

R U E 4 RACs? / (Are you ready for RACs?)

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Have you broken the code on the Medicare reimbursement process or does it seem confusing?

There is no confusion as to the federal government's intentions to address the growing cost of health care: aggressive audits and aggressive enforcement. The Recovery Audit Contractor (RAC) program is one way the federal government hopes to recover billions in Medicare overpayments. It is estimated that there are over \$10 billion in Medicare overpayments each year.

Providers should get ready now for greater scrutiny and audits of their Medicare claims to ensure they are proper. Otherwise, they may not be prepared to respond to RAC audits and they may receive demand letters for overpayments. Not being prepared can be very costly, time consuming and frustrating. There are things providers can do now to prepare for the RAC audit process and to better position themselves to benefit their practice.

First some background: The Medicare Modernization Act of 2003 directed the Centers for Medicare Medicaid Services (CMS), which administers the Medicare program, to conduct a three-year RAC demonstration program using private contractors to audit Medicare claims to identify improper payments (both under and overpayments). The program initially started in California, Florida, and New York, with additional states – Massachusetts, South Carolina, and Arizona – added in 2007. RACs were compensated based upon the amount of overpayments they identified, receiving approximately \$187 million during the three-year project. As of March 2008, the RACs identified over \$1 billion in improper payments, 96% of which were overpayments.

RAC audits will be permanent nationwide: CMS was directed under the Tax Relief and Health Care Act of 2006 to implement the RAC program nationwide. CMS divided the country into four RAC regions, assigning a RAC contractor to each region to begin conducting provider audits in every state by January of 2010. Under the nationwide program, RACs will be compensated on a contingency basis according to the amount of overpayments identified and will also receive a percentage payment for the amount of underpayments identified.

How RACs detect overpayments: CMS pre-approves the issues for RAC audit review. RACs may review claims up to three years from the date of payment, except that claims prior to October 1, 2007 are not subject to audit. RACs use two types of reviews to identify overpayments: automated and complex. Automated reviews allow RACs to identify improper payments in claims without having to contact the provider. The RACs use proprietary techniques such as statistical sampling, data mining, and computerized programs to identify payments that are clearly improper, for example duplicate payments. A complex review requires contact with the provider to obtain medical

records for audit to determine whether the services provided were medically necessary and properly paid.

The RAC demonstration program identified the most common reasons for overpayments:

- Medical necessity for the services provided being unsupported by documentation and records;
- Services being incorrectly coded;
- Documentation not being timely submitted when requested by the RACs;
- Insufficient documentation being submitted;
- Claims being based on outdated fee schedules; and
- Duplicate claims submissions.

Providers should take action now: Here are some things providers can do now to prepare for the RAC audits:

1. Implement an effective program to identify, correct, and reduce overpayments. It is important that the provider have a strong program and commitment in place to ensure for compliance. A successful program will keep track of previous errors and develop a plan for reducing them in the future. It will also include education of health care providers and support staff.
2. Assign someone on the provider staff the responsibility to be their RAC point of contact (POC) to handle RAC requests and ensure that documents are timely provided. The American Academy of Professional Coders recommends a POC or point person be designated to handle RAC audits. The provider's RAC POC needs to know how the RAC program works, the deadlines involved, and their responsibilities on behalf of the provider. Failure to provide the records to the RAC within 45 days could result in the payment as being denied. The provider's RAC POC should ensure the RAC has their contact information so that they receive timely notice of such requests. They should also keep track of the claims and issues the RAC is auditing and ensure the provider's staff know this information and that it is incorporated in to the provider's compliance program.
3. Ensure that health care providers provide thorough documentation of the medical necessity for the care provided. It is important that the documentation "tell the story" vice providing conclusory statements that the care was medically necessary.

4. Conduct an independent pre-audit now to identify overpayments, ensure documentation is complete, and take corrective action where necessary. This will help prevent recurring problems with future claims and ensure claims are substantiated prior to an audit, providing time and cost-savings to providers.
5. Immediately review RAC demand letters for reimbursement to determine whether the claim is legitimate or should be recouped as an overpayment. Providers should immediately consult with counsel as to their options. Providers may make a rebuttal to the RAC or file an appeal through the Medicare appeals process. A rebuttal with the RAC does not toll the deadlines for filing of an appeal. It is important that legal counsel is retained early for this process, that deadlines are timely met, and that all required supporting documentation and information is submitted.

What RAC is conducting audits of providers in your state? CMS has assigned the following Regions and RACs for the states indicated:

Region A (Massachusetts, Maine, New Hampshire, New York, Rhode Island, Vermont, Connecticut, Delaware, D.C, Maryland, New Jersey, and Pennsylvania) – **Diversified Collection Services, Inc.**, website: www.dcsrac.com

Region B (Indiana, Michigan, Minnesota, Illinois, Kentucky, Ohio, Wisconsin) – **CGI Technologies and Solutions, Inc.**, website: <http://racb.cgi.com/>

Region C (Florida, Colorado, New Mexico, South Carolina, Alabama, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, Tennessee, Texas, Virginia, and West Virginia) - **Connolly Consulting Associates, Inc.**, website: www.connollyhealthcare.com/RAC

Region D (California, Arizona, Montana, North Dakota, South Dakota, Utah, Wyoming, Arkansas, Alaska, Hawaii, Idaho, Iowa, Kansas, Missouri, Nebraska, Nevada, Oregon, and Washington) – **HealthDataInsights, Inc.**, website (to become operational in the future): www.healthdatainsights.com/RAC

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