

## MDS Alert

### COMPLIANCE: Forewarned is Forearmed: 4 Ways to Stay a Step Ahead of the RACs

You can bank on the RACs having the scoop on you -- here's what you need to know and do now.

If the Recovery Audit Contractor (RAC) program ranks low on your risk management list, it's time to give it top billing.

The RAC reality: The RACs will probably be operational in the fall of 2009, predicts **Tim Johnson**, executive director of Castle Rock Medical Group in Denver. And the odds of a SNF being audited by a RAC aren't remote, cautions **Betsy Anderson**, VP of FR&R Healthcare Consulting in Deerfield, Ill.

Protect Yourself With These 4 General Strategies

1. Be aware of the RAC radar. The RACs will reportedly have an automated review process, as well as a complex review where they request records. And the former can easily catch SNFs off guard, experts warn.

RACs using automated review that doesn't involve medical records must have a clear policy (regulation, statute, coverage provision in an interpretive manual, etc.) that serves as the basis for determining the overpayment, notes **Felice Landry**, senior billing consultant for Reingruber & Company in St. Petersburg, Fla.

Example: The RACs will have an automatic process to look at MDS data from final validation reports and information on file to compare to a SNF's UB-04s and electronic claims, says Anderson. "And if they find issues -- for example, if the ARD on the MDS doesn't match the ARD on the claim, or a claim is filed based on MDS(s) not in the state repository the RAC could deny payment for the claim(s), leading to a payment recoupment," she cautions.

The SNF will receive notification of the recoupment as part of its remittance advice, says Anderson. And if SNFs aren't looking at those closely, they could miss a denial or overpayment.

The Centers for Medicare & Medicaid Services has announced that there will be a specific code of N432 on the remittance advice to alert providers to a RAC recoupment based on an automatic review, Anderson notes. The RA will be followed by a demand letter detailing the amount owed and explaining appeal rights, according to a CMS open door forum on RACs.

SNFs can appeal RAC recoveries, but the best approach, of course, is to prevent payment recoupments.

2. Home in on MDS-related information -- and not just on the clinical and financial side but actually review the validation reports, suggests **Elizabeth Malzahn**, manager, FR&R Healthcare Consulting. "It's an easy thing to do and you can catch a lot of clerical errors ..."

For example, the majority of software systems just require the MDS to be finalized or transmitted before they allow the information to flow to billing, says Anderson. And, unfortunately, the billing department doesn't always clarify whether a RUG category has changed -- or worse, whether a valid MDS has been transmitted before billing Medicare, she notes.

And if the state database rejects a batch of MDSs on claims, the facility can end up with a lot of rejected claims. This may sound like "doom and gloom," but it's a "pretty realistic" scenario, Anderson adds.

The facility should also have someone auditing MDS assessments to make sure everything is right, suggests **Cindy MacQuarrie, MSN, RN**, managing consultant for BKD Inc. in Kansas City, Mo.

3. Shore up existing systems to ensure the accuracy of information on the claims. Focus on issues that RACs can

automatically detect, such as claims with the wrong assessment reference dates, the wrong RUG categories, or the wrong number of days billed for each assessment period. "Those are all things that RACs can look at automatically without even notifying the SNF," Anderson says.

4. Develop a surefire way to identify and manage RAC requests for records. For starters, teach staff to recognize correspondence from the RAC and get it to the right person. During the RAC demonstration, it seemed like a relatively high number of payment recoupments resulted from SNFs' failure to submit requested records, observes **Steve Lokensgard**, special counsel at Faegre & Benson LLP in Minneapolis.

Facilities should be sure to provide the RAC with all the requested documentation, advises **Cindy Dunne**, with ECS Billing & Consulting in Dublin, Ohio.

"Put a packet together that is easy to read and identify the necessary information. Use labeling, descriptions, and any other verbiage that will help the auditor," adds Dunne, who suggests using a checklist to make sure you've included everything.

Your best bet: Develop a RAC or compliance monitoring team to ensure the SNF knows what it has sent in -- and that the information is organized, advises MacQuarrie. It's a good idea to have a clinical person on the team who makes sure the records sent support the services provided, and match the dates of services requested, she adds.

What's next: At press time, CMS had just announced that it would be discussing outreach sessions on the RAC program with trade associations and providers.

CMS noted that providers won't be receiving correspondence from their RAC until the RACs and CMS have finished their outreach effort.

Editor's note: Don't miss the next MDS Alert for an article on key areas RACs will likely target in SNFs. Also find out what to do if RAC auditors come knocking on your nursing facility's door.