

Medicare & Medicaid Recovery Audit Contractors

Summary of the Issue

While hospitals are one of the most highly regulated industries and there are already numerous government programs charged with ensuring Medicare and Medicaid payment accuracy, CMS recently implemented yet another government auditing program, the Recovery Audit Contractor (RAC) program for Medicare, and the *Patient Protection and Accountable Care Act of 2010* (ACA) expanded the RAC program to Medicaid. RACs are paid on a contingency fee basis.

A recent American Hospital Association survey of over 1800 hospitals revealed that **50% of hospitals experienced increased administrative costs as a result of the RAC program; many have been forced to hire additional staff just to respond to RAC and other government audits.** The survey also revealed that RACs are making mistakes. Due to a lack of appropriate training, RAC staff has misapplied basic Medicare payment rules and issued inappropriate medical necessity determinations. According to the survey, of the RAC appeals that completed Medicare appeals process during the fourth quarter of 2010, **85% of the RAC denials were overturned in the favor of the provider.** Unfortunately, forcing hospitals to resort to the appeals process to right the wrongs of the RACs only adds to the bill of the RAC program for the hospital. The average cost per appeal is \$2,000 and it takes an average of 18-24 months to complete the appeals process. Many hospitals choose not to bother with the appeals process as the cost of the appeals process outweighs the benefit of recouping the money originally lost by the RAC's determination.

Given the impact of the Medicare RAC program, hospitals are now bracing themselves for the implementation of the ACA requirement to establish a Medicaid RAC program in every state nationwide.

AHA's View

Hospitals strive for payment accuracy and are committed to working with CMS to ensure the accuracy of Medicare and Medicaid payments; however, the flood of new auditing programs has subjected hospitals to duplicative audits, unmanageable medical record requests and inappropriate payment denials. While the payment accuracy programs are well intentioned, there are too many of them. The programs should be streamlined and duplicative audits should be eliminated. Improvements must be made to reduce the administrative burden of the RAC program that is diverting resources away from patient care and contributing to growing health care costs.

Medicare RACs

Contingency fee contracting, lack of appropriate medical training among RAC staff and nebulous Medicare payment regulations is a recipe for aggressive and inappropriate RAC payment denials. RACs should target legitimate payment mistakes and should be prohibited from issuing medical necessity denials, which invalidate the medical judgment of a trained healthcare professional and force hospitals into the costly and complex Medicare appeals process. If medical necessity review is allowed to continue in the RAC program, CMS must be required to establish a process for re-billing denials at the alternative level of care or code determined by a RAC (e.g., Inpatient rebilled as Outpatient). Requirements for deductibles, co-pays, and benefits should be waived to prevent any new beneficiary liability.

In addition, CMS must take more steps to accomplish the goal of the RAC program—reducing improper payments. CMS should reinvest 7% of the RAC program recoveries into payment system fixes and provider education.

Furthermore, RACs must be required to comply with CMS program requirements. While we appreciate many of the restrictions CMS has placed on its contractors, many RACs have violated the policies without consequence. CMS should be required to implement RAC penalties for violation of program policies.

Medicaid RACs

States that already have Medicaid auditing programs should not be required to adopt a Medicaid RAC program, including states with Medicaid managed care organizations. In states where CMS requires implementation of a Medicaid RAC program, Congress should require CMS to adopt program restrictions that limit administrative burden, duplicative audits, and aggressive and inappropriate RAC audits.