

## Eli's Hospice Insider

### RACS: Get Ready for the RACs -- Hospice's Latest Wolf at the Door

RAC target areas will likely match those of FIs.

So far, the Recovery Audit Contractors haven't reached your doorstep, but that's no reason to rest easy. Make sure you're ready for the day the RACs set their sites on you.

RACs have focused mostly on hospitals, physicians, and durable medical equipment suppliers so far, but hospices are likely to be high up on their next target list. "Hospice ...could become a target of RACs much more quickly than the home health agencies," predicts RAC expert **Mark Sharp** with BKD in Springfield, Mo.

That's because unlike HHAs, hospices have a higher claims review limit, meaning RACs can review more of their claims. "Like the hospitals and SNFs, [hospices] are subject to a higher review limit of 10 percent per provider per 45 days," Sharp notes. In contrast, RACs can review just 1 percent of HHAs' monthly Medicare claims per 45 days.

Don't expect RACs to "re-invent the wheel and waste time looking for new problems," believes consultant **Robin Seidman** with Simone Consultants in Westborough, Mass. "RACs will most likely focus on previously identified problem areas by CMS, OIG and RHHIs." Chances are RAC medical review target areas will overlap those of the fiscal intermediaries, Seidman predicts.

#### Step 1: Data Mining

Once RACs secure Centers for Medicare & Medicaid Services approval of direct hospice audit issues, they will likely use relatively low-resource data mining to choose their first targets, industry observers expect.

For example: Billing for inpatient respite care for beneficiaries in a nursing home has long been a hospice billing trouble spot. In 2008, the HHS Office of Inspector General issued a report saying it found many instances of improper respite care billing for nursing home residents.

Respite care is supposed to provide a break to the patient's caregiver, which obviously isn't necessary in a hospital or SNF, points out attorney **Connie Raffa** with Arent Fox in New York City. Respite care is also supposed to be limited to five consecutive days and to 20 percent of the patient's total days for hospice, the OIG notes in its report.

Searching for respite care days paid for while the beneficiary was a resident of a nursing home and elected hospice should be a fairly simple data mining procedure, Raffa says.

#### Step 2: Technical Issues

Then RACs are likely to move onto technical issues such as dates and signatures for hospice elections, physician certifications, and plans of care, says attorney **Mary Michal** with Reinhart Boerner Van Deuren in Madison, Wis. "These are just paperwork," Raffa adds.

These are "easy targets for denials," Seidman agrees.

RACs could target nursing home patients first, since the OIG has shown them to have high incidences of such problems, Raffa suggests.

#### Step 3: Complex Review

If data mining and technical areas prove lucrative, RACs then may move into more complex medical review addressing

complicated clinical issues like terminal diagnosis, long lengths of stay (particularly for non-cancer patients), levels of care, and more, hospice experts predict.

For long-stay patients with chronic diseases like chronic obstructive pulmonary disease or congestive heart failure, reviewers are likely to scrutinize whether patients qualified for hospice based on the most recent recert period, whether they met coverage guidelines, and whether the disease showed progression or seemed stable, Seidman expects.

For care levels, RACs are likely to focus on the higher paid hospice levels of care: General Inpatient and Continuous Home Care. "Denial of these claims will result in a high dollar return on investment for the RACs," Seidman observes.

Data mining won't be over after the first step, Seidman adds. "I believe that data analysis will also be used by RACs to help identify which providers to focus on first," she says. RACs will likely pick provider audit targets based on data about types of providers, volume of business, location, and type of ownership.

Timeline: It would likely be 2012 at the earliest before hospices see RACs initiate those kinds of review, industry veterans guess. That should give you time to shore up your policies, procedures, and documentation to defend against RAC audits, urges consultant **Heather Wilson** with Weatherbee Resources in Hyannis, Mass.

Strengthening your internal processes and records will also help you out with intermediary medical review you are already subject to, she says.

Do this: Hospices should "monitor and audit themselves based on their compliance plans," Seidman advises. But don't ignore the results. "Make sure that if a vulnerability is identified, an action plan is actually implemented."

Plus: Use state and national benchmarks to determine whether you provide services to a patient population that is at higher risk for government audit, Seidman counsels.

Note: The OIG report is at <http://oig.hhs.gov/oei/reports/oei-02-06-00222.pdf>.