	X							STAR	
9534.8	The MACs shall review the draft Joint Operating Agreement (JOA) and propose changes the MACs	X								

Number	Requirement	Responsibility								
		A/B MAC			D M E M A C	Shared- System Maintainers				Other
		A	B	H H H		F I S S	M C S	V M S	C W F	
	deem necessary.									

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility				
		A/B MAC			D M E M A C	C E D I
		A	B	H H H		
	None					

IV. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements:

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:

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

V. CONTACTS

Pre-Implementation Contact(s): Owen Osaghae, 410-786-7550 or Owen.Osaghae@CMS.HHS.Gov

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

VI. FUNDING

Section A: For Medicare Administrative Contractors (MACs):

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

ATTACHMENTS: 3

JOINT OPERATING AGREEMENT

Between

Figliozi and Company, CPAs, PC

And

Insert Contractor Name

Medicare Administrative Contractor (MAC)
Jurisdiction X

Date

October XX, 2015

Version 1.0

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1.0 General/Administrative Issues

1.1 Purpose

This Joint Operating Agreement (JOA) is designed to promote cooperation between Figliozi and Company, CPAs PC (F&Co) and the MAC by establishing and maintaining shared expectations for the interaction among these Parties to the JOA.

F&Co is contracted with the Centers for Medicare and Medicaid Services (CMS) to perform audits for End Stage Renal Disease (ESRD) freestanding and hospital-based providers. F&Co will review ESRD cost reports, hospital cost reports, and home office cost statements to ensure that costs are reasonable and related to patient care, and supported with appropriate documentation.

Section 217(e) of the protecting access to Medicare act of 2014 authorized CMS to conduct audits of Medicare cost reports, beginning during 2012, for a representative sample of ESRD providers. These audits will be in addition to any work previously completed by the MAC, and will follow specific audit programs developed for this purpose. The audits will be conducted over a 3-year period, beginning in October 2015. CMS selected the specific cost reports and cost statements to be reviewed as part of this project.

1.2 Funding

Nothing in this JOA will obligate any party to perform any tasks that add significant cost and are outside the current scope of work. Any questions or concerns regarding funding and contract scope will be directed to the proper CMS staff.

1.3 CMS Oversight Structure

Refer to Appendix A – Master Contact List.

1.4 Dispute Resolution

The parties will attempt to resolve disputes via communication between the key personnel at F&Co and the MAC (Appendix A). If any issue cannot be resolved between the parties, the issue will be escalated to CMS, Division of Provider Audit Operations/Office of Financial Management, and additional communication may be needed with the Contract Officer for each contract.

1.5 ESRD Contractor/MAC Meetings

The ESRD Contractor/MAC Coordination Team will consist of F&Co and the MAC's Director of Provider Audit and Reimbursement, or delegated manager, and necessary staff. F&Co and the MAC will have a meeting/teleconference upon the start of the process, and may have subsequent meetings as needed throughout the contract, as requested by F&Co, the MAC, or CMS.

1.6 MAC's Role

The MAC will obtain from F&Co a list of cost reports that were selected by CMS for audit. MAC shall supply F&Co with all information required for F&Co to complete the audits. This information may include, but is not limited to, the as-filed cost report, final settled cost report (if NPR was already issued) and associated cost report adjustments, supporting documentation submitted by the provider with the cost report, MAC summary of audit work completed, and/or audit work papers, permanent file, Provider Statistical & Reimbursement (PS&R) reports, and other documentation as needed.

Upon completion of the audit, the MAC will obtain the resulting adjustments from F&Co and will issue a Notice of Program Reimbursement (NPR) or Revised NPR (RNPR), and handle all payment or overpayments using their normal processes. It should be noted that some adjustments may have no current reimbursement impact and may result in a zero dollar settlement at NPR or RNPR. All NPRs and RNPRs will need to be issued and the MAC shall not apply a reopening threshold amount for any RNPR, as the adjusted cost report is important for future rate-setting purposes.

MAC will work with F&Co throughout the audit process, as needed, to answer any questions on the cost report information and/or any previous audit work completed by the MAC.

1.7 ESRD Contractor's Role

F&Co will send each MAC a list of cost reports that have been selected for audit by CMS. F&Co will obtain the cost report information from the MAC and perform audits of freestanding and hospital-based ESRD providers, and home offices. The audits will be focused on specific costs and other items reported by the providers and the audits will follow audit programs that were developed specifically for this project.

F&Co will communicate with the providers to obtain information needed to complete the audit. F&Co will incorporate all proposed adjustments into the revised cost report/cost statement and will send the completed audit package, consisting of all adjustments and work papers, to the MAC to issue the Notice of Program Reimbursement (NPR) or Revised NPR.

F&Co will prepare all summary documents and reports for this project and will submit directly to CMS as required under the ESRD audit contract.

1.8 Misdirected Communication

If audit documentation is sent to the wrong party, the parties will ensure that it is subsequently directed to the proper location. Also, if the provider contacts the incorrect party, that party shall ensure that it directs the provider to the proper person (by using the contact information at Appendix A).

2.0 Audit Activities

2.1 Coordination of MAC and ESRD Contractor Audit Activities

F&Co will provide the MAC with a listing of the cost reports to be audited. The listing of providers will be obtained from CMS and will cover the 3-year audit contract. F&Co will establish a schedule for when the audits will be completed and also a schedule for when the audit documentation will be needed from the MAC.

The MAC will send the cost reports (including the ECR file) and all requested supporting documentation to F&Co within 10 business days of the request. If the MAC is unable to submit the requested workpapers to F&Co within 10 business days due to extenuating circumstance, it should contact Figlioizzi to work out an acceptable timeframe to submit the requested workpapers.

If a cost report requested has already been final settled by the MAC, the MAC will issue a reopening notice to inform the provider that the cost report has been selected for audit. Further reopening requirements will be issued by CMS to the MAC.

In the event F&Co determines that additional documentation or records are needed, the MAC will attempt to supply the information based on the requested due date.

F&Co will coordinate with CMS to obtain direct access to PS&R Summary Reports. Until that access is granted, or in the event that access is not obtained, F&Co will request the PS&R Summary Reports needed to complete the audit and prepare the audit adjustments. The MAC will generate the Summary Reports and send them to F&Co within 7 business days.

If a PS&R Detail Report is needed for a specific reason, F&Co will request it from the MAC.

2.2 Transfer of Files/Documents

F&Co has established a secure portal that can be utilized for transmission of information, which is the preferred method. However, if the MAC has a specific process that must be followed to send and receive cost report information, F&Co will attempt to comply with that process.

Can include specific MAC processes here

Both Parties shall ensure that they follow CMS' security policies and HIPPA requirements when transmitting and sharing data.

2.3 Notifications

The MAC will send a letter to the selected providers to inform them of the audit, and that it will be completed by F&Co. The letter will also state that the MAC will issue the NPR or RNPR that will result from the audit. F&Co will be copied on the letters. Formal instructions for the issuance of the letter will be issued by CMS.

All subsequent correspondence regarding the audit and required supporting documentation will be sent by F&Co.

2.4 Duplicate Review Risk Mitigation

If either party has any concern that the audit work may be duplicated as a result of this project, they will discuss the issue with the other party, and may bring it to CMS' attention, if needed.

3.0 Payments/Overpayments

All payments and overpayments resulting from the ESRD audits are the responsibility of the MAC. The MAC shall follow its normal payment and overpayment processes when finalizing the cost report.

The MAC shall not utilize a minimum dollar value as justification to reopen a cost report. For any cost report that is part of this project, all cost reports with adjustments will result in an NPR or RNPR, regardless of reimbursement impact.

Appendix A – Master Contact List

CENTERS FOR MEDICARE & MEDICAID SERVICES:

Name	Position	Telephone	Email
Owen Osaghae	Contract Officer Representative (COR) – ESRD Contract	410-786-7550	Owen.osaghae@cms.hhs.gov
Ben Moll	Alternate COR- ESRD Contract	410-786-4390	Benjamin.moll@cms.hhs.gov
Linda Uzzle	Director, Division of Provider Audit Operations	410-786-6589	Linda.uzzle@cms.hhs.gov

MAC:

Name	Position	Telephone	Email

ESRD CONTRACTOR:

Name	Position	Telephone	Email
Carl Zampetti	Partner, F&CO, Cost Report Audit Manager	516-745-6400, ext 305	czampetti@figliozi.com
Pete Figliozi	Managing Partner, F&Co, Program Director	516-745-6400, ext 302	pfigliozi@figliozi.com

Attachment B
MAC LETTERHEAD

[Date]

[Name]

[Provider Name]

[Address]

[Address]

RE: Notification of End Stage Renal Dialysis (ESRD) Audit

Provider Name: XXXX

Provider Number: XXXX

Fiscal Year End: XX-XX-XXXX

Dear Ms. Smith:

The Protecting Access to Medicare Act of 2014 required the Centers for Medicare & Medicaid Services (CMS) to conduct audits of End Stage Renal Dialysis (ESRD) Medicare cost reports with fiscal year ends beginning during 2012. This letter is to notify you that the CMS has awarded the ESRD cost audit contract to Figliozi & Company CPAs P.C. and that your cost report has been selected for a cost audit. This firm will be contacting you in the near future concerning an audit of your facility. Contact information for the firm is as follows:

Mr. Peter Figliozi, CPA, CFF, FCPA

Managing Partner

Figliozi & Company CPAs P.C.

100 Garden City Plaza

Suite 225

Garden City, NY 11530

Telephone: (516) 745-6400 x.302

Email: pfigliozi@figliozi.com

Carl Zampetti, CPA, CFF, FCPA

Partner

Figliozi & Company CPAs P.C.

100 Garden City Plaza

Suite 225

Garden City, NY 11530

Telephone: (516) 745-6400 x.305

Email: czampetti@figliozi.com

Figliozi & Co. CPAs P.C. is a representative of CMS for this audit. They will perform the audit in accordance with the audit procedures established by CMS. Name of MAC will continue to be responsible for issuance of the (Revised) Notice of Program Reimbursement.

If you have any questions concerning this arrangement, please contact [MAC Rep Name] at [Phone Number] or [Email].

Sincerely,

[Name]

Manager, Provider Audit and Reimbursement

cc: Peter Figliozi, Figliozi & Company CPAs P.C.

Owen Osaghae, Centers for Medicare & Medicaid Services

