Recovery Audit Contractors (RACs) and Medicare

The Who, What, When, Where, How and Why?

Agenda

- What is a RAC?
- Will the RACs affect me?
- Why RACs?
- What does a RAC do?
- What are the providers' options?
- What can providers do to get ready?

What is a RAC?
The RAC Program Mission

- The RACs detect and correct past improper payments so that CMS and Carriers, FIs, and MACs can implement actions that will prevent future improper payments:
- **Providers** can avoid submitting claims that do not comply with Medicare rules
- **CMS** can lower its error rate
- **Taxpayers** and future Medicare beneficiaries are protected

Will the RACs affect me?

- Yes, if you bill fee-for-service programs, your claims will be subject to review by the RACs
- If so, when?
- The expansion schedule can be viewed at www.cms.hhs.gov/rac

RAC Legislation

- Medicare Modernization Act, Section 306

  Required the three year RAC demonstration

- Tax Relief and Healthcare Act of 2006, Section 302

  Requires a permanent and nationwide RAC program by no later than 2010

  Both Statutes gave CMS the authority to pay the RACs on a contingency fee basis.

What does a RAC do?

The RAC Review Process

- RACs review claims on a post-payment basis
- RACs use the same Medicare policies as Carriers, FIs and MACs: NCDs, LCDs and CMS Manuals
- Two types of review:
  - Automated (no medical record needed)
  - Complex (medical record required)
- RACs will not be able to review claims paid prior to October 1, 2007
  - RACs will be able to look back three years from the date the claim was paid
- RACs are required to employ a staff consisting of nurses, therapists, certified coders, and a physician CMD

The Collection Process

- Same as for Carrier, FI and MAC identified overpayments (except the demand letter comes from the RAC)
  - Carriers, FIs and MACs issue Remittance Advice
    - Remark Code N432: Adjustment Based on Recovery Audit
  - Carrier/FI/MAC recoups by offset unless provider has submitted a check or a valid appeal

What is different?

- Demand letter is issued by the RAC
- RAC will offer an opportunity for the provider to discuss the improper payment determination with the RAC (this is outside the normal appeal process)
- Issues reviewed by the RAC will be approved by CMS prior to widespread review
- Approved issues will be posted to a RAC website before widespread review

What are providers' options?

If you agree with the RAC's determination:

- Pay by check
- Allow recoupment from future payments
- Request or apply for extended payment plan
- Appeal

Appeal Timeframes

http://www.cms.hhs.gov/OrgMedFFSAppeals/Downloads/AppealsprocessflowchartAB.pdf

935 MLN Matters

http://www.cms.hhs.gov/MLNMatterArticles/downloads/MM6183.pdf

Three Keys to Success

- Minimize Provider Burden
- Ensure Accuracy
- Maximize Transparency

Minimize Provider Burden

- Limit the RAC “look back period” to three years
  - Maximum look back date is October 1, 2007
- RACs will accept imaged medical records on CD/DVD (CMS requirements coming soon)
- Limit the number of medical record requests

Summary of Medical Record Limits (FY 2009)

- Inpatient Hospital, IRF, SNF, Hospice
  - 10% of the average monthly Medicare claims (max 200) per 45 days per NPI
- Other Part A Billers (HH)
  - 1% of the average monthly Medicare episodes of care (max 200) per 45 days per NPI
- Physicians (including podiatrists, chiropractors)
  - Sole Practitioner: 10 medical records per 45 days per NPI
  - Partnership (2-5 individuals): 20 medical records per 45 days per NPI
  - Group (6-15 individuals): 30 medical records per 45 days per NPI
  - Large Group (16+ individuals): 50 medical records per 45 days per NPI
- Other Part B Billers (DME, Lab, Outpatient Hospital)
  - 1% of the average monthly Medicare claim lines (max 200) per NPI per 45 days

Ensure Accuracy

- Each RAC employs:
  - Certified coders
  - Nurses
  - Therapists
  - A physician CMD
- CMS' New Issue Review Board provides greater oversight
- RAC Validation Contractor provides annual accuracy scores for each RAC
- If a RAC loses at any level of appeal, the RAC must return its contingency fee

Maximize Transparency

- New issues are posted to the web
- Vulnerabilities are posted to the web
- RAC claim status website (2010)
- Detailed Review Results Letter following all Complex Reviews

What Can providers do to get Ready?

Know where previous improper payments have been found

- Look to see what improper payments were found by the RACs:
  - Demonstration findings: www.cms.hhs.gov/rac
  - Permanent RAC findings: will be listed on the RACs' websites
- Look to see what improper payments have been found in OIG and CERT reports
  - OIG reports: www.oig.hhs.gov/reports.html
  - CERT reports: www.cms.hhs.gov/cert

Know if you are submitting claims with improper payments

- Conduct an internal assessment to identify if you are in compliance with Medicare rules
- Identify corrective actions to promote compliance
- Appeal when necessary
- Learn from past experiences

Prepare to respond to RAC medical record requests

- Tell your RAC the precise address and contact person they should use when sending Medical Record Request Letters
  - Call RAC
  - No later 1/1/2010: use RAC websites
- When necessary, check on the status of your medical record (Did the RAC receive it?)
  - Call RAC
  - No later 1/1/2010: use RAC websites

Appeal when necessary

- The appeal process for RAC denials is the same as the appeal process for Carrier/FI/MAC denials
- Do not confuse the “RAC Discussion Period” with the Appeals process
- If you disagree with the RAC determination…
  - Do not stop with sending a discussion letter
  - File an appeal before the 120th day after the Demand letter

Learn from past experiences

- Keep track of denied claims
- Look for patterns
- Determine what corrective actions you need to take to avoid improper payments

Contacts

- RAC Website: www.cms.hhs.gov/RAC
- RAC Email: RAC@cms.hhs.gov