

## CMS Auditing Series: RAC Attack

From 2005 to 2008, the Medicare Recovery Audit Contractor (RAC) demonstration project recovered \$1.03 billion in improper Medicare payments, returning \$693.6 million to the Medicare Trust Funds.<sup>1</sup> Under the Tax Relief and Health Care Act of 2006, the RAC program was permanently established in all 50 states on January 1, 2010.<sup>2</sup> Although providers failed to experience the anticipated increase in RAC attention, signs of relief may be premature, as CMS may need to identify \$307.5 million in corrections for services provided in the fourth quarter of 2011.<sup>3</sup> In the first part of the Audit Series, this article examines provider anticipations and reactions to trends in RAC audits.

RAC audits identify improper Medicare payments for services provided to Medicare beneficiaries.<sup>4</sup> In 2008, the Centers for Medicare and Medicaid Services (CMS) awarded contracts to four commercial RAC companies, each responsible for a region of the U.S.<sup>5</sup> CMS encourages thorough reviews by providing RACs with a percentage of the improper overpayments collected from providers.<sup>6</sup> A hospital audit occurs when CMS and the local RAC complete a hospital outreach session and the RAC has established a joint operating agreement with a CMS contracted Medicare Administrative Contractor (MAC) or Fiscal Intermediary (FI) for the state.<sup>7</sup> During the RAC demonstration project, approximately two-thirds of all hospital payment errors were due to lack of medical necessity in the care provided.<sup>8</sup>

Despite large total national program corrections (\$684.4 million between October 2009 and June 2011), to date, providers have not reported feeling anxiety over RAC audits, presumably operating under the mistaken assumption believing that only blatant fraud leads to RAC audits.<sup>9</sup> Survey results from hospitals, physicians, and cost report consultants, exposed that providers, “*erroneously believe[d] the Recover Audit Contractor (RAC) program [was] not a threat and that the risk of recoupment basically has gone away.*”<sup>10</sup> Commentators have suggested that a provider’s false sense of security may be due to a shift to automated RAC reviews, whereby providers would not receive record requests.

Although the automated system may not overtly publicize audits, the costs are still very real. Two regional RACs have indicated that, under the less complex automated review system, medical necessity is

not a top priority. While the new system may lead to smaller claims (\$399 per claim compared to \$5,281 per claim for complex reviews), lower liability lessens the number of appeals brought and may lead to greater recoveries in the long run.<sup>11</sup> Even simple errors may be identified as improper payments and labeled as fraudulent, which is quick and easy to process under the automated system.<sup>12</sup> Additionally, pressure to achieve the \$82.5 million required for CMS to meet its FY 2011 goal of \$992.7 million may suggest providers take concrete steps to prepare for upcoming audits.<sup>13</sup>

Providers should be aware that a surge of automated audits might soon be on the horizon. As RACs continue to utilize automated processing, a provider may not be aware they are being audited. To mitigate risk, providers will likely benefit from coordinating between clinical and financial departments through creating performance improvement committees focused on coordination and accountability. Tracking and reporting mechanisms may also assist in helping avoid errors resulting in improper Medicare payments.<sup>14</sup> In the next article of the “Audit Series,” HC Topics will examine auditing practices response to an increasing amount of digital material.

- <sup>1</sup> “CMS Announces New Recovery Audit Contractors to Help Identify Improper Medicare Payments” Centers for Medicare and Medicaid Services, October 6, 2008, <https://www.cms.gov/...a=&keywordType=All&chkNewsType=6&intPage=&showAll=&pYear=&year=&desc=&cboOrder=date> (Accessed 9/12/11); “Recovery Audit Contractors’ Fraud Referral” Office of Inspector General, February 2010, p. i.
- <sup>2</sup> “Recovery Audit Contractor (RAC) Program” American Hospital Association, 2011, <http://www.aha.org/advocacy-issues/rac/index.shtml> (Accessed 9/12/11);
- <sup>3</sup> “The RAC Tsunami on the Horizon” By Elizabeth Lamkin, RAC Monitor, September 1, 2011, <http://www.racmonitor.com/news/33-top-stories/652-the-rac-tsunami-on-the-horizon.html> (Accessed 9/12/11); “RACs Fall Short in Third Quarter by \$82.5 Million” By Vickie Axson-Brown, RAC Monitor, August 3, 2011, [www.racmonitor.com/news/3-feature-articles/624-racs-fall-short-in-third-quarter-by-825-million.html](http://www.racmonitor.com/news/3-feature-articles/624-racs-fall-short-in-third-quarter-by-825-million.html) (Accessed 9/12/11).
- <sup>4</sup> “Recovery Audit Contractor (RAC) Program” American Hospital Association, 2011, <http://www.aha.org/advocacy-issues/rac/index.shtml> (Accessed 9/12/11); “CMS Announces New Recovery Audit Contractors to Help Identify Improper Medicare Payments” Centers for Medicare and Medicaid Services, October 6, 2008, <https://www.cms.gov/...a=&keywordType=All&chkNewsType=6&intPage=&showAll=&pYear=&year=&desc=&cboOrder=date> (Accessed 9/12/11).

- <sup>5</sup> “Recovery Audit Program: Overview” Centers for Medicare and Medicaid, September 6, 2011, <http://www.cms.gov/recovery-audit-program/> (Accessed 9/12/2011); “RAC National Program and Contractor Information” American Hospital Association, 2011, <http://www.aha.org/advocacy-issues/rac/contractors.shtml> (Accessed 9/12/11).
- <sup>6</sup> “Recovery Audit Contractor (RAC) Program” American Hospital Association, 2011, <http://www.aha.org/advocacy-issues/rac/index.shtml> (Accessed 9/12/11); “CMS Announces New Recovery Audit Contractors to Help Identify Improper Medicare Payments” Centers for Medicare and Medicaid Services, October 6, 2008, <https://www.cms.gov/...a=&keywordType=All&chkNewsType=6&intPage=&showAll=&pYear=&year=&desc=&cboOrder=date> (Accessed 9/12/11).
- <sup>7</sup> “RAC National Program and Contractor Information” American Hospital Association, 2011, <http://www.aha.org/advocacy-issues/rac/contractors.shtml> (Accessed 9/12/11).
- <sup>8</sup> “RAC for all; Push for more audits could affect hospitals; experts” By Jennifer Lubell, Modern Healthcare, March 15, 2010.
- <sup>9</sup> “The RAC Tsunami on the Horizon” By Elizabeth Lamkin, RAC Monitor, September 1, 2011, <http://www.racmonitor.com/news/33-top-stories/652-the-rac-tsunami-on-the-horizon.html> (Accessed 9/12/11); “Medicare Fee-for-Service Recovery Audit Program as of June 2011” Centers for Medicare and Medicaid Services, June 2011, Accessed at <http://www.cms.gov/Recovery-Audit-Program/Downloads/NatProg.pdf> (Accessed 9/12/11).
- <sup>10</sup> “The RAC Tsunami on the Horizon” By Elizabeth Lamkin, RAC Monitor, September 1, 2011, <http://www.racmonitor.com/news/33-top-stories/652-the-rac-tsunami-on-the-horizon.html> (Accessed 9/12/11).
- <sup>11</sup> “The RAC Tsunami on the Horizon” By Elizabeth Lamkin, RAC Monitor, September 1, 2011, <http://www.racmonitor.com/news/33-top-stories/652-the-rac-tsunami-on-the-horizon.html> (Accessed 9/12/11).
- <sup>12</sup> “The RAC Tsunami on the Horizon” By Elizabeth Lamkin, RAC Monitor, September 1, 2011, <http://www.racmonitor.com/news/33-top-stories/652-the-rac-tsunami-on-the-horizon.html> (Accessed 9/12/11).
- <sup>13</sup> “The RAC Tsunami on the Horizon” By Elizabeth Lamkin, RAC Monitor, September 1, 2011, <http://www.racmonitor.com/news/33-top-stories/652-the-rac-tsunami-on-the-horizon.html> (Accessed 9/12/11); “RACs Fall Short in Third Quarter by \$82.5 Million” By Vickie Axson-Brown, RAC Monitor, August 3, 2011, [www.racmonitor.com/news/3-feature-articles/624-racs-fall-short-in-third-quarter-by-825-million.html](http://www.racmonitor.com/news/3-feature-articles/624-racs-fall-short-in-third-quarter-by-825-million.html)(Accessed 9/12/11).
- <sup>14</sup> “The RAC Tsunami on the Horizon” By Elizabeth Lamkin, RAC Monitor, September 1, 2011, <http://www.racmonitor.com/news/33-top-stories/652-the-rac-tsunami-on-the-horizon.html> (Accessed 9/12/11).



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