



Quarterly Recovery Audit Contractor Policy and RAC *Trac* Results Update

March 22, 2016



RAC Legal Update

Lawrence Hughes, Associate General Counsel

Legal Update: AHA v. Burwell

Lawsuit's purpose: To compel HHS to meet congressionally mandated deadlines for deciding Medicare claims denials

- An ALJ has 90 days to decide an appeal

Feb. 9 Appeals court decision: Revives the lawsuit; reverses lower court's Dec. 2014 dismissal of the lawsuit brought by AHA, Hospitals

- (1) Says that the backlog of delays has gotten “worse, not better,”
- (2) Sends the case back to the lower court,
- (3) Specifically notes that, “in all likelihood,” the lower court should order the administration to comply with the appeals deadlines if HHS or Congress fails to make meaningful progress toward solving the problem within a reasonable period of time, and
- (4) Points to the close of the next appropriations cycle as the deadline for Congressional/agency resolution.





RAC Policy Update

Melissa Jackson, Senior Associate Director

2 MN Changes: AHA's Take

Keep the good

- Stays expected to cross at least two midnights are inpatient
- No changes to two-midnight presumption or benchmark



Fix the bad

- Stays less than two midnights may now be payable as inpatient “based on the clinical judgment of the admitting physician and medical record support for that determination”



Changes to Medical Review Strategy

- **Quality Improvement Organizations (QIOs), NOT RACs, now primarily responsible for patient status reviews**
- **QIOs may refer hospitals to RACs for further audits only if:**
 - ✓ High denial rates
 - ✓ Consistent failure to adhere to two-midnight rule
 - ✓ Failure to improve performance after QIO education
- **Number of RAC audits will be based on hospital's claim volume, denial rate**



Changes to Medical Review Strategy

- **QIOs have begun medical review for inpatient status under modified 2MN rule**
- **Process similar to MAC probe and educate**
- **Semiannual reviews: 25 claims for “large” hospitals, 10 claims for other hospitals; CAHs currently not included in claim selection/review**
- **Exclusions: Inpatient only procedures; already-reviewed claims; certain discharge disposition codes (AMA, death, transfer)**
- **QIOs to provide one-on-one education, with chance for discussion regarding individual claims**



New RAC Contracts – Update

- **Legal proceedings invalidated a portion of the initial proposed scope of work; CMS back to the drawing board**
- **In November issued new RFPs for the long-term RAC contracts. This process now seems to be on hold.**
- **Incumbent RACs operating under contract extensions; currently through July 31, 2016**



Medicare Appeals: OMHA Settlement Facilitation Conference



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Settlement Conference Facilitation Pilot

Medicare Part A Administrative Law Judge Appeals

Note: Information on the Settlement Conference Facilitation Pilot for Part B appeals can be accessed by clicking [here](#).

Settlement Conference Facilitation (SCF) is a pilot alternative dispute resolution process designed to bring the appellant and the Centers for Medicare & Medicaid Services (CMS) together to discuss the potential of a mutually agreeable resolution for claims appealed to the Administrative Law Judge (ALJ) hearing level of the Medicare claim appeals process. If a resolution is reached, a settlement document is drafted by the settlement conference facilitator to reflect the agreement. The document is signed by the appellant and CMS at the settlement conference session. As part of the agreement, the request(s) for an ALJ hearing for the claims covered by the settlement will be dismissed.

The settlement conference facilitator uses mediation principles to assist the appellant and CMS in working toward a mutually agreeable resolution. The facilitator does not make official determinations on the merits of the claims at issue and does not serve as a fact finder, but may help the appellant and CMS see the relative strengths and weaknesses of their positions. The settlement conference facilitator is an employee of the Office of Medicare Hearings and Appeals (OMHA), which is a component of the Health and Human Services Office of the Secretary, and is organizationally and functionally separate from CMS.

The first phase of this pilot began in June 2014. To date, Phase I of the pilot has successfully settled over 2,000 Medicare Part B ALJ appeals. In Fall 2015, OMHA initiated Phase II of the pilot and expanded the program to include most Part B provider/supplier appeals where the request for ALJ hearing was filed prior to October 1, 2015. OMHA is pleased to announce that it is continuing expansion with Phase III of the SCF Pilot to now include certain Part A appeals. Phase III opens on February 25, 2016.

All Medicare Part A providers who have ALJ appeals pending are encouraged to read the materials on this website to familiarize themselves with the eligibility requirements and request process for settlement conference facilitation.

The OMHA SCF Conference Facilitation pilot is different and separate from the CMS Part A Hospital Appeals Settlement option for resolving Part A inpatient admission denials that was announced August 29, 2014 and concluded in September 2015. Information on that CMS program can be accessed by clicking [here](#).

- Existing Part B pilot expanded to Part A providers 2/25/16
- More providers eligible
- Excludes hospital claims eligible for 2014 CMS settlement
- More details, plus application procedures/forms, available on [OMHA website](#)



American Hospital Association

AHA RAC and Audit Resources

AHA is Helping Hospitals Improve Payment Accuracy and Advocating for Needed Improvements to the Medicare RAC Program

- RAC Updates on latest RAC news and other RAC resources: www.aha.org/rac
- AHA RACTrac: www.aha.org/ractrac; www.aharactrac.com
- Email RAC-related Questions: racinfo@aha.org





RAC Trac Results, Q4 2015

Michael Ward, *Senior Associate Director*

Executive Summary

- 2,575 hospitals have participated in RAC TRAC since data collection began in January of 2010. 745 hospitals participated this quarter.
- 60% of reviewed claims in Q4 2015 were found to not have an overpayment.
- 40% of hospitals indicated, for automated denials, that outpatient coding error had the largest financial impact.
- 81% of hospitals received a complex denial based on inpatient coding in Q4 2015.
- Hospitals report appealing 49% of all RAC denials.
- 39% of hospitals report having a denial reversed in the discussion period.
- 48% of all hospitals reported spending more than \$10,000 managing the RAC process during the 4th quarter of 2015, 29% spent more than \$25,000 and 7% spent over \$100,000.
- ***Data submission for the Q1 2016 reporting period begins April 1.***

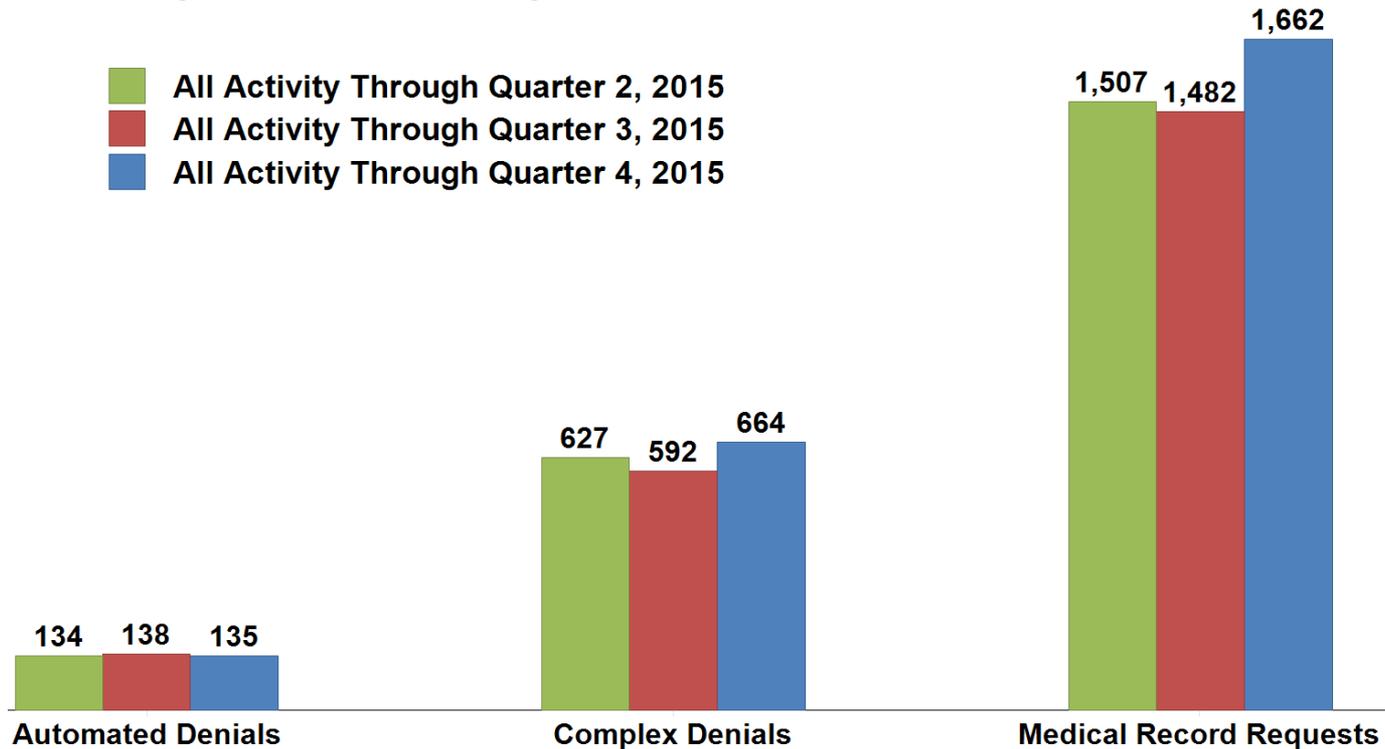




RAC Reviews

The average number of medical record requests per hospital increased significantly in Q4 2015.

Average Automated Denials, Complex Denials and Medical Records Requests Per Participating Hospital, through 4th Quarter 2015*



*Response rates vary by quarter.

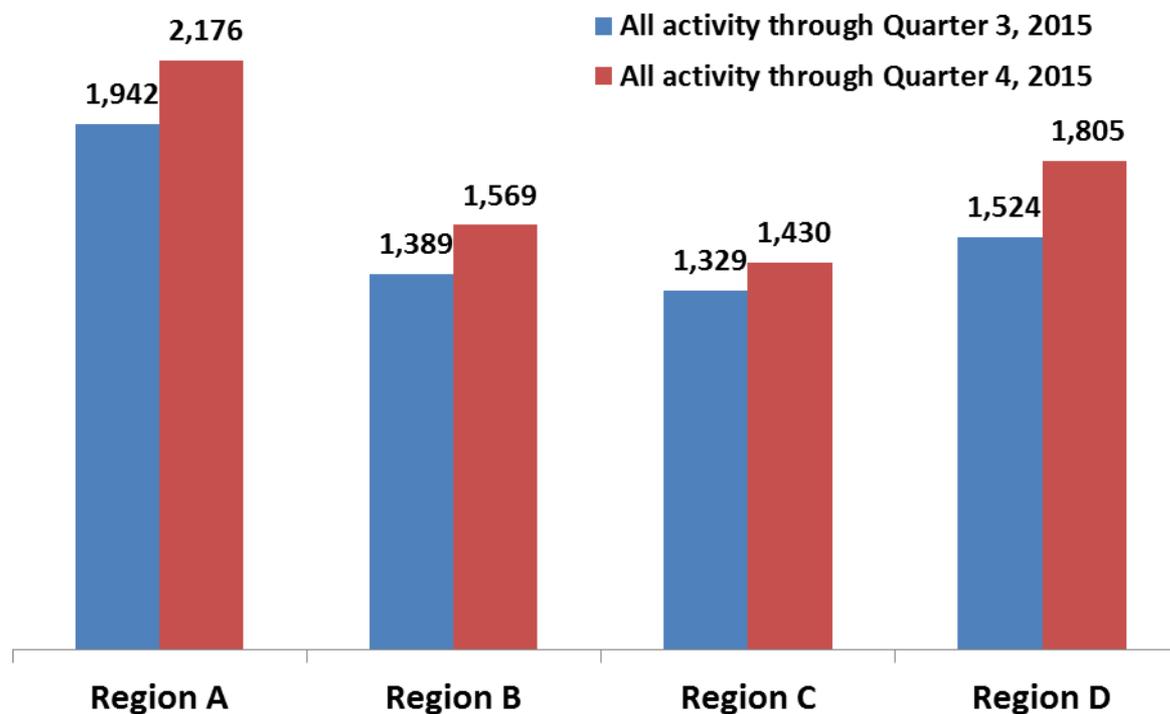
Source: AHA. (January 2016). RAC TRAC Survey

AHA analysis of survey data collected from 2,575 hospitals: 2,315 reporting activity, 260 reporting no activity through December 2015. 745 hospitals participated this quarter. Data were collected from general medical/surgical acute care hospitals (including critical access hospitals and cancer hospitals), long-term acute care hospitals, inpatient rehabilitation hospitals and inpatient psychiatric hospitals.



Region A has the highest average number of medical record requests per hospital.

Average Number of Medical Records Requested Per Participating Hospital With Complex Medical Record RAC Activity, through 4th Quarter 2015*



*Response rates vary by quarter.

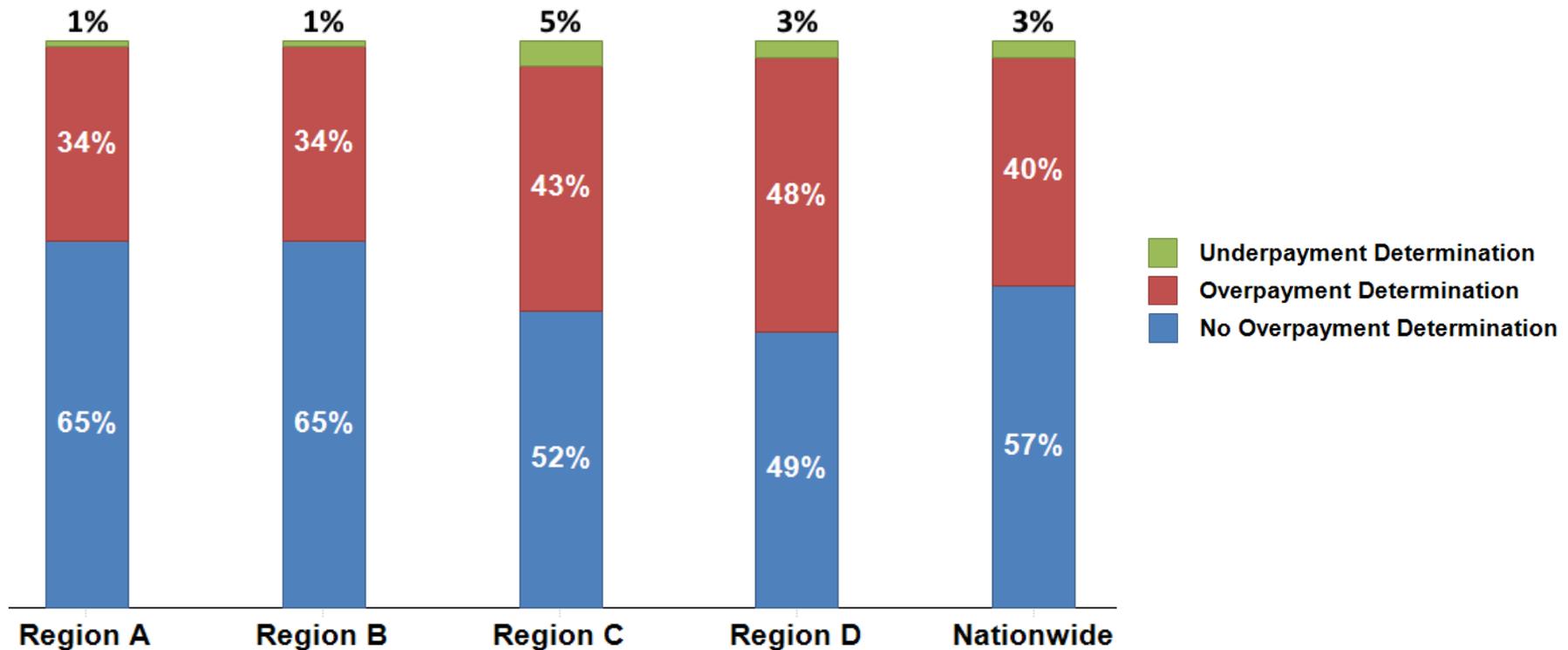
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60% of medical records reviewed by RACs did not contain an overpayment.

Percent of Completed Complex Reviews with and without Overpayment or Underpayment Determinations for Participating Hospitals, by Region, through 4th Quarter 2015



Source: AHA. (January 2016). RAC TRAC Survey

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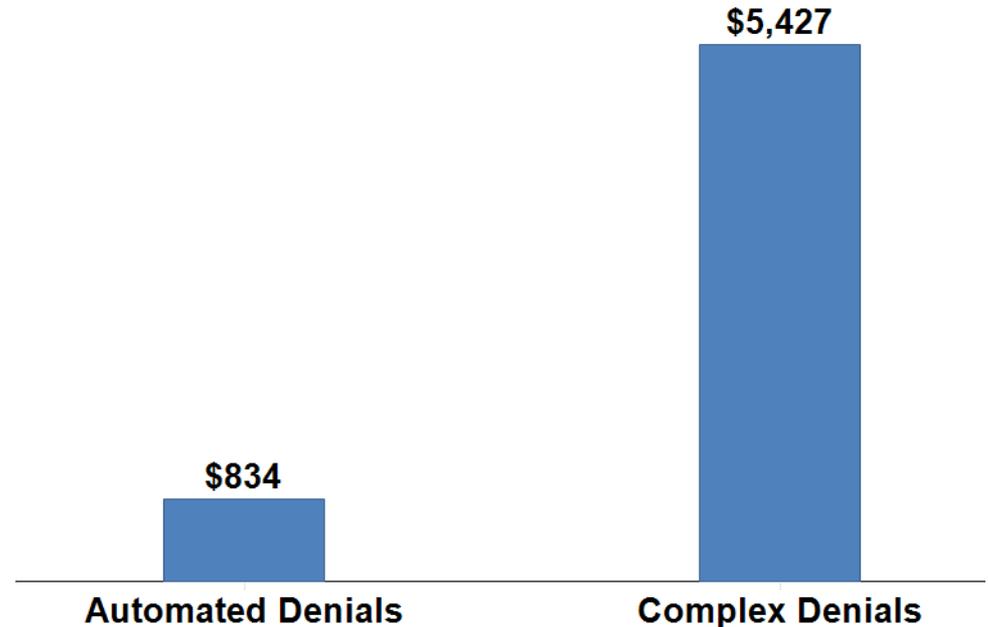


RAC Denials

The average dollar value of an automated denial was \$834 and the average dollar value of a complex denial was \$5,427.

Average Dollar Value of Automated and Complex Denials Among Hospitals Reporting RAC Denials, through 4th Quarter 2015

Average Dollar Amount of Automated and Complex Denials Among Reporting Hospitals, by Region		
RAC Region	Automated Denial	Complex Denial
NATIONWIDE	\$834	\$5,427
Region A	\$311	\$5,290
Region B	\$1,476	\$4,823
Region C	\$697	\$5,639
Region D	\$1,155	\$5,600



Source: AHA. (January 2016). RAC TRAC Survey

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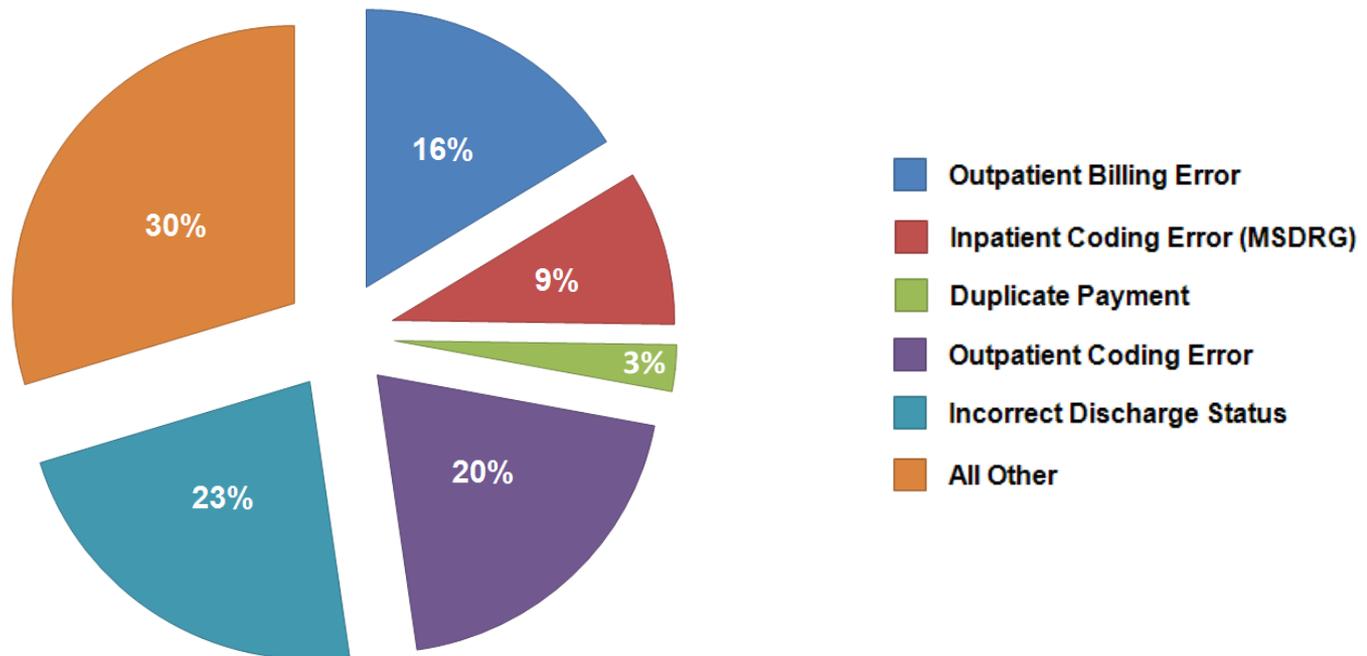


Automated RAC Denials

Hospitals report a diverse set of reasons for automated denials, by dollar impact.

Percent of Participating Hospitals by Top Reason for Automated Denials by Dollar Amount for Medical/Surgical Acute Hospitals with RAC Activity, 4th Quarter 2015

Survey participants were asked to rank denials by reason, according to dollar impact.



Source: AHA. (January 2016). RAC TRAC Survey

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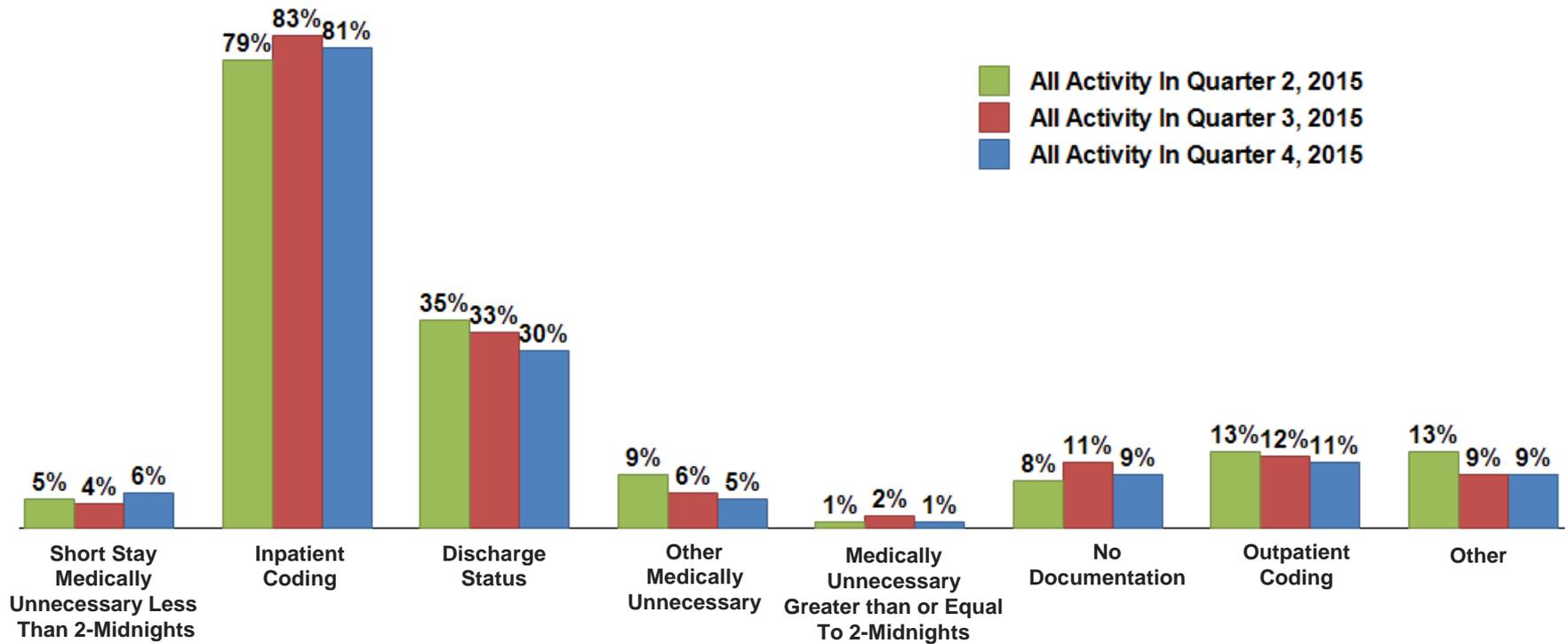


Complex RAC Denials

The most commonly cited reasons for a complex denial is inpatient coding error.

Percent of Participating Medical/Surgical Acute Hospitals with RAC Activity Experiencing Complex Denials by Reason, through 4th Quarter 2015

Survey participants were asked to select all reasons for denial.



Source: AHA. (January 2016). RAC TRAC Survey

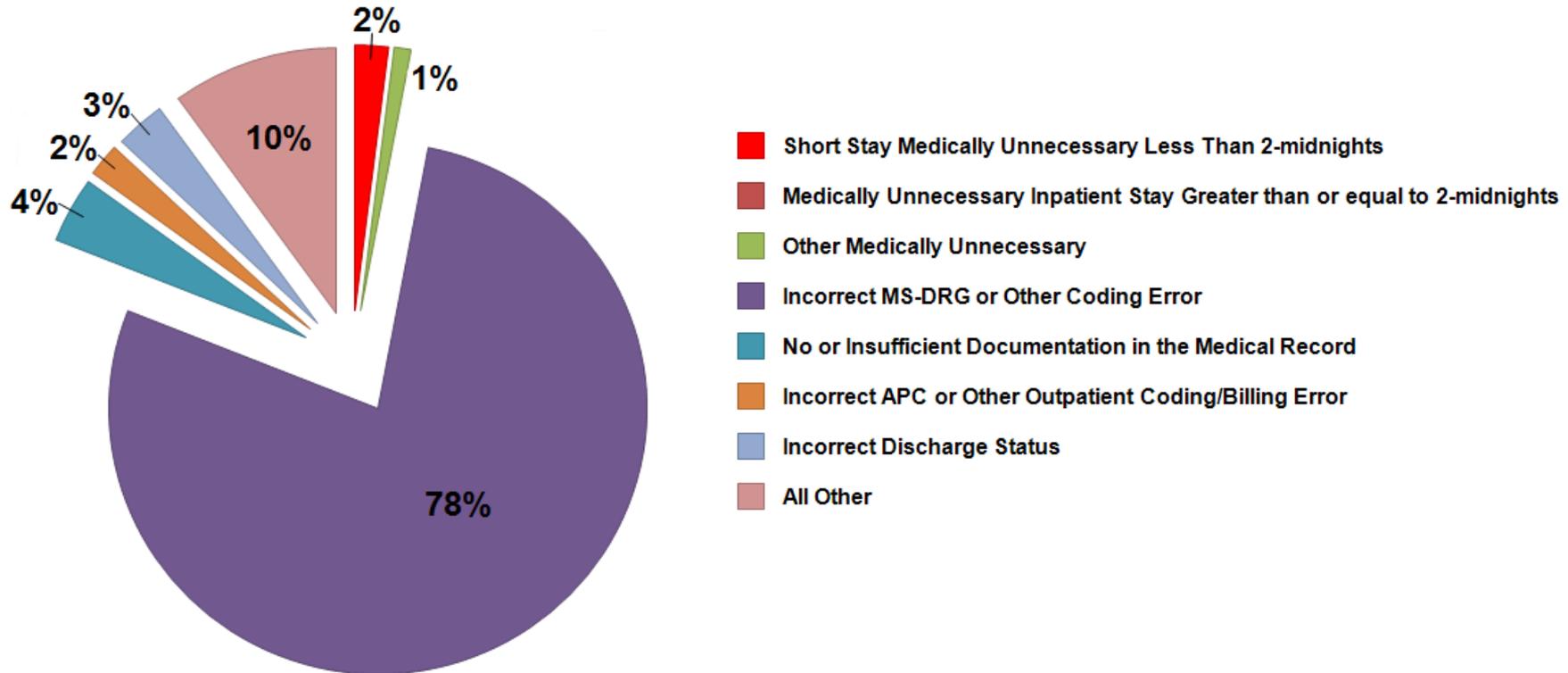
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Nationally, hospitals reported a high percentage of complex denials due to incorrect MS-DRG or other coding error.

Percent of Participating Hospitals by Top Reason for Complex Denials by Dollar Amount for Medical/Surgical Acute Hospitals with RAC Activity, 4th Quarter 2015

Survey participants were asked to rank denials by reason, according to dollar impact.



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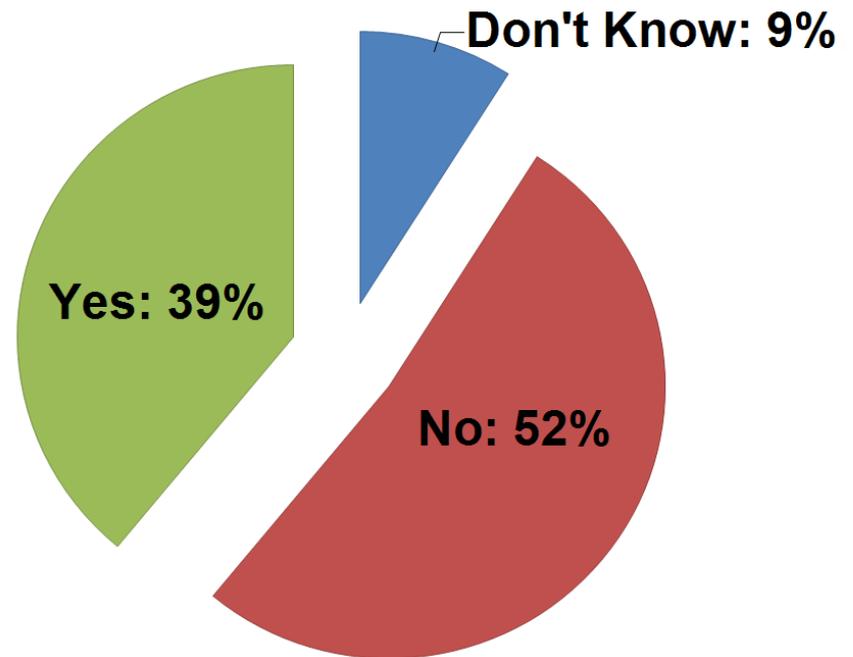
Appeals

39% of participating hospitals report having a denial reversed during the discussion period.

Percent of Participating Hospitals with Denials Reversed During the Discussion Period, National and by Region, 4th Quarter 2015

Reversed Denials by RAC Region

	Yes	No	Don't Know
Region A	44%	45%	11%
Region B	42%	54%	4%
Region C	34%	54%	12%
Region D	39%	51%	10%



*The discussion period is intended to be a tool that hospitals may use to reverse denials and avoid the formal Medicare appeals process. All RACs are required to allow a **discussion period** in which a hospital may share additional information and discuss the denial with the RAC. During the discussion period a hospital may gain more information from the RAC to better understand the cause for the denial and the RAC may receive additional information from the hospital that could potentially result in the RAC reversing its denial.*

Source: AHA. (January 2016). RAC TRAC Survey

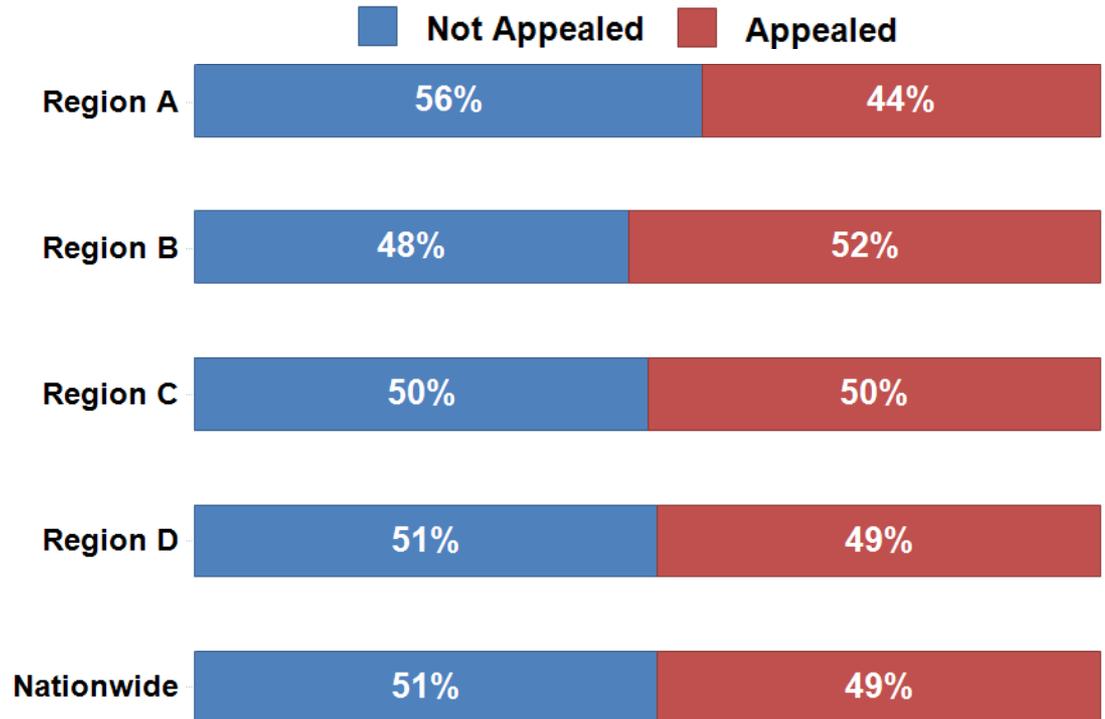
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Nationwide hospitals report appealing 49% of RAC denials including over half of all denials in Region B.

Total Number and Percent of Automated and Complex Denials Appealed by Hospitals with Automated or Complex RAC Denials, by Region, through 4th Quarter 2015

	Total Number of Denials Available* for Appeal	Total Number of Denials Appealed
Nationwide	479,376	235,216
Region A	83,709	37,085
Region B	81,346	42,481
Region C	198,701	98,548
Region D	115,620	57,102



* Available for appeal means that the hospital received a demand letter for this claim, as a result of either automated or complex review.

Source: AHA. (January 2016). RAC TRAC Survey

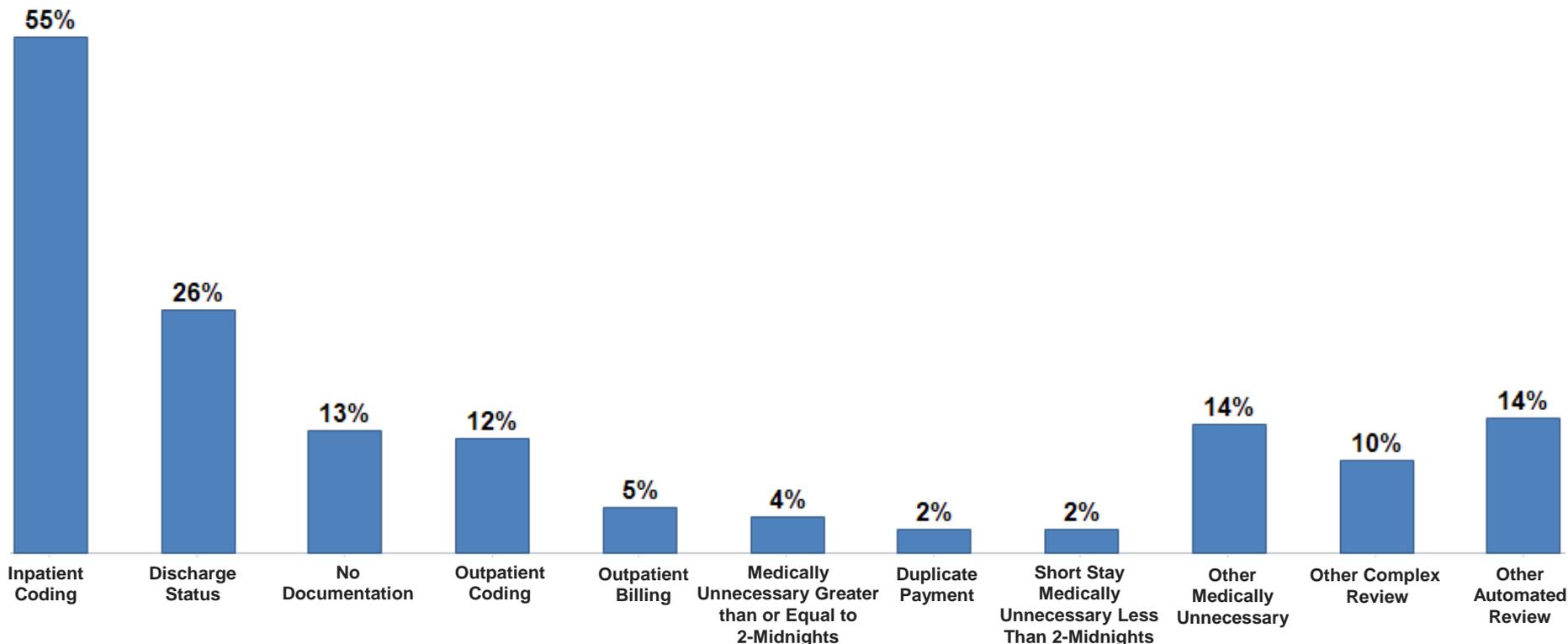
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55% of all hospitals filing an appeal of a RAC denial – to any level of the appeals system – during Q4 2015 reported appealing inpatient coding denials.

Percent of Participating Medical/Surgical Acute Hospitals Reporting RAC Appeals by Denial Reason, 4th Quarter 2015

Survey participants were asked to select all reasons for denial.



Source: AHA. (January 2016). RAC TRAC Survey

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For complex denials that are re-billed under Part B, hospitals report receiving 38% of the original Part A reimbursement.

Summary of Medical Necessity Level of Care Denials Re-billed Under Part B, through 4th Quarter, 2015

Region	Hospital Count	Total # Level of Care Denials Re-billed	Total Part A Denied Amount of Re-billed Claims	Total # Level of Care Denials Re-billed and Reimbursed under Part B	Average Part B Reimbursement	Average Part A Reimbursement	Average % of Part A Denied Amount Reimbursed Under Part B
Nationwide	120	12,398	\$81,166,378	10,875	\$2,153	\$5,684	38%
Region A	22	2,974	\$25,821,894	1,826	\$3,751	\$7,438	50%
Region B	28	1,844	\$9,535,235	1,130	\$1,271	\$5,123	25%
Region C	58	6,447	\$36,644,391	6,866	\$1,834	\$4,942	37%
Region D	12	1,133	\$9,164,856	1,053	\$2,406	\$8,085	30%

*Response rates vary by quarter.

Source: AHA. (November 2015). RAC TRAC Survey

AHA analysis of survey data collected from 2,568 hospitals: 2,306 reporting activity, 262 reporting no activity through September 2015. 604 hospitals participated this quarter. Data were collected from general medical/surgical acute care hospitals (including critical access hospitals and cancer hospitals), long-term acute care hospitals, inpatient rehabilitation hospitals and inpatient psychiatric hospitals.



Of the claims that have completed the appeals process, 65% were overturned in favor of the provider.

Summary of Appeal Rate and Determinations in Favor of the Provider, for Hospitals with Automated or Complex RAC Denials, through 4th Quarter 2015*

				Completed Appeals		
	Appealed	Percent of Denials Appealed	Number of Denials Awaiting Appeals Determination	Number of Denials Not Overturned from Appeals Process* (Withdrawn/Not Continued)	Number of Denials Overturned in the Appeals Process	Percent of Appealed Denials Overturned (as a Percent of Total Completed Appeals)
NATIONWIDE	214,133	48%	67,128	38,194	71,648	65%
Region A	25,782	39%	6,932	4,827	8,749	64%
Region B	35,562	50%	7,285	6,406	12,371	66%
Region C	96,486	50%	33,130	17,569	28,710	62%
Region D	56,303	49%	19,781	9,392	21,818	70%

* May include appeals withdrawn to re-bill.

*Response rates vary by quarter.

Source: AHA. (November 2015). RAC TRAC Survey

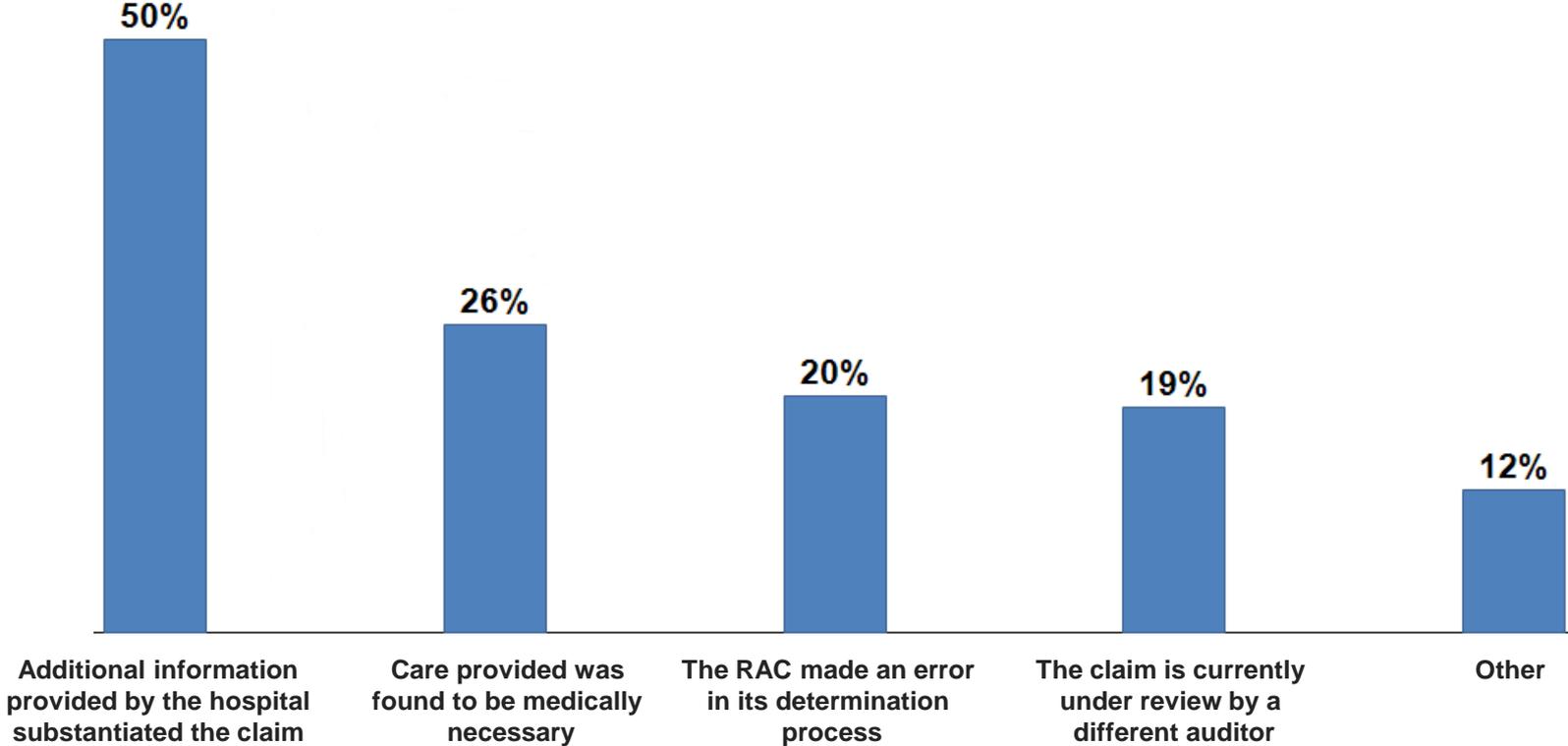
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50% of hospitals with a RAC denial overturned had a denial reversed when additional information was provided by the hospital to substantiate the original claim.

Percent of Participating Hospitals that Had a Denial Overturned by Reason, 4th Quarter 2015

Survey participants were asked to select all reasons for appeal overturn.



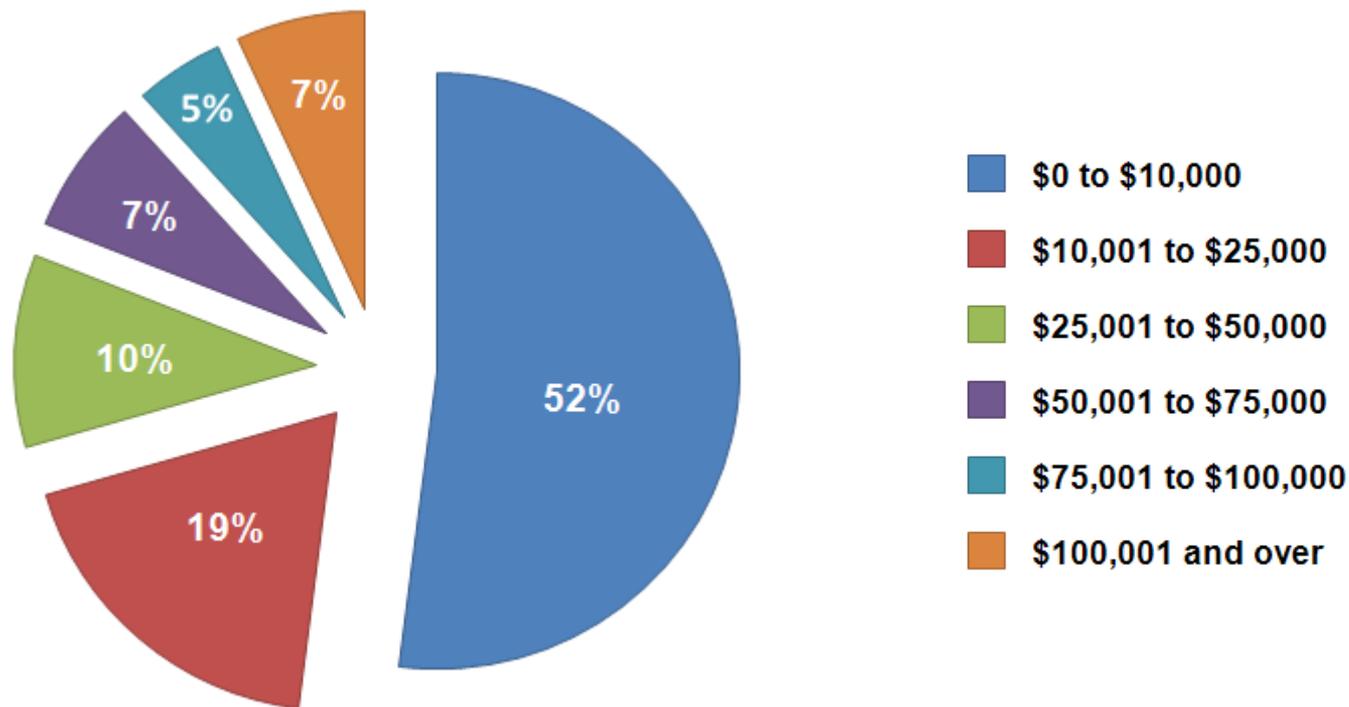
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Administrative Burden

48% of all hospitals reported spending more than \$10,000 managing the RAC process during the 4th quarter of 2015, 29% spent more than \$25,000 and 7% spent over \$100,000.

Percent of Participating Hospitals* Reporting Average Cost Dealing with the RAC Program, 4th Quarter 2015



* Includes participating hospitals with and without RAC activity

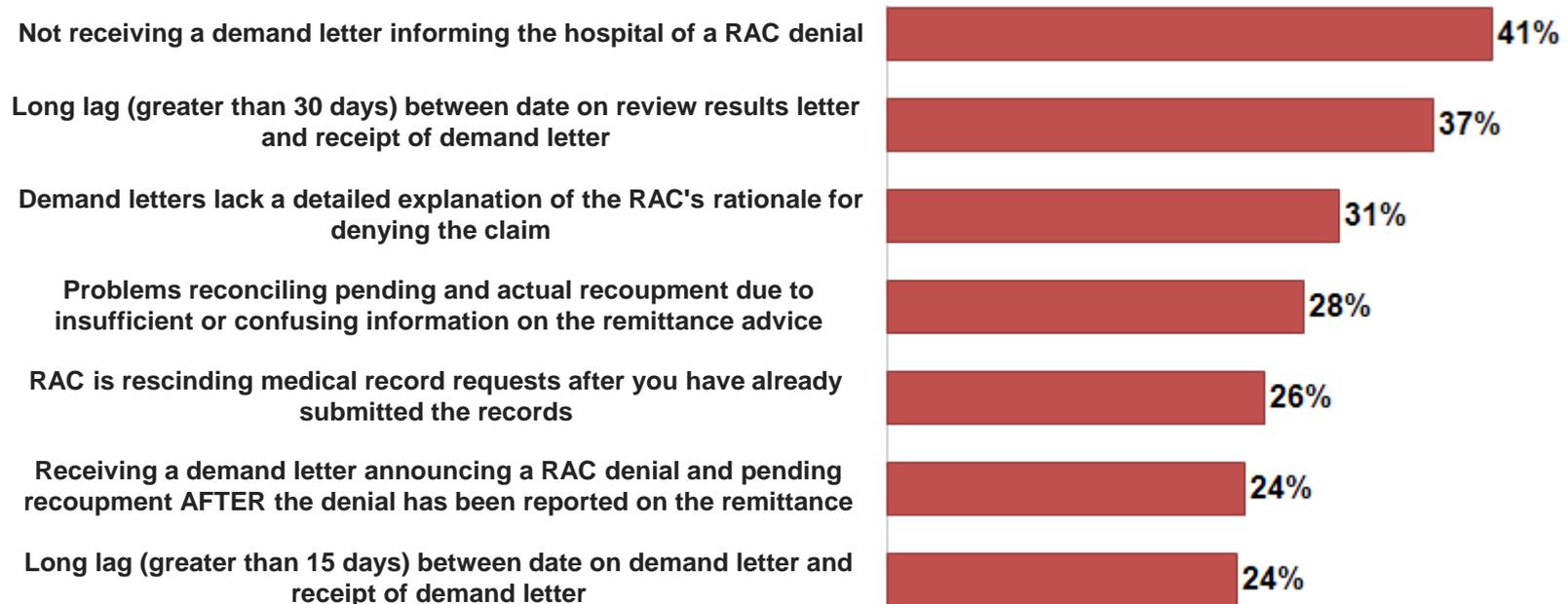
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Hospitals report widespread RAC process-related issues, including multiple problems with Medicare audit contractors (MACs) and the demand letter process.

Percent of Participating Hospitals Reporting RAC Process Issues, by Issue, 4th Quarter 2015



* Includes participating hospitals with and without RAC activity

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For more information visit AHA's RAC *TRAC* website:

<http://www.aha.org/ractrac>