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MMA – The Centers for Medicare & Medicaid Services (CMS) Recovery Audit Contractor (RAC) Initiative

Key Words

MMA, CMS, RAC, recovery, audit, contractor

Provider Types Affected

Physicians, providers, and suppliers, especially in California, Florida, and New York

Key Points

- Based on comments received during provider open door forums and community meetings, CMS has amended the payment methodology for the RACs to include payment for the identification of Medicare underpayments.
- The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), Section 306, directs the Secretary of the U.S. Department of Health and Human Services (HHS) to demonstrate the use of RACs under the Medicare Integrity Program in: 1) identifying underpayments and overpayments and 2) recouping overpayments under the Medicare program (for services for which payment is made under Part A or Part B of Title XVIII of the Social Security Act).
- The RACs are paid on a contingency basis; that is, the RACs receive a portion of what they identify and collect. Beginning with underpayments identified on or after March 1, 2006, the RACs will receive an equivalent percentage for all underpayment and overpayment identifications.

Important Facts Providers Need to Know About the Underpayment Identification Portion of the RAC Demonstration

- The RAC may request a medical record for an underpayment determination.
- The medical record request letter will not indicate if the medical record is being requested for overpayment or underpayment review.
- When responding to a medical record request from the RAC, the provider may attach its own opinion regarding an underpayment. However, the findings from the RAC may differ from that of the provider.

- Upon identification of a potential underpayment, the RAC will forward the claim and all supporting documentation to the appropriate Medicare Fiscal Intermediary (FI), Carrier or Durable Medical Equipment Regional Carrier (DMERC) for their review.
- An underpayment identification will not be final unless the FI, carrier or DMERC agrees with the identification.
- The RAC or the FI, carrier or DMERC will NOT ask the provider to correct and resubmit the claim.
- Under the RAC demonstration, the RAC contractors have no authority to make refunds. Therefore, once the underpayment has been validated by the appropriate FI, carrier or DMERC, the RAC will send the provider written notice of the underpayment determination. This notice will include claim and beneficiary details.
- The RACs do not have the authority to review unsolicited cases from providers where underpayment is thought to have occurred. Outside of the RAC program, if a provider believes they have received an underpayment they may resubmit a corrected claim if the timely filing limit has not yet passed.
- The provider does not have any official appeals rights in relation to an underpayment determination.
- The provider may utilize the RAC rebuttal process and discuss the underpayment determination with the RAC. If the provider disagrees with the RAC that an underpayment exists, the RAC will defer to the billing provider's judgment.

Definition of an Underpayment

- For purposes of the RAC demonstration, a Medicare underpayment is defined as those lines or payment groups (APC, RUG) on a claim that were billed at a low level of payment but should have been billed at a higher level of payment.
- The RAC will review each claim line or payment group and consider all possible occurrences of an underpayment in that one line or payment group.
- If changes to the diagnosis, procedure or order of diagnoses would change a line or payment group on the claim from a low level of payment to a higher level of payment (and the medical record supports such a change), an underpayment exists.
- Service lines or payment groups that a provider failed to include on a claim are **not** considered underpayments for the purposes of this demonstration.

Note: CMS has excluded the review of physician evaluation and management codes relevant to the level of an office visit or the medical necessity of the level of office visit from the RAC demonstration. This includes the review of overpayments and underpayments.

- Questions concerning the RAC demonstration may be directed to a special email address CMS has established specifically for the demonstration: cmsrecoveryauditdemo@cms.hhs.gov

Important Links

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/SE0617.pdf>

If providers have any questions, they may contact their carrier or intermediary at their toll free number, which is available at

<http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.

Find out more about the Medicare Prescription Drug and Modernization Act of 2003 (MMA) at

<http://www.cms.hhs.gov/MMAUpdate/> on the CMS website.