

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-06 Medicare Financial Management	Centers for Medicare & Medicaid Services (CMS)
Transmittal 152	Date: JUNE 12, 2009
	Change Request 6384

SUBJECT: Recovery Audit Contractors (RACs)

I. SUMMARY OF CHANGES: This Change Request updates information pertaining to the RAC National Program. These changes are in Chapter 4, Sections 100.7, 100.8, 100.9.1, 100.9.2, 100.10, 100.11, 100.12, 100.13, 100.14, and 100.15.

NEW / REVISED MATERIAL

EFFECTIVE DATE: *July 13, 2009

IMPLEMENTATION DATE: July 13, 2009

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

R/N/D	Chapter / Section / Subsection / Title
R	4/Table of Contents
R	4/100.7/Handling Appeals Resulting from RAC Initiated Denials
R	4/100.8/ Referrals to the Department of Treasury
R	4/100.9.1/ Tracking Overpayments
R	4/100.9.2/ Tracking Appeals
R	4/100.10/ Reporting Administrative Costs Directly Associated with the RAC Program
R	4/100.11/ Potential Fraud
R	4/100.12/ AC and MAC Requirements Involving RAC Information Dissemination
R	4/100.13/ Contacting Non-Responders
R	4/100.14/ Voluntary Refunds
R	4/100.15/ Working with RAC Support Contractors

III. FUNDING:

SECTION A: For Fiscal Intermediaries and Carriers:

No additional funding will be provided by CMS; Contractor activities are to be carried out within their operating budgets.

SECTION B: For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

Business Requirements

Manual Instruction

**Unless otherwise specified, the effective date is the date of service.*

Attachment – Business Requirements

Pub. 100-06	Transmittal: 152	Date: June 12, 2009	Change Request: 6384
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SUBJECT: Recovery Audit Contractors (RACs)

EFFECTIVE DATE: July 13, 2009

IMPLEMENTATION DATE: July 13, 2009

I. GENERAL INFORMATION:

A. Background: This Change Request updates information pertaining to the RAC National Program. Changes include Chapter 4 Sections 100.7, 100.8, 100.9.1, 100.9.2, 100.10, 100.11, 100.12, 100.13, 100.14, and 100.15.

B. Policy: Section 302 of the Tax Relief Act and Health Care Act of 2006.

II. BUSINESS REQUIREMENTS TABLE:

Use "Shall" to denote a mandatory requirement

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M M A C	F I I E R	C A R R I E R	R H H I S S	Shared-System Maintainers				OTH ER
						F I S S	M C S	V M S	C W F		
6384.1	Contractors shall follow all timeframes in regards to requesting and receiving medical records from the RAC that have been agreed upon in the Joint Operating Agreement (JOA).		X	X	X	X					
6384.2	Contractors shall contact the RAC for assistance with all referral questions that cannot be answered through the case file. Also, all Contractors shall follow the communication process for the transfer of debt agreed in the JOA.		X	X	X	X					
6384.3	At a minimum, Contractors shall track and update overpayments in the RAC Data Warehouse weekly.		X	X	X	X					

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M E M A C	F I M A C	C A R R I E R	R H I I S S	Shared-System Maintainers				OTH ER
						F I S S	M C S	V M S	C W F		
6384.4	Contractors shall work cooperatively with all RAC Support contractors. This includes the Evaluation Contractor, the Data Warehouse Contractor, the Validation Contractor, and any other contractor supporting the RAC Process.		X	X	X	X					

III. PROVIDER EDUCATION TABLE:

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M E M A C	F I M A C	C A R R I E R	R H I I S S	Shared-System Maintainers				OTH ER
						F I S S	M C S	V M S	C W F		
	None.										

IV. SUPPORTING INFORMATION:

Section A: For any recommendations and supporting information associated with listed requirements, use the box below:

Use "Should" to denote a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:

Section B: For all other recommendations and supporting information, use this space:

V. CONTACTS:

Pre-Implementation Contact(s): Carlos Montoya (410) 786-6040 carlos.montoya@cms.hhs.gov

Post-Implementation Contact(s): Carlos Montoya (410) 786-6040 carlos.montoya@cms.hhs.gov

VI. FUNDING:

Section A: For *Fiscal Intermediaries (FIs), Carriers, and Regional Home Health Intermediaries (RHHIs)*:

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

Section B: For *Medicare Administrative Contractors (MACs)*:

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements

Medicare Financial Management

Chapter 4 - Debt Collection

Table of Contents
(Rev. 152, 06-12-09)

100.12 - *AC and MAC* Requirements Involving RAC Information Dissemination

100.15 - Working with RAC *Support* Contractors

100.7 – Handling Appeals Resulting from RAC Initiated Denials

(Rev. 152; Issued: 06-12-09; Effective/Implementation Date: 07-13-09)

The *ACs and MACs* shall process any appeals stemming from a RAC initiated overpayment. (e.g., RAC decisions appealed by the providers or beneficiaries). *The ACs and MACs* shall not automatically uphold or reverse the RACs decision. Instead, *the ACs and MACs* shall ensure that the appeal is processed as any other appeal request.

Upon receiving an appeal request for a RAC identified overpayment the *AC and MAC* shall request the medical records from the RAC. *The timeframes regarding requesting medical records and receiving from the RAC shall be agreed upon in the JOA.* Even if the *AC or MAC* believes they have enough documentation to make a determination on the appeal, the *AC or MAC* shall still request the medical records (providers may submit different documentation to the RAC than to the *AC or MAC* upon appeal).

100.8 – Referrals to the Department of Treasury

(Rev. 152; Issued: 06-12-09; Effective/Implementation Date: 07-13-09)

All overpayments identified by the RAC *shall* follow the normal referral to Treasury process. *The AC and MAC shall issue the Intent to Refer letter following the normal process.* The RAC *shall* transfer the case to the *AC or MAC* prior to the issuance of the Intent to Refer letter. The AC shall accept the transferred case and proceed with the referral to Treasury. The RAC shall continue to attempt to collect the overpayment until the referral to Treasury is complete. The *AC and MAC* shall update the *RAC Data Warehouse* with the referral to Treasury status code once referral is complete. If the *AC or MAC* receives a question or dispute after referral that cannot be answered through the case file the *AC or MAC* shall contact *the RAC for assistance.* *The communication process for the transfer of debt shall be agreed upon in the JOA.*

100.9.1 – Tracking Overpayments

(Rev. 152; Issued: 06-12-09; Effective/Implementation Date: 07-13-09)

The *AC and MAC* shall notify the RAC when a collection is received on an overpayment identified by the RAC. This notification shall occur through the *RAC Data Warehouse.* If

possible, the *AC and MAC* shall create an electronic file from their internal system indicating all collections and interest accruals. This electronic file can then be uploaded to *the RAC Data Warehouse*. *At a minimum, the RAC Data Warehouse shall be updated weekly*. If the creation of an electronic file is not possible, the *RAC Data Warehouse* shall be updated with all collections and interest accruals within 7 calendar days of their occurrence or receipt date.

On a monthly basis, the *AC and MAC* shall provide a report to the CMS *RAC* Project Officer listing all newly identified RAC overpayments for the preceding month, all collections and interest accruals occurring during the preceding month and the beginning and ending balance of all RAC identified overpayments. This report can be in the form of report generated from the *ACs or MACs* internal system or it may be an Excel spreadsheet or Access database. It may NOT be from the *RAC Data Warehouse*. The detail in the report shall be claim level and the report shall be due on the 10th calendar day after the end of the preceding month. (For example, April's report shall be due on May 10th.) Include the report as an exhibit.

100.9.2 – Tracking Appeals

(Rev. 152; Issued: 06-12-09; Effective/Implementation Date: 07-13-09)

Appeal requests received in response to a RAC initiated overpayment shall be tracked through the *RAC Data Warehouse*. The appeals shall be tracked so that the RAC will know when recoupment must cease during the appeal process and so that appeal data will be available when drafting the report to Congress. The status of the appeal shall be tracked all throughout the appeal process. The *RAC Data Warehouse* has a status code for every level of appeal. *The AC and MAC shall update the RAC Data Warehouse* with the update in the appeal status code within 7 calendar days of learning of the new request and/or update.

100.10 – Reporting Administrative Costs Directly Associated with the RAC Program

(Rev. 152; Issued: 06-12-09; Effective/Implementation Date: 07-13-09)

Section 302 of the Tax Relief and Health Care Act of 2006 allows CMS to pay for all costs associated with conducting the RAC Program out of RAC collections. These costs are not attributed to a contractor's annual budget. These costs are only attributed to the RAC Program and are paid from RAC collections. To track these costs, separate activity codes will be utilized.

CMS has created two activity codes for the RAC Program. *Contractors using activity codes involved in the RAC Program, shall use these codes for all activities related to the RAC National Program.* Detailed descriptions of the activity codes and what may be included are below.

Activity Code 11031- All RAC implementation and maintenance activities

These duties include:

- Completion and maintenance of a JOA with the applicable RAC(s)
- Adjusting all claims identified by the RAC as containing an underpayment or an overpayment.
- Performing validation of overpayment identifications if requested by CMS
- Creating and maintaining accounts receivables for RAC identified overpayments
- Collecting and processing monies received for RAC identified overpayments
- Processing offset for RAC identified overpayments
- Performing necessary provider education relevant to the operation of the RAC program if requested by CMS
- Creating exclusion files for upload to the RAC Data Warehouse
- Creating monthly/daily reports for upload to the RAC Data Warehouse
- Creating monthly/daily reports for feedback to the RAC
- Communicating with RACs and CMS
- Handling RAC related inquires
- Handling activities associated with withdrawing an overpayment not resulting from an Appeal

Activity Code 12031- All RAC initiated appeal activities

- All cost associated with performing and adjudicating the redetermination
- All cost associated with reporting appeals statistics to the CMS RAC Project Officer or delegate.
- All cost associated with appeal inquiries from CMS regarding RAC identified overpayments
- All cost associated with meetings with the RAC and/or CMS Project Officer
- All cost of records, notes and documents regarding RAC & Provider appeals
- Processing and tracking all appeals for RAC identified overpayments and creating appeal reports for upload to the RAC Data Warehouse if requested by CMS
- Communicating with the RAC and CMS.
- Communicating with other appeal entities on RAC identified overpayment cases (QIC, ALJ, DAB)

All cost associated with adjusting the claim in response to an appeal decision

100.11- Potential Fraud

(Rev. 152; Issued: 06-12-09; Effective/Implementation Date: 07-13-09)

The RAC will refer any claims it determines to be potentially fraudulent to the appropriate *CMS RAC Project Officer who will then forward this claim information to the CMS Division of Benefit Integrity Management Operations.*

100.12 – AC and MAC Requirements Involving RAC Information Dissemination

(Rev. 152; Issued: 06-12-09; Effective/Implementation Date: 07-13-09)

When instructed by CMS, *the ACs and MACs* shall disseminate information concerning the RAC program to the provider community. Questions and correspondence received from the provider community regarding RAC initiated overpayments shall be referred to the RAC. The RAC is required to have knowledgeable customer service representatives to assist the provider community.

The AC and MAC shall notify the RAC when any community outreach and/or public education is taking place in the area. While not required, the RAC may decide to attend the function. The RAC may only address their function as recovery auditors. They may NOT address policy changes and/or provider education on other Medicare issues. *The AC and MAC* are only required to notify the RAC of the event. It is also up to the discretion of *the AC and MAC* to invite the RAC to speak at the event. It is also up to the RAC if it wants to attend the event. All information disseminated to the provider community concerning the RAC *National Program* shall be approved by the CMS Project Officer. Information shall be sent by email to the CMS Project Officer 30 calendar days before the event.

100.13 – Contacting Non-Responders

(Rev. 152; Issued: 06-12-09; Effective/Implementation Date: 07-13-09)

The AC, and MAC have no responsibility to contact providers who do not respond to the RACs' request for additional documentation. It is the RACs' responsibility to retrieve the medical records or to make an overpayment determination. *However, the appeal entities may contact the provider to request additional documentation if it is needed to finalize the appeal request.*

100.14 – Voluntary Refunds

(Rev. 152; Issued: 06-12-09; Effective/Implementation Date: 07-13-09)

If the AC and MAC receives a voluntary refund from a provider on a claim in the *RAC Data Warehouse* that has not yet been demanded by the RAC, the AC and MAC shall process the refund as they do all other voluntary refunds (i.e., in accordance with the Medicare program Integrity Manual, Pub. 100-08, Ch. 4, Section 4.16).

100.15 – Working with RAC *Support* Contractors

(Rev. 152; Issued: 06-12-09; Effective/Implementation Date: 07-13-09)

The AC and MAC shall work cooperatively with all RAC support Contractors by providing all requested data. This includes the Evaluation Contractor, the Data Warehouse Contractor, the Validation Contractor, and any other contractor supporting the RAC process.