

Part B Insider (Multispecialty) Coding Alert

RECOVERY AUDIT CONTRACTORS: Your E/M Visit Levels Are Safe From RAC Scrutiny

And physicians aren't the contractors' main target for now

Good news: Medicare's new "bounty hunters" may not have your name on their hit list.

The Recovery Audit Contractors (RACs) have aroused apprehension because their payment comes in the form of a proportion of the funds they recoup from providers. But at an April 28 special Open Door Forum on the RACs, the **Centers for Medicare and Medicaid Services** revealed that:

1. The RACs have chosen to focus on hospital inpatient claims for now. The contractors have the discretion to zero in on whatever area of Medicare they feel will be most fruitful.

Former CMS Administrator **Tom Scully**, calling into the forum, said he expected the RACs to focus on physician claims because these account for a high proportion of all Medicare claims. But CMS officials said the contractors are more interested in hospital claims, and there's no requirement for them to look at physician claims. "They are using their experience in public and private sector to identify where there are common errors."

2. The RACs will not audit evaluation and management code levels. But they may look at E/M visits to ascertain whether they should have been bundled with a surgical procedure, or whether they were medically necessary.

Also, the RACs won't be looking for fraud and abuse, only incorrect coding. And they won't be performing pre-payment audits, only post-payment ones. You shouldn't hear from the RACs about a claim that the carriers or other contractors have already examined. In addition the RACs should follow all Medicare rules, including the National Correct Coding Initiative and all Medicare appeals procedures.

The RACs are operating in New York, Florida and California for the next three years as a demonstration project. CMS said that physician claims will be chosen on the basis of where their carrier is located. In other words, if you practice in Florida but your carrier is based in Alabama, you're safe for now.

RAC Letters May Slip Through The Cracks

Given the high non-response rate to the Comprehensive Error Rate Testing contractor, many providers are worried that they'll accidentally miss a letter from the RACs and then be hit with an overpayment, said **Jean Acevedo** with **Acevedo Consulting** in Delray Beach, FL. CMS said the RAC letters will look like carrier audit letters, and the RACs may go the extra mile to contact people.

CMS hopes the RACs will do a better job than the CERT contractor of obtaining the most accurate contact information for providers. But it may also be worthwhile to notify the RACs in advance of a particular staff member or address that they should send correspondence to, CMS noted. That way, the RAC letters won't get lost in the shuffle.

Physicians are frightened and overwhelmed by the prospect of another set of contractors looking over their claims, Acevedo reported in the forum. "I can't tell you how many very fine physicians are thinking of going [non-participating] or opting out. This is like the last straw," she said.

One physician calling into the forum questioned how much medical expertise the RAC staff would have in coping with

tricky questions such as surgical global periods and medical necessity. **Melanie Combs** with CMS responded that the RACs will mostly have nurses reviewing claims.

Another cause for concern: The RACs will be using their own proprietary software that physicians fear is designed to limit their payments, not impose correct coding. But CMS officials insisted the software will be tailored to Medicare's rules.

If the RAC decides all or part of your claim payment was an overpayment, it will issue you an overpayment demand letter directly. Previously, CMS had said the overpayment demand would go through a provider's usual intermediary or carrier.

Providers and reps also worried that CMS isn't getting the word out on who the RACs are, so providers won't send in their medical records as required.

CMS is using only Internet-based vehicles such as Medlearn Matters articles to advertise the RACs' identities and purpose, they complained. Many medical professionals don't use the Internet as part of their daily practice.

Editor's Note: Information presented in the forum is at www.cms.hhs.gov/opendoor/042005/rac_fac.pdf. [Providers can email RAC questions to recovery_auditdemo@cms.hhs.gov.](mailto:recovery_auditdemo@cms.hhs.gov)