

Eli's Rehab Report

Know the Facts: Find Out What RACs Are Before They Nail Your Facility

California IRFs get hit hard by these entities -- will CMS step up?

If you think your payers and regulatory bodies like the OIG have maxed out on how hard they can come down on your claims, there's more -- and they're called RACs. Recovery audit contractors, which receive a bonus every time they recoup your Medicare payments, will soon be spreading nationwide.

Background: The Medicare Modernization Act of 2003 mandated that CMS establish a RAC program that finds and recovers Medicare overpayments. RACs may review any provider and are now undergoing a demonstration project in California, Florida and New York. Section 302 of the Tax Relief and Health Care Act of 2006 makes the RAC program permanent and requires that the program expand to all 50 states by 2010, according to the CMS Web site.

The agency isn't wasting any time, with plans of soliciting bids for four RACs by the spring of 2008 that match the DME MAC jurisdictions.

Hear what the experts have to say about some unexpected turns in the RAC program -- and how you can prepare for the audits if you haven't seen them already.

California IRFs Have 4 Major Bones to Pick With RACs

No one likes audits, but inpatient rehab facilities in California couldn't have been blasted harder by the sheer mass of denials its RAC, PRG-Schultz, has been administering since it began targeting IRF orthopedic cases in May 2005. And now the RAC has its eye on stroke cases. The California Hospital Association is on to four questionable practices that are very much turning the tables in the administrative law judge (ALJ) level of these IRFs' appeals processes.

1. Unqualified personnel are reviewing charts. IRF admissions medical-necessity determinations should fall into the hands of qualified personnel, such as physiatrists, therapists and rehab nurses, CHA says. But PRG-Schultz has only one rehab nurse and has only recently brought a physician on board who has little to do with the chart reviews, **Pat Blaisdell, CCC-SLP**, VP of medical rehabilitation for CHA, tells **Eli**.
2. RACs are overstepping their review timeframe bounds. PRG-Schultz has routinely reviewed cases dating back to 2001 -- but the ALJs on the IRFs' appeal cases say that by law, auditors cannot open cases older than one year without identifying good cause, which PRG-Schultz has not shown, Blaisdell says.
3. The collection process doesn't jibe with Medicare law. Medicare law says that providers may delay the recoupment of an overpayment by filing an appeal. But under the RAC process, providers can't appeal to their fiscal intermediaries until after the money has been taken away, Blaisdell says.
4. RACs don't always have to pay up. Not only is PRG-Schultz getting 25 to 30 cents on the dollar for every overpayment it collects, its contract allows it to keep that money regardless of what the first two levels of the appeals process reveal. So who reimburses the providers? CMS (aka taxpayers' dollars) has to cough it up, Blaisdell says. "CMS will essentially have paid 125 percent of the costs of that particular care, and it's coming out of a program that's supposed to be saving the agency money."

CMS Takes a Stand

Amid all the ruffled feathers in California IRFs, CMS is standing firm but is not in denial. So far, there have been a few isolated problems with the RACs, says **William Rogers** at the CMS.

The RACs have requested "unreasonable amounts of paperwork for unreasonable amounts of claims," or else requested paperwork for claims where the time limit has already expired, Rogers says. But CMS has been working hard to create policies to minimize the impact of the RACs on providers. Every RAC will have a medical director, for example. And CMS is also working on rules to make the RAC program "a lot less burdensome," Rogers says.

The agency also has program "safeguards" in place. For example, RACs are not permitted to use random selection except to establish an error rate, says **Stacie L. Buck, RHIA, CCS-P, LHRM, RCC**, VP of Stuart, Fla.-based Southeast Radiology Management. And they may not target a claim solely because of its high-dollar potential -- there must be reason to suspect overpayment, she adds.

Noteworthy: In a Sept. 27 conference call, CHA received confirmation from CMS of a "pause" for IRF RAC reviews in California, Blaisdell says. This pause "will likely continue through at least October, while CMS proceeds with a 'validation review' performed by Advance Med," she says.

What You Can Do to Prepare

CMS may very well take another look at its contracts with the stir the RACs have caused. But you should still prepare your rehab facility for a RAC's visit -- especially if you're in Arizona, Massachusetts or North Carolina, which are the next targets, says **Angie Phillips, PT**, president and CEO of Images & Associates, a rehab provider consulting company in Amarillo, Texas.-Here's what you can do:

- Evaluate your operations. "There are always things we could do better to document and demonstrate the value of our services," Blaisdell says. For more tips on this topic, check out related audioconferences on page 93.
- Self-audit before you're pegged. "Self-auditing now is crucial because today's encounters will be scrutinized when the RACs are expanded in 2010," Buck says.
- Establish strong communication between departments. "A number of reviewed facilities have sent in records and had money recovered before their clinical teams were even aware," Blaisdell says. Even more important, your billing folk must be in the loop, or you could miss out on your opportunity to appeal. "Your appeals clock starts when the RAC actually takes the money, and the only way you know they've taken the money is by looking at your remittances," she says.
- Stay tight with your professional associations. "I cannot begin to thank CHA and the **Center for Medical Rehabilitation Services**," says **Patty Hagen, PT, MHA**, director of rehabilitation services for a health system in California. "Advocacy in CHA has led to conversations with CMS regional administrators, PRG-Schultz, and even congressional hearings on our behalf."

For more information on RACs from CMS, visit <http://www.cms.hhs.gov/rac/>.