

Health Information Compliance Alert

RACs : CMS Rolls Recovery Audit Contractors Back Into Business

Plus: Medicare officials clarify who can bill incident-to-services and under what circumstances.

Practices may have breathed a sigh of relief when CMS halted the recovery audit contractor (RAC) program last October, but it's time to face the music again with RACs back in business.

That was the word during a Feb. 19 CMS Open Door Forum for physicians, nurses, and allied health professionals.

On Feb. 4, CMS lifted the stop work order and CMS will now continue with the implementation of the RAC program, said **Ebony Brandon** of CMS' Office of Financial Management during the open door forum call.

The RACs are back on the radar as of March 1, but CMS intends for the RACs to perform a significant amount of "outreach before they send correspondence to any providers," Brandon noted.

But if you heard the RACs were only concentrating on facilities and large health systems, think again. "It will be all providers" under RAC scrutiny, Brandon said on the call.

CMS Issues Incident-to Clarification

CMS also used the open door forum as an opportunity to answer several nagging questions that practices have had over the years.

First and foremost was the question of just who is eligible to bill services as "incident-to."

In response to several questions submitted to CMS, the agency has clarified that licensed certified professional counselors (LCPCs) cannot independently bill Part B Medicare "only enrolled suppliers or providers can bill Medicare and LCPCs do not qualify for that distinction," said CMS' **Dorothy Shannon, PhD**, during the call.

Caveat: LCPCs can, however, bill incident-to. "LCPCs can furnish services they are licensed to provide as incident to services of a physician, clinical psychologist, nurse practitioner, clinical nurse specialist, or a physician's assistant," Shannon advised.

Make sure the physician or other practitioner is available in the office suite if the LCPC is billing incident-to, Shannon said. "Services furnished by LCPCs must meet all the provisions of the incident to rules, including the doctor being in the office."

Physical therapy: A practice asked CMS which level of supervision is required for physical therapy directed by a physician.

"By 'directed,' we feel you mean the physician will supervise and bill for the outpatient therapy services provided to a patient under the care of the physician in the office," Shannon clarified. "The therapy must be provided by a qualified physical therapist under the policy for outpatient PT services provided incident-to a physician's services. Thus, direct supervision is required, so the doctor must be in the office suite when the service is provided," she said.

PECOS: One caller to the ODF said that several providers from various parts of the country have complained about CMS's PECOS enrollment system and how cumbersome the process is, but CMS said it has no plans to run an ODF solely covering PECOS unless it later feels such a venue is warranted.

