



# Recovery Auditing in Medicare Fee- For-Service *for Fiscal Year 2015*

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FY 2015 Report to Congress as Required by  
Section 1893(h) of the Social Security Act



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## Executive Summary

The Medicare Fee-for-Service (FFS) Recovery Audit Program is authorized under Section 1893(h) of the Social Security Act (the Act). Section 1893(h)(8) requires the Secretary to “annually submit to Congress a report on the use of recovery audit contractors...” In addition, “each such report shall include information on the performance of such contractors in identifying underpayments and overpayments and recouping overpayments, including an evaluation of the comparative performance of such contractors and savings to the program...” This report satisfies that requirement for fiscal year 2015 (October 1, 2014 through September 30, 2015).

The mission of the Recovery Audit Program is to identify and correct Medicare and Medicaid improper payments through the efficient detection and collection of overpayments made on claims for health care services provided to Medicare and Medicaid beneficiaries, to identify underpayments to providers, and to provide information that allows the Centers for Medicare & Medicaid Services (CMS) to implement actions that will prevent future improper payments.

CMS oversees several different Recovery Audit Programs, such as those for Medicare FFS, Part C, and Part D. States oversee their own Medicaid Recovery Audit Programs in accordance with federal guidelines set by CMS. This report focuses only on the Medicare FFS Recovery Audit Program. Information on the other Recovery Audit Programs will be reported separately.

### Medicare FFS Recovery Audit Program

The Medicare FFS program consists of a number of payment systems. The program has a network of contractors that process more than one billion claims each year submitted by more than one million healthcare providers, including hospitals; physicians; skilled nursing facilities (SNF); labs; ambulance companies; and durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) suppliers.<sup>1</sup> These contractors, called Medicare Administrative Contractors (MACs), process claims, make payments to providers in accordance with Medicare regulations, and review claims and educate providers on how to submit accurately coded claims that meet Medicare guidelines.

CMS uses several types of contractors to verify that paid claims are paid based on Medicare guidelines. One type of contractor used is a Recovery Auditor, also known as a Recovery Audit Contractor (RAC). A RAC’s primary task is to review Medicare claims data and determine if a claim was appropriately paid. Section 1893(h) of the Act mandated that the FFS Recovery Audit Program expand to all the states by January 2010. Prior to this, the Recovery Audit Program operated as a demonstration in six states from March 2005 to March 2008. The national Recovery Audit Program was established in early 2009 after conducting a full and open competition. Four contracts were awarded for four distinct regions. Each RAC is responsible for identifying overpayments and underpayments in a geographically defined area that is roughly one-quarter of the country. In addition, the RACs are responsible for highlighting common billing errors, trends, and other Medicare payment issues for CMS.

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<sup>1</sup> For the purposes of this report, we use the term “provider” to refer to any provider or supplier who bills FFS Medicare.

In Fiscal Year (FY) 2015, Medicare FFS RACs collectively identified and corrected 618,966 claims with improper payments that resulted in \$440.69 million in improper payments being corrected. The total corrections identified include \$359.73 million in overpayments collected and \$80.96 million in underpayments repaid to providers (see Table 1). This represents an 82.8% decrease from program corrections in FY 2014, which were \$2.57 billion. The Medicare FFS Recovery Audit Program returned over \$141 million to the Medicare Trust Funds. This represents a 91% decrease from FY 2014, when the returned amount was \$1.60 billion.

In FY 2015, Medicare FFS Recovery Audits returned a net of \$141.87 million to the Medicare Trust Funds. These savings take into consideration all costs of the program, including contingency fees, administrative costs, and amounts overturned on appeal. However, these savings do not take into account program costs and administrative expenses incurred at the third and fourth levels of appeal (the Office of Medicare Hearings and Appeals (OMHA) and the Medicare Appeals Council within the Departmental Appeals Board (DAB), respectively), as these components do not receive Recovery Audit Program funding for those appeals.

CMS attributes much of the decrease in corrections and savings from previous years to the prohibition on the RACs from performing patient status reviews. Collections on inpatient claims totaled \$2.02 billion in FY 2014 as opposed to \$225.18 million in FY 2015. Inpatient collections accounted for 84.2% of all collections in FY 2014 versus 62.6% of all collections in FY 2015. With the publication of the FY 2014 Inpatient Prospective Payment System (IPPS) Final Rule (78 FR 50495), CMS initially prohibited, and Congress further prohibited, the RACs from performing inpatient hospital patient status reviews on claims for dates of admission on or after October 1, 2013 through September 30, 2015 and allowed the MACs to engage in a Probe and Educate process for the new inpatient admissions policy during this time. Inpatient hospital patient status reviews previously accounted for a substantial portion of RAC corrections. Additionally, a limited amount of reviews took place in FY 2015 due to the ongoing procurement for the next round of Recovery Audit Program contracts.

The Medicare FFS Recovery Audit Program's Prepayment Review Demonstration concluded in FY 2015. The demonstration used RACs for the purpose of reviewing certain claims before they are paid, known as prepayment review. The demonstration started on September 1, 2012 and ran for three years in the following 11 states: California, Florida, Illinois, Louisiana, Michigan, Missouri, New York, North Carolina, Ohio, Pennsylvania, and Texas. The goal of the demonstration was to lower the number of improper payments for those claims that were shown through Comprehensive Error Rate Testing (CERT) reports and other data analysis to have high rates of improper payments. As part of the close-out process for the existing RAC contracts while CMS worked to procure new contracts, the Prepayment Review Demonstration was paused and remained on hold until its conclusion in August 2015. Throughout the three-year Prepayment Review Demonstration, RACs prevented over \$192.8 million in improper payments.

The results of audits performed by the RACs help CMS to identify program vulnerabilities and take appropriate corrective actions to prevent future improper payments. CMS hosts regular meetings with the RACs, MACs, and CMS staff to discuss best practices, particular vulnerabilities, and future corrective actions, including CMS educational articles, local and national system edits, and additional review by

other entities. CMS continues to analyze the results of the Recovery Audit Program to determine what corrective actions can be implemented to help reduce improper payments in the future.

CMS continues to make improvements to the Recovery Audit Program to help alleviate provider burden, verify the accuracy of RAC determinations, and promote transparency within the program. All RACs have increased their use of the Electronic Submission of Medical Documentation (esMD) system to facilitate the electronic transmission of medical documentation and help eliminate the costly and time-consuming need for providers to mail paper records for medical review. CMS is increasing collaboration between the RACs and the MACs on many program elements, such as data sharing and reporting, policy and coverage interpretation, appeals, and general operational issues and improvements. CMS is continuing to make improvements to the Recovery Auditor Data Warehouse, the repository for all RAC review activity, and currently requires RACs and other review contractors to use the Data Warehouse to prevent another review contractor from selecting a previously reviewed claim. The Recovery Auditor Data Warehouse has been successful in preventing duplicate reviews of the same claim among all of CMS' review contractors.

In FY 2015, CMS also worked with the RACs to encourage further involvement in the appeals process, specifically at the Administrative Law Judge (ALJ) level of appeal, which is administered by OMHA. RAC involvement in ALJ appeals aids in contractor and provider education because it presents a forum for discussion, assists in identifying erroneous billing practices for providers, and assists in identifying policies that may need clarification. The RACs are involved in appeals meetings between other CMS review entities, such as MACs and Zone Program Integrity Contractors (ZPICs), and CMS appeals contractors, such as the Qualified Independent Contractors (QICs) and the Administrative QIC (AdQIC), to discuss trends in appeals and best practices for drafting position papers for use at ALJ hearings.

In accordance with the President's initiative to eliminate waste and improper payments across federal programs, the Medicare FFS Recovery Audit Program has proven to be a valuable tool to reduce improper payments.

# Introduction

## Background

Faced with increasing national health expenditures and a growing beneficiary population, the importance and challenges of safeguarding the Medicare program are greater than ever.

CMS uses a comprehensive strategy to prevent and reduce improper payments. Each year, CMS publishes a national improper payment rate for Medicare FFS, Part C, Part D, Medicaid, and the Children's Health Insurance Program (CHIP) in accordance with the *Improper Payments Information Act of 2002 (IPIA)*, as amended by the *Improper Payments Elimination and Recovery Act of 2010 (IPERA)* and the *Improper Payments Elimination and Recovery Improvement Act of 2013 (IPERIA)*.<sup>2</sup>

As part of its efforts to implement the IPIA, CMS uses the CERT program to identify areas that may be vulnerable for improper payments in the Medicare FFS program. CMS uses these results to direct future work by the Medicare FFS Recovery Audit Program and the MACs.<sup>3</sup> The MACs process claims, make payments to providers in accordance with Medicare regulations, and review claims and educate providers on how to submit accurately coded claims that meet Medicare guidelines. In addition, each MAC is required to complete an Error Rate Reduction Plan (ERRP) that includes jurisdictional level strategies to reduce improper payments. These plans include the standard additional review and clarification of local and national policies, as well as new and innovative ideas for reducing improper payments. These plans are targeted to potential claims that, based on data analysis, may be improper. Additional provider education, widespread or localized, is included, as well as clarifications and modifications to local coverage policies. These plans have proven to be successful in helping to reduce each MAC's improper payment rate.

The ZPICs, whose primary role is to investigate instances of suspected fraud, waste, and abuse, provide additional protections for reducing improper payments, including those cases referred to them by MACs and RACs. When warranted, ZPICs report providers and claims to law enforcement authorities who specialize in investigations of fraud, waste, and abuse.

*While several Medicare contractors are responsible for reviewing Medicare claims, CMS has processes in place to make sure the work is collaborative and not duplicative.*

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The Recovery Auditor Data Warehouse was developed to serve as the primary source of data for the Medicare FFS Recovery Audit Program. CMS uses the Data Warehouse to prevent RACs and other review entities from reviewing claims that were previously subjected to medical record review by another review entity, such as a MAC, or that are currently under review by law enforcement. All review

<sup>2</sup> Additional information about the Medicare Fee-for-Service national improper payment rate can be found at [go.cms.gov/CERT](http://go.cms.gov/CERT). Additional information about the Medicaid national improper payment rate can be found at [go.cms.gov/PERM](http://go.cms.gov/PERM).

<sup>3</sup> Effects of RAC reviews may not be immediately realized in the CERT report, due to differences in the RAC look-back period and the CERT reporting period.

contractors are instructed to upload the claims they are reviewing into the Data Warehouse. Contractors are then instructed to check the Data Warehouse for any existing activity on the claims under consideration for review prior to beginning those reviews. A claim that has been reviewed by one contractor is not available to another contractor for review, absent potential fraud. CMS is continuously working to improve the collaboration between review contractors to promote accurate and efficient reviews of Medicare claims while reducing provider burden and ensuring beneficiary access to health care services.

## **Improper Payments in Medicare**

Claims submitted to Medicare are screened by thousands of system edits prior to payment. However, given the volume of claims submitted to Medicare on a daily basis, CMS is not able to perform medical review for every claim prior to payment. Instead, CMS must rely on both prepayment review (after receipt of the claim but before payment) and post-payment review (after receipt and payment of the claim) of a subset of submitted claims. Overall, CMS manually reviews less than 0.3 percent of submitted claims each year through auditing programs, including those reviewed through the Recovery Audit Program. As a result of the need to conduct post-payment review, claims initially may be paid inappropriately, resulting in improper payments.

The most common reasons for improper payments are the following:

- Payment is made for services where the documentation submitted does not support the ordered service,
- Payment is made for services that do not meet Medicare’s coverage and medical necessity criteria, or
- Payment is made for services that are incorrectly coded.

It is important to note that while all payments made as a result of fraud are considered “improper payments,” not all improper payments constitute fraud.

## **Statutory Authority for RACs**

The Medicare FFS Recovery Audit Program began as a demonstration required in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.<sup>4</sup> The demonstration was conducted from March 2005 to March 2008 in six states to determine if RACs could effectively be used to identify improper payments for claims paid under Medicare Part A and B. This demonstration allowed for additional review of Medicare claims by utilizing RACs on a contingency fee basis to identify and investigate claims with calculated risk.

*The Recovery Audit Program demonstration established RACs as a successful tool in the identification and prevention of improper Medicare payments.*

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<sup>4</sup> For more information on the Recovery Audit Program demonstration, see [the Recovery Audit Program website section on "Historical Programs"](#)



Section 1893(h) of the Act, which authorized the Medicare FFS Recovery Audit Program expansion nationwide by January 2010, requires an annual Report to Congress, including information on the performance of such contractors on identifying underpayments and overpayments and recouping overpayments, and an evaluation of the comparative performance of such contractors and savings to the program. This report satisfies that requirement.

## The Use of RACs

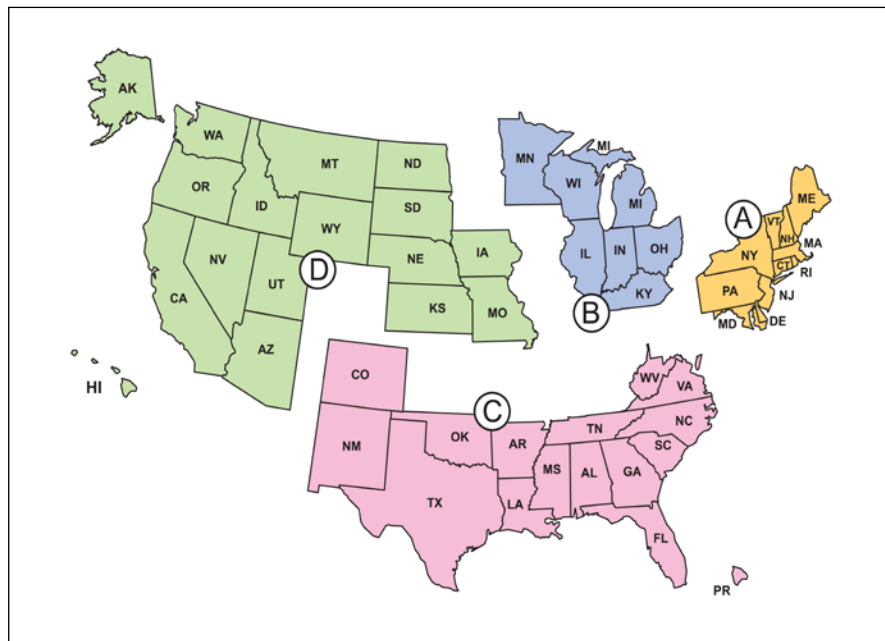
The Recovery Audit Program is an important component in CMS' multifaceted strategy to reduce improper payments and pay claims accurately. CMS established the Recovery Audit Program in early 2009 and fully implemented the program by September 2010. Each RAC is responsible for identifying overpayments and underpayments in a geographically defined area that is roughly one-quarter of the country. In addition, the RACs are responsible for highlighting for CMS common billing errors, trends, and other Medicare payment issues. RACs are unique and distinct from other contractors due to their ability to conduct widespread post-payment review.

The RACs in each region in FY 2015 were:

- Region A: Performant Recovery
- Region B: CGI
- Region C: Connolly<sup>5</sup>
- Region D: HealthDataInsights (HDI)

Figure 1 depicts each of the four Recovery Audit Program regions.

Figure 1



<sup>5</sup> During FY 2016, Connolly changed their name to Cotiviti.

## **How RACs are Paid**

As required by Section 1893(h) of the Act, RACs are paid on a contingency fee basis. The amount of the contingency fee is a percentage of the improper payment recovered from, or reimbursed to, providers. The RACs negotiate their contingency fees at the time of the contract award. The base contingency fees range from 9.0 - 12.5 percent for all claim types, except DME. The contingency fees for DME claims range from 14.0 - 17.5 percent. The RAC must return the contingency fee if an improper payment determination is overturned at any level of appeal.

## Recovery Audit Review Process

The RACs review Medicare FFS claims on a postpayment<sup>6</sup> basis using the same Medicare policies and regulations as other Medicare contractors. CMS limits the claims eligible for RAC review to those that were paid within the past three years.<sup>7</sup> The RAC improper payment correction process is similar to that used by other Medicare contractors and is as follows:

### Review

RACs follow three review processes to identify improper payments: automated, semi-automated, and complex.

- **Automated:** These reviews use claims data analysis to identify improper payments.
- **Semi-Automated:** Similar to automated, these reviews are initiated with data analysis; however, providers may submit supporting documentation to substantiate the claim.
- **Complex:** These reviews require a review of the supporting medical records to determine whether there is an improper payment. The reviewer must be a qualified health care coder or clinician based on the type of review being undertaken.

### Notification

After the RACs identify an improper payment, the RACs then notify the provider of the overpayment or underpayment. For automated and semi-automated reviews, the RACs send informational letters that describe the rationale for the improper payment determination. For claims that underwent a complex review, RACs are required to send review results letters with more detailed rationales, indicating the specific reason for the improper payment determination. Review results letters also include references to applicable polices and information within the medical documents to inform providers about how to avoid similar payment errors in future Medicare billing practices.

After notification of an improper payment, providers may request a discussion with the RACs regarding their claim determinations.<sup>8</sup>

*The discussion period offers providers the opportunity to submit additional documentation to substantiate their claims and allows the RACs to review the additional information without the provider having to file an appeal.*

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If the RAC reverses its claim determination, it will stop the claim from being adjusted or work with the MAC to reverse the adjustment if it has already occurred. However, providers may not simultaneously

<sup>6</sup> See page 20 for a discussion of the RAC prepayment review demonstration.

<sup>7</sup> In May 2015, the look-back period for inpatient status reviews was changed to 6 months in cases where the provider submits the claim within 3 months of the date of service.

<sup>8</sup> As part of the contract modification signed by all RACs in early FY 2016, CMS required the RACs to wait 30 days to allow for a discussion request before sending the claim to the MAC for adjustment.

initiate a discussion and an appeal. The RACs will stop the discussion period if they are notified of a pending appeal.

In the case of an underpayment, the provider is notified via a letter describing the underpayment and the payment process. In the case of an overpayment, the provider receives a demand letter requesting repayment of the specific amount. The demand letter includes the accompanying rationale for the determination and instructs providers on the repayment and appeal processes, which initially flow from the remittance advice. The MACs have full responsibility of issuing demand letters related to RAC-initiated overpayments. This streamlines all adjustment correspondence and activities to enhance the timeliness of demand notifications.

## Collection and Repayment

The MACs are responsible for the collection efforts of overpayments and payment of underpayments identified by the RACs. The recoupment of an overpayment may be offset against future payments from CMS if payment is not received within the specified timeframe. The provider may also apply for an extended repayment plan. Typically, recoupment from future payments begins 41 days after the adjustment/date of the demand letter. In the event a valid appeal is received, recoupment is delayed during the first two levels of appeal.

## Appeals

Providers who disagree with a RAC's improper payment determination may utilize the multilevel administrative appeals process under Section 1869 of the Act. Recovery Audit appeals follow the same appeal process as other Medicare claim determinations. The levels of appeal are described below.

### Redetermination:

Performed by MACs, the request for redetermination must be received by the MAC within 120 calendar days of the date a party receives the initial (or revised initial) determination, and written notice of the redetermination is expected to be mailed or otherwise transmitted by the MAC within 60 calendar days of receipt of the request for redetermination.

### Reconsideration:

Performed by Qualified Independent Contractors (QICs), the request for reconsideration must be filed with the QIC within 180 calendar days of the date the party receives the Medicare Redetermination Notice. The QICs are expected to mail or otherwise transmit notice of the reconsideration within 60 calendar days of receipt of the request for reconsideration.

### Administrative Law Judge (ALJ):

ALJ hearings require a minimum amount in controversy (\$150 for Calendar Year (CY) 2015), and a request for a hearing must be filed within 60 calendar days of the date the party receives the reconsideration notice. Generally, ALJs are expected to issue a decision, dismissal order, or remand to the QIC within 90 calendar days of the date the request for hearing is received. If an ALJ does not act in a timely manner, the appellant may choose to escalate that appeal to the next level of review if certain conditions are met. Due to substantial increases in the number of appeals filed at the ALJ level, including

increases in appeals of RAC determinations, coupled with only moderate increases in ALJ funding, adjudication timeframes generally exceeded 90 days.<sup>9</sup>

**Medicare Appeals Council within the DAB (the Appeals Council):**

A request for review by the Appeals Council must be filed within 60 calendar days after receipt of the ALJ decision or dismissal, and the Appeals Council generally issues a decision, dismissal order, or remand order to the ALJ within 90 calendar days of receipt of the request for review. Due to substantial increases in the number of appeals filed at this level, adjudication timeframes generally exceeded 90 days. There is no minimum amount in controversy at this level.

**Judicial Review (Federal District Court Review):**

Appeals to Federal district court must be filed within 60 calendar days of the date a party receives notice of the Appeals Council's decision, but the federal court does not have a deadline to issue its decisions. For CY 2015, the minimum amount in controversy was \$1,460.

## **Prepayment Review**

As part of the Prepayment Review Demonstration that was approved and implemented in late FY 2012, RACs started reviewing certain error-prone claims before they were paid. In collaboration with the MACs, CMS implemented claims processing edits that would flag some claims for further RAC review. Providers who billed these claims received additional documentation request letters requiring the submission of medical records for review. After review, the RACs sent a review results letter to the provider and communicated with the MACs as to whether the claim should have been paid or denied. Providers could appeal claims denied on prepayment review, which were generally off limits for further postpayment reviews. More information on the Prepayment Review Demonstration can be found on page 20.

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<sup>9</sup>See [the website for the Office of Medicare Hearings and Appeals](#) for more information.

## Procurement and Contract Modifications

CMS began the procurement process for the next round of RAC contracts in February 2013 by issuing five Requests for Quotations (RFQs); however, multiple pre- and post-award protests over the following two years delayed awarding the new contracts. CMS had initiated contract close-out processes with the existing RACs in February 2014, and in the summer of 2014, prohibited them from sending claims for adjustment. Due to the continued delay of new contracts, CMS extended the RAC contracts to December 31, 2015 and allowed them to begin limited new reviews. The majority of reviews during this time were completed on an automated basis, but CMS did approve a number of complex review topics, including Medicare Severity – Diagnosis Related Groups (MS-DRG) coding validation, incorrectly coded drugs and biologicals, and the medical necessity of DMEPOS.

On March 10, 2015, the Court of Appeals for the Federal Circuit found that CMS' proposed payment terms violated Part 12 of the Federal Acquisition Regulations (FAR) provisions for commercial contracts that apply to purchases made by agencies placing orders using the GSA schedule. In light of this unfavorable decision, and due to the passage of time from the issuance of the five RFQs, CMS found it necessary to make substantial changes to the Request for Proposals. Furthermore, the proposals submitted in response to the prior Statements of Work (SOWs) no longer aligned with the needs of the Government. On June 4, 2015, CMS withdrew the RFQs and assessed how to best move forward with the procurement. As part of this assessment, CMS performed market research on commercial payment practices for recovery auditing and debt collection through a Request for Information (RFI) that was issued on April 13, 2015. Responses from the RFI and other market research helped guide CMS' decision on how to best proceed with the procurement.

Procurement activities continued after the end of FY 2015. CMS released revised Requests for Proposals (RFPs) on November 6, 2015. The revised SOW contained many of the Recovery Audit Program enhancements CMS announced in December 2014 and updated in November 2015.<sup>10</sup> So as not to further delay the implementation of these important program enhancements, CMS included several of the enhancements in the contract modifications extending the RACs' active recovery auditing work through July 31, 2016. These included reducing the complex review timeframe from 60 days to 30 days; implementing a 30-day hold before sending a claim to the MAC for adjustment to allow for a discussion period; requiring additional information to be included in the RACs' provider portals; and requiring the review of all claim and provider types, as well as certain topics upon CMS referral. CMS is continuing the procurement process and expects to award new RAC contracts in 2016.

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<sup>10</sup> <https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Recovery-Audit-Program/Downloads/Recovery-Audit-Program-Enhancements11-6-15-Update-.pdf>.

## Key Program Components

CMS has identified five key factors for measuring the success of the Recovery Audit Program: increasing accuracy, implementing effective and efficient program operations, maximizing transparency, minimizing provider burden, and developing robust provider education. In addition, communication with key stakeholders is essential to the program's success, as it seeks to identify problems and develop solutions early and to discuss those issues with all parties.

### Increasing Accuracy

CMS has implemented several elements to verify that RACs are accurately identifying improper payments.

*All new review topics for potential audits are approved by CMS before the RACs begin widespread review.*

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This occurs through a CMS Recovery Audit Review Plan Team that is comprised of CMS policy and coverage staff and clinicians. This allows the appropriate CMS personnel to approve what the RACs are reviewing (including all automated, semi-automated, and complex reviews), and ensures that the RACs have the correct interpretation of the policies used in their audit methodologies. During these team meetings, coverage and policy experts review whether the RACs proposed review approach is consistent with current guidelines. These discussions sometimes reveal that certain guidelines may be outdated or no longer clinically appropriate and may lead to CMS updating certain coverage or billing guidelines to align with more current practices. Two examples of updated guidelines from previously identified vulnerabilities are those related to inpatient hospital patient status reviews and Inpatient Rehabilitation Facility (IRF) admissions. In 2013, Final Rule 1599-F clarified and modified CMS' policy regarding when inpatient hospital admissions are payable under Medicare Part A. Similarly, the FY 2010 Final Rule for the IRF PPS (CMS-1538-F) implemented new coverage requirements for the IRF benefit. The final rule clarified the new required documentation and criteria in order for IRF admissions to be considered reasonable and necessary. These discussions can also help CMS identify system edits to install to prevent improperly billed claims from being paid in the first place. More recently, CMS implemented a systems change to better identify DMEPOS claims that overlap with a Part A hospital stay.

CMS also uses the expertise of the MACs to evaluate potential review topics, such as automated, semi-automated, and complex coding, and make recommendations to CMS regarding approval. This allows the contractor that implemented the policy to be aware of the audit topic and to make sure the RACs are correctly interpreting the policies in their region.

RACs are required to have at least one full time Contractor Medical Director (CMD) on staff and to arrange for an alternate when the CMD will be unavailable for extended periods. The use of CMDs has proven to be a valuable addition to the program, as they provide clinical expertise during and oversight of the medical review process. The CMD is required to be involved in the overall processes of medical review and quality assurance to make sure that policies are being followed and accurate review decisions are being made. The CMD participates in policy discussions with CMS and other Medicare contractors



and offers corrective actions to address the improper payment findings. These physicians also engage in frequent discussions with providers, which allows for greater education. Several RACs have added additional full-time or part-time CMDs to provide greater clinical guidance and assistance to staff, providers, and CMS. RACs also sometimes utilize additional clinical resources that are not dedicated to the Recovery Audit Program.

To confirm the accuracy of each RAC's claim determinations, CMS uses an independent validation contractor to review a monthly random sample of claims on which a RAC has made an improper payment determination.

The Recovery Audit Validation Contractor (RVC) establishes an annual accuracy score for each RAC. The RVC employs policy experts and clinicians, and presents CMS with an independent decision regarding the sample. The accuracy score represents how often the RACs were accurately determining overpayments or underpayments based on the RVC's review.

*In FY 2015, each RAC had an overall accuracy score of 95 percent or higher for claims adjusted from August 2014 through July 2015.*

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The RVC is also tasked with conducting special studies of RAC findings. In FY 2015, the RVC performed four special studies on claims reviewed by the RACs. CMS uses these studies to further focus on certain claim types and audit areas that may require more analysis. Including both the accuracy and special study reviews, the RVC reviewed 4,782 claims as part of its oversight activities. CMS uses the results from the RVC in its assessment of each RAC's performance. The accuracy rates and special study results are part of each RAC's Contractor Performance Assessment Rating System (CPARS) overall performance rating for the year. These results are available to all federal agencies and are included in each RAC's performance evaluations, which are used in subsequent contract award considerations. Poor performance may result in negative performance evaluations and a possible termination of the RAC's work.

## **Implementing Effective and Efficient Program Operations**

CMS works to make the Recovery Audit Program as efficient and effective as possible by minimizing provider impact and administrative cost.

One of the keys to improving efficiencies is continued communication among all stakeholders. CMS provides several opportunities for discussion among contractors to address operational issues and concerns that may impede program efficiency. CMS continues to support these communication opportunities and hosts regularly scheduled conference calls for the RACs and MACs to discuss ongoing issues. Increased contractor relations have resulted in more streamlined claim processing, changes in the operational process to allow for more efficient communications, and contractor sharing of identified program vulnerabilities for potential review.

CMS also continues to improve the Recovery Auditor Data Warehouse to track greater audit detail and information.



The Data Warehouse was developed to serve as the primary source of data for the Medicare FFS Recovery Audit Program and was initially designed to prevent RACs and other review contractors from reviewing claims that were previously subjected to medical record review by another review entity, such as a MAC, or that are currently under review by law enforcement. CMS has implemented several systems changes to allow for more reporting of MAC and ZPIC reviews, including both prepayment and postpayment data. Some of the key updates during FY 2015 include adding indicators for claims subject to prior authorization, adding data from the MAC Probe and Educate process, tracking claims overturned and affirmed through the RAC discussion period, and implementing additional data integrity logic for file uploads. Consistent with Section 505 of the *Medicare Access and CHIP Reauthorization Act of 2015* (MACRA), CMS also used the Data Warehouse to create reports of the providers and services with the highest rates and greatest total dollar amounts of improper payments due to RAC denials in each MAC jurisdiction.

CMS requires other review contractors to check the Data Warehouse to avoid selecting a previously reviewed claim for further review. CMS is planning future changes to continuously improve our ability to prevent review of the same provider or same issue by two different review contractors at the same time. CMS continues to improve the Data Warehouse functionalities to allow more data storage and collection and to automate the process of data collection as much as possible. CMS and the Data Warehouse users also engage in regular communication dedicated to Data Warehouse operational issues.

CMS is continuing to use the esMD program to allow providers to electronically submit documentation. In an increasingly electronic medical record environment, this eliminates the costly and time-consuming need for providers to mail hard-copy records for contractor review. In FY 2015, all RACs continued to be voluntary participants in the esMD program.

## Maximizing Transparency

In order to promote transparency, CMS posts improper payment corrections information, including overpayments and underpayments, on a quarterly basis on its website.<sup>11</sup> CMS also posts the RAC statement of work and educational articles aimed at preventing future improper payments. The individual RAC websites contain all of the topics approved for review, called “issues,” with search functions to improve the ease of provider navigation.

RACs are required to use web portals to allow providers to review claim status information and track the progress of their audits. RACs have expanded their use of the portals to include demand letter information and review rationales for their improper payment determinations. Some RACs also use the portal to deliver messages to the provider communities in their region about specific audits, such as details about an audit that may have been stopped, discussion period instructions, and other information that may be helpful to providers as they respond to a request for additional documentation.<sup>12</sup>

CMS meets regularly with national, state, and local provider and supplier associations, as well as other interested stakeholders, to discuss operational concerns about the Recovery Audit Program. New ideas

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<sup>11</sup> This information is posted at [go.cms.gov/RAC](http://go.cms.gov/RAC) under the “Recent Updates” download section.

<sup>12</sup> As part of the contract modification signed by all RACs in early FY 2016, CMS required the RACs to include additional statuses on their provider portals, including dates associated with reviews and appeal levels and outcomes.

and improvements are often discussed at these meetings, and CMS values the input of the associations and the providers on the aspects of the program.

## **Minimizing Provider Burden**

CMS is sensitive to the concerns of the provider and supplier communities and continues to work with these communities to reduce the burden of the review process. CMS has imposed additional documentation request limits on the number of medical records a RAC may request in a 45-day timeframe. CMS has amended the limits so that requests must be spread across several different provider types, as opposed to requesting only one type of record for a practice/facility. For example, if a provider has inpatient hospital, outpatient hospital, inpatient rehabilitation facility, and physician claims, the RAC may only select the maximum percentage of inpatient hospital claims (or any other one particular claim type), and the balance of the additional documentation requests (ADRs) must be selected from the remaining claim types.<sup>13</sup> The limits established continuity and helped providers prepare for potential audits, as well as encouraged the RACs to select only those claims with the highest risk of improper payment. CMS continues to analyze provider billing data in an effort to more fairly calculate the ADR limits.

As previously discussed, all RACs accept esMD submissions to minimize provider and supplier burden associated with medical documentation requests. The acceptance of esMD helps minimize the time necessary to respond to RAC requests and offers another alternative for providers to safely and quickly transport the documentation.

Each RAC has a customer service center with representatives available to address provider concerns. They are required to have a quality assurance program to verify that all customers receive professional and knowledgeable assistance with timely follow-up when necessary. Personnel are required to return telephone calls within 1 day, respond to electronic inquiries within 2 days, and respond to written requests within 30 days. The MACs are also available to address any Recovery Audit Program questions dealing with claim adjustments, recoupment, and appeals.

In addition to efforts in the Recovery Audit Program, CMS works across the agency to minimize provider burden. These efforts include ensuring that claims reviewed by one entity are not reviewed by another contractor again, unless there is a concern of potential fraud. CMS has implemented a standardized documentation request letter for review contractors to use. CMS works to prevent multiple review entities, such as RACs, MACs, and ZPICs from reviewing the same providers and the same topics at the same time.

CMS is exploring additional options to help providers navigate through the audit process. Initiatives include enhancing CMS websites with consolidated contractor information, standardizing medical review timeframes, and standardizing results letters to providers.

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<sup>13</sup> In November 2015, CMS further refined the ADR limits to be proportional to all types of bills for which a facility is paid, and adjustable based on a provider's compliance with Medicare rules. These revised limits were effective in January 2016.

CMS understands that additional staffing is often required to address RAC requests and is constantly working to improve processes to allow providers to respond to requests without increasing administrative burden or having a negative impact on beneficiary care.

## **Developing Robust Provider Education**

The Recovery Audit Program identifies areas for potential improper payments and offers an opportunity to provide feedback to providers on future improper payment prevention. CMS encourages collaboration between RACs and MACs to discuss improvements, areas for possible review, and corrective actions that could prevent improper payments. Educational efforts include articles or bulletins providing narrative descriptions of the claim errors identified and suggestions for their prevention, as well as information regarding system edits for errors that can be automatically prevented at the onset. These efforts are described more in the Corrective Action section of this report.

In addition, CMS has partnered with state and national hospital associations to provide periodic updates via conferences, webinars, and teleconferences. These forums serve as an opportunity for CMS to gain the insight of the provider community, as well as provide feedback from the program to providers.

## FY 2015 Results

### Performance of the Recovery Auditors

In FY 2015, the RACs identified and corrected \$440.69 million in improper payments. There were \$359.73 million collected in overpayments and \$80.96 million in identified underpayments paid back to providers (see Table 1). This represents an 82.8% decrease from program corrections in FY 2014, which were \$2.57 billion.

CMS attributes most of the decrease in corrections from the previous year to the prohibition on the RACs from performing patient status reviews. Collections on inpatient claims totaled \$2.02 billion in FY 2014 as opposed to \$225.18 million in FY 2015. Inpatient collections accounted for 84.2% of all collections in FY 2014 versus 62.6% of all collections in FY 2015. The Medicare FFS Recovery Audit Program returned over \$141 million to the Medicare Trust Funds. This represents a 91% decrease from FY 2014, when the returned amount was \$1.60 billion. With the publication of the 2014 Inpatient Prospective Payment System (IPPS) Final Rule, under which CMS prohibited the RACs from performing inpatient hospital patient status reviews on claims for dates of admission on or after October 1, 2013 through September 30, 2015 contributed to the decrease in program corrections over previous years and allowed the MACs to engage in a Probe and Educate process for the new hospital admissions policy. Inpatient hospital patient status reviews previously accounted for a substantial portion of RAC corrections.

Additionally, beginning in FY 2015, CMS began more closely monitoring the type and volume of reviews conducted, while still regularly approving new topics for review. CMS set an initial limit on the number of reviews the RACs could conduct under each approved topic. After a RAC exhausted its initial approved number of reviews for each approved topic, CMS reassessed the approved topic before allowing the RACs to conduct additional reviews on the topic.

**Table 1 CORRECTIONS BY RAC**

RAC	Overpayments Collected		Underpayments Restored		Total Corrected	
	No. of Claims	Amount Collected	No. of Claims	Amount Restored	No. of Claims	Amount Corrected
Performant	243,601	\$83,184,629.22	3,463	\$7,790,523.29	247,064	\$90,975,152.51
CGI	103,113	\$40,412,726.44	3,703	\$7,403,196.84	106,816	\$47,815,923.28
Connolly	89,068	\$140,023,016.08	16,642	\$44,302,103.80	105,710	\$184,325,119.88
HDI	150,998	\$96,104,681.60	8,233	\$21,456,085.09	159,231	\$117,560,766.69
Unknown <sup>14</sup>	133	\$3,958.23	12	\$12,742.81	145	\$16,701.04
<b>Total</b>	<b>586,913</b>	<b>\$359,729,011.57</b>	<b>32,053</b>	<b>\$80,964,651.83</b>	<b>618,966</b>	<b>\$440,693,663.40</b>

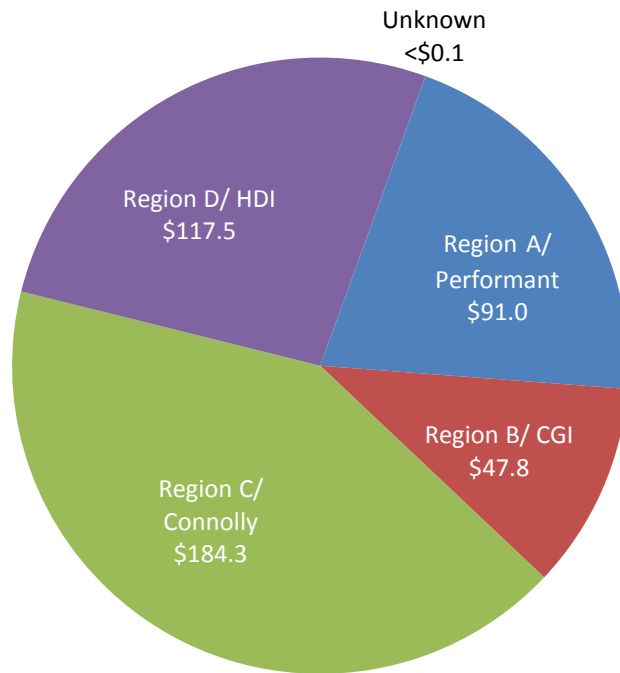
### Evaluation of the Comparative Performance of the RAC's

The Region C RAC, Connolly, corrected the largest dollar amounts of both overpayments and underpayments. Connolly corrected 42% of the total amount of improper payments for the Recovery Audit Program with over \$184 million in total corrections (see Figure 2). HDI, the Region D RAC, corrected \$117.5 million. The Region A RAC, Performant, corrected \$91 million. The Region B RAC, CGI, corrected \$47.8 million.

<sup>14</sup> Due to changing MAC workload numbers, these claims could not be attributed to a specific RAC in the Data Warehouse. No RAC has been paid contingency fees for the correction of these claims.

Figure 2

### Corrected Amount by RAC (in millions of dollars)



### Savings to the Medicare Program

The Recovery Audit Program returned a net \$141.87 million to the Medicare Trust Funds in FY 2015 after taking into consideration the costs of administering the RAC program within CMS, underpayments paid to providers, contingency fees, and appeal reversals. From the \$359.73 million in overpayment collections, CMS spent \$95.87 million to operate the Recovery Audit Program, of which \$20.25 million were contingency fees paid to RACs and \$75.62 million were administrative. Costs, such as processing appeals at the first two levels, adjusting claims, support contractors, and oversight of the program. These amounts do not take into account costs incurred at the third and fourth levels of appeal (Office of Medicare Hearings and Appeals (OMHA) and the Medicare Appeals Council within the Departmental Appeals Board (DAB), respectively), as these components do not receive Recovery Audit Program funding for those appeals.

**Table 2**

**Amount Returned to the Medicare Trust Funds (in Millions)**

Over-payments Collected	- Under-payments Restored	- Amount Over-turned on Appeal	- RAC Contingency Fees	- CMS Administration Costs	= Amount Returned to Medicare Trust Funds
\$359.73	\$80.96	\$41.03	\$20.25	\$75.62	\$141.87

Note: CMS administration costs include adjusting claims, processing appeals, supporting contractors, and CMS full time equivalents.

This equates to a Return on Investment (ROI) of \$2.48:1. The Recovery Audit Program ROI is calculated as the savings from Recovery Audit Program activities divided by the costs of Recovery Audit Program activities. Savings are defined as overpayments collected minus underpayments paid out to providers and minus overpayments overturned on appeal. Costs are defined as contingency fees paid to RACs plus CMS administrative costs. Savings and costs are calculated based on the time period in which funds were recovered or expended, not based on when actions like overpayments, underpayments, and appeals were identified.

Compared to overall FFS expenditures, the amount collected by RACs is relatively small. RACs collected less than 1 percent of the over \$43 billion in improper payments identified by CERT in FY 2015 and less than 0.1 percent of the over \$369 billion that Medicare paid in benefits in FY 2015.

*CMS believes that even these small percentages of corrections creates a sentinel effect in the industry.*

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Providers will become more aware of the importance of supporting their billing and including sufficient documentation in the beneficiary’s medical record so that they are prepared for potential future reviews.

## Additional Analysis

Although RACs did not perform any patient status reviews on inpatient hospital claims with dates of admission in FY 2015, 63 percent of overpayments collected (more than \$278 million) continued to come from inpatient hospital claims. These included coding validation and other types of inpatient hospital reviews.

The RACs performed more automated reviews (over 77 percent) than complex reviews and semi-automated reviews, but the vast majority of the improper payments collected came from complex reviews (over 79 percent).

Additional results and analysis of Recovery Audit Program data can be found in our companion Appendices document. While this report has previously included Appendices with additional data, these Appendices are being released as a separate document for FY 2015. This document is available for

download on the Recovery Audit Program website at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Recovery-Audit-Program>.

## Appeals

Beneficiaries and providers generally have the right to appeal any Medicare coverage or payment determination through Section 1869 of the Act.

*CMS strives to lower the appeal rate, which in turn reduces the administrative costs of the program, as well as provider burden.*

Throughout the four levels of the administrative appeals process, 170,482 appeal decisions were rendered for claims with overpayments identified by the RACs in FY 2015. Claims may have had initial overpayment determinations made prior to FY 2015. Appealed claims may be counted multiple times if the claim had appeal decisions rendered at multiple levels during FY 2015. For example, if a claim was appealed to the first level and received a decision in FY 2015, then appealed to the second level and received a decision in FY 2015, both decisions are counted. Of the total appeals decided, 63,647 claims, or 37.3 percent were overturned with decisions in the provider’s favor.

**Table 3**

**Recovery Audit Program Appeal Decisions by Claim Type – All Administrative Levels**

Claim Type	Appeal Decisions Reported	Appeal Decisions Dismissed	Appeal Decisions Remanded	Appeal Decisions Overturned	% of Appeal Decisions Overturned
Part A	115,399	31,668	59	25,380	22.0%
Part B	46,781	3,112	584	32,752	70.0%
DME	8,302	2,366	5	5,515	66.4%
<b>Total</b>	<b>170,482</b>	<b>37,146</b>	<b>648</b>	<b>63,647</b>	<b>37.3%</b>

Determinations are overturned for a variety of reasons including:

- ALJs are bound by the Medicare statute, Medicare regulations, National Coverage Determinations (NCDs), and CMS rulings. ALJs are required to provide substantial deference to CMS manuals and Local Coverage Determinations (LCDs) when they are applicable to a particular case, but are not bound by them. By contrast, RACs are required to make their claim decisions based on all CMS policies, including CMS manuals and LCDs. This may create discrepancies between the ALJ decisions and the RAC determinations.<sup>15</sup>

<sup>15</sup> [OEI-02-10-00340 - Improvements Are Needed At The Administrative Law Judge Level of Medicare Appeals](#)



- In many Part B denials providers can easily correct and resubmit some claims after the overpayment determination. For example, they can add a missing modifier to the claim that makes it payable.
- On appeal, providers often produce additional documentation that was not provided to the RACs at the time they made their original overpayment determination. RACs allow providers multiple attempts to provide documentation supporting their claim prior to issuing a notification letter. However, sometimes a provider only produces documentation after receiving an overpayment determination and subsequently filing an appeal.

The receipt of an appeal and the reversal of a RAC decision do not necessarily mean the RAC was incorrect in its determination regarding the claim as it was billed. Automated and semi-automated reviews are often denied correctly. However, as noted above, the provider can correct billing errors during the appeals process by adding a modifier, correcting the number of units of service, providing additional documentation, or modifying the claim so that it follows CMS policy for payment. In these cases, the RAC was correct in its determination. CMS believes these corrections should be reported as a separate category and continues to improve data sharing and reporting capabilities between contractors to try to account for these corrections.

CMS has made changes to the review approval process to even further improve the RACs' identifications, as well as the overturn rate of appeals. CMS now requires the MACs to validate the RACs' proposed review methodology and policy interpretations for their particular jurisdictions to minimize incorrect findings. While the review approval process should minimize these occurrences, CMS works quickly to resolve the issues so the provider can avoid the burden of the appeals process when issues do occur.

In FY 2015, RACs continued to increase their participation in ALJ appeal hearings. Appeals involvement by RACs further provides for contractor and provider education, as it presents an additional forum for discussion and clarification of coverage and billing policies, and identification of incorrect billing practices by the provider. Hearing participation also presents an opportunity for the RACs to clarify any policy questions the ALJ(s) may have during the hearing process and helps to identify CMS policies in need of further clarification.

## Evaluation of the Prepayment Review Demonstration

In September 2012, CMS began allowing RACs to review claims before they were paid as part of the RAC Prepayment Review Demonstration. The demonstration was conducted in seven states with high incidences of improper payments and fraud (California, Florida, Illinois, Louisiana, Michigan, New York, and Texas), as well as four states with high numbers of short hospital stays (Missouri, North Carolina, Ohio, and Pennsylvania). Under this demonstration, the RACs reviewed the submitted documentation for the selected claims before they were paid to verify that the provider had complied with all CMS coverage and billing rules.

If the RAC review found that the claim was billed correctly, then the claim was paid. If the claim was not billed correctly, then it was denied. The RAC received its contingency fee on the amount of the claim it prevented from being improperly paid. The RACs were required to complete the review of these claims within 30 days of receiving the documentation. As a result, the approved claims were paid in a timely manner.

The goal of the 3-year demonstration was to lower the amount of improper payments for claim types identified through CERT data. During this time, CMS assessed the impact on the provider community of increasing the number of prepayment reviews before permanent policy changes were implemented.

The RACs began with reviewing short-stay inpatient hospital claims. In addition, certain MS-DRGs were selected for review based on CERT data. Certain claims in these states containing a selected MS-DRG were flagged for review before the claim was paid. These reviews were stopped in August 2013.

Outpatient therapy claims were added to the Prepayment Review Demonstration beginning in April 2013 to comply with the requirements of the American Taxpayer Relief Act (ATRA) of 2012. Section 603 of ATRA contained a number of Medicare provisions affecting outpatient therapy caps and the medical review threshold through December 31, 2013. The Pathway for Sustainable Growth Rate (SGR) Reform Act of 2013 extended the therapy caps and medical review thresholds through March 31, 2014, and the Protecting Access to Medicare Act of 2014 (PAMA) further extended these processes through March 31, 2015. Claims for therapy services that have exceeded the threshold specified in statute for the year required complex medical review. There were two separate thresholds that triggered the medical review process:

- A \$3,700 threshold for Occupational Therapy (OT) services per year, per beneficiary.
- A \$3,700 combined threshold for Physical Therapy (PT) and Speech Language Pathology (SLP) services per year, per beneficiary. Note: Although PT and SLP services are combined for triggering the threshold, medical review is conducted separately by discipline.

For states involved in the Prepayment Review Demonstration, all applicable therapy claims above the threshold were flagged for review before payment.<sup>16</sup>

As part of the close-out process for the existing RAC contracts while CMS worked to procure new contracts, the Prepayment Review Demonstration was paused. The edits that flagged claims for review and triggered the ADR letter to providers were stopped in February 2014. The demonstration remained on hold until its conclusion in August 2015, while CMS assessed its options regarding the procurement of the next RAC contracts. Due to the hold, there were no claims reviewed as part of this demonstration in FY 2015. Throughout the three-year Prepayment Review Demonstration, RACs prevented over \$192.8 million in improper payments, and the demonstration resulted in a total of \$74.1 million in savings from claims reviewed in FYs 2013 and 2014.

While CMS did see modest savings from this demonstration, system limitations constrained the prepayment review process. CMS leveraged the existing systems at the MACs to implement the edits used to hold claims for complex review, because the MAC is responsible for the payment or denial of the claim depending on the RAC's review decision. However, this process did not allow for the RACs to choose the claims for prepayment review based on their own data analysis and consistent with their internal review strategies. The RACs did not know which claims were selected for review until they received notification from the MAC. Typically, the RACs' ability to review claims data and develop their own data analysis helps them target claims that may require additional review. In addition, because PAMA mandated that all applicable claims above the threshold be reviewed, RACs were required to review all claims that exceeded the therapy thresholds, even if their data analysis did not show any aberrancies in the provider's billing. Based on these limitations of the existing systems and the findings of the demonstration, CMS did not extend the demonstration beyond its planned end date.

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<sup>16</sup> In the remaining states, these claims could be submitted for payment, and if paid, were subject to RAC post-payment review.

## Corrective Actions

The development of corrective actions to prevent and correct improper payments is an agency-wide collaborative effort. Improper payments can occur due to a lack of sufficient documentation, lack of medical necessity, and incorrect coding.

A vulnerability is defined as a claim type or series of related claim types that pose a financial risk to the Medicare FFS program due to the claim type's susceptibility to improper payments. Some payment vulnerabilities can be prevented through national claims processing system edits. These edits can deny a claim or send an electronic message to the MACs to manually review a claim. Providers have the right to appeal a claim that is denied by national claims processing system edits. The MACs also develop edits for their local claim processing systems based on identified improper payments in their jurisdiction. Additionally, CMS develops medically unlikely edits (MUEs) that deny claims where the services billed exceed a number that would be clinically reasonable, as well as National Correct Coding Initiative (NCCI) edits to catch those services that are coded incorrectly. Both MUEs and NCCI edits are updated quarterly.

However, not all payment vulnerabilities can be corrected through system edits. Such issues may need to be corrected through provider education, prepayment review, post-payment review, or changes in CMS policy. CMS is also implementing new techniques for preventing and correcting improper payments, such as prior authorization, which requires that all relevant coverage, coding, and clinical documentation requirements be met before the item or service is provided to the beneficiary and before the claim is submitted for payment.

To ensure that the agency is coordinating its approach and focusing resources on the payment vulnerabilities that contribute the most to the improper payment rate, CMS developed the Program Integrity Board. This Board is a cross-agency board that meets regularly to discuss issues contributing to the Medicare FFS improper payment rate. As part of the Program Integrity Board, integrated project teams are created to focus more thoroughly on certain payment vulnerabilities.

As an example, one integrated project team is focused on home health. The home health integrated project team was the first project team created, as a result of the high improper payment rate for home health claims identified in the FY 2014 CERT report. The team recommended courses of action, including policy clarifications, a home health probe and educate process, additional widespread provider education, and consideration of demonstration projects. Additional integrated project teams have been created for therapy, as well as general documentation improvement, which affects many different provider and claim types.

### **MAC Corrective Actions for RAC-Identified Vulnerabilities**

CMS has established a process for MACs to implement corrective actions for program vulnerabilities based on RAC reviews. CMS identifies all areas of review with more than \$500,000 in RAC corrections as vulnerabilities. Each quarter, CMS sends all review topics that reach this payment threshold for the first time to the MACs. The MACs then report on any action they have taken to prevent or correct these payment vulnerabilities. Because they have limited resources with which to implement their Improper

Payment Reduction Strategies, MACs prioritize the areas that are most susceptible to improper payments in their jurisdiction, and this data analysis helps MACs make such a determination. The MACs then focus on those areas that would benefit most from corrective actions, such as local system edits. CMS does not instruct the MACs on which system edits to implement. Payment vulnerabilities based on MAC LCDs require local system edits. These policies are individualized and can differ with each MAC. MACs can also choose to do additional prepayment or post-payment reviews, as well as provider education.

## **Additional Corrective Actions for Vulnerabilities**

CMS works to address RAC-identified vulnerabilities promptly to prevent future improper payments. National system edits are based on national coverage determinations and policies. It is possible that claims processing edits are already in place for some vulnerabilities but need to be re-evaluated for effectiveness, while other edits have been implemented more recently, but the effects of the edit have not yet been realized.

Below is a summary of examples of actions that have been taken to address payment vulnerabilities that were previously identified and that cannot be corrected through system edits:

- CMS is continuing the Prior Authorization of Power Mobility Devices (PMDs) Demonstration. Since this implementation, CMS has observed a decrease in expenditures for PMDs in the demonstration states and non-demonstration states. Based on claims processed from the inception of the pilot on September 1, 2012 through December 31, 2015, monthly expenditures for the PMD codes included in the demonstration decreased from \$12 million in September 2012 to \$3 million in December 2015 in the original 7 demonstration states; \$10 million in September 2012 to \$3 million in December 2015 in the 12 additional expansion states; and \$10 million in September 2012 to \$3 million in December 2015 in the non-demonstration states. CMS believes many national suppliers have adjusted their billing practices nationwide and are now complying with CMS policies based on their experiences with prior authorization in the demonstration states. To assist providers with submitting prior authorization requests, CMS developed data elements for an Electronic Clinical Template for PMDs. For more information, please visit the [PMD Electronic Clinical Template website](#).
- CMS implemented two demonstration projects to test whether prior authorization in Medicare FFS helps reduce expenditures, while maintaining or improving access to and quality of care for certain non-emergent services. CMS believes using a prior authorization process will help ensure services are provided in compliance with applicable Medicare coverage, coding, and payment rules before services are rendered and claims are paid.
  - In December 2014, CMS implemented a prior authorization model for repetitive, scheduled non-emergent ambulance transport occurring on or after December 15, 2014 in New Jersey, Pennsylvania, and South Carolina. Section 515 of MACRA expanded the prior authorization model for repetitive, scheduled non-emergent ambulance transports effective no later than January 1, 2016 to five additional states (Delaware, Maryland, North Carolina, Virginia, and West Virginia) and the District of Columbia.

- CMS implemented a prior authorization model for non-emergent hyperbaric oxygen therapy in Illinois, Michigan, and New Jersey. Providers in Michigan began submitting prior authorization requests on March 1, 2015 for treatments occurring on or after April 13, 2015, and providers in Illinois and New Jersey began submitting prior authorization requests on July 15, 2015 for treatments occurring on or after August 1, 2015.
- CMS contracted with a Supplemental Medical Review/Specialty Contractor (SMRC) to perform nationwide medical reviews focused on vulnerabilities identified by CMS internal data analysis, the CERT program, professional organizations, and federal oversight agencies. The contractor evaluates medical records and related documents to determine whether claims were billed in compliance with Medicare coverage, coding, payment, and billing rules. In FY 2015, the SMRC performed post-payment reviews on certain durable medical equipment items, such as continuous positive airway pressure devices, portable oxygen concentrators, and nebulizer medications and equipment. The SMRC also reviewed high cost diagnostic imaging and blepharoplasty procedures. The results of these reviews are used to help CMS improve provider billing accuracy through additional provider education and outreach.
- The CERT program completed eight Special Studies in FY 2015. CERT Special Study topics are available to providers. MACs post the topics under review on their websites. Special Studies are intended to provide information on areas that:
  - Have had historically high improper payment rates
  - Are at risk for improper payments
  - Are new Medicare-covered benefits
  - Have recently been impacted by changes in policy
- CMS has issued reports on FFS facility billing practices for nine facility types in FY 2015. Program for Evaluating Payment Patterns Electronic Reports (PEPPERS) are available for Short-term and Long-term Acute Care Hospitals, Critical Access Hospitals, Inpatient Psychiatric Facilities, Inpatient Rehabilitation Facilities, Hospices, Partial Hospitalization Programs, Skilled Nursing Facilities, and Home Health Agencies. PEPPER is a comparative data report that summarizes a provider's Medicare claims data statistics for target areas often associated with Medicare improper payments due to billing, MS-DRG coding and/or admission necessity issues. Target areas are determined by CMS. PEPPERS can be used to compare data statistics over time to identify changes in billing practices, pinpoint areas in need of auditing and monitoring, identify potential DRG under- or over-coding problems, and identify target areas where length of stay increased. PEPPERS can assist hospitals and facilities achieve CMS' goal of reducing and preventing improper payments. For more information, please visit the [PEPPER website](#).
- CMS has issued 70,000 Comparative Billing Reports (CBRs) on billing practices in FY 2015. CBRs contain data-driven tables and graphs with an explanation of findings that compare providers' billing and payment patterns to those of their peers located in their state and across the nation. To protect privacy, CMS issues each agency CBR confidentially and provides only summary billing information. No patient or case-specific data is included. CMS believes

CBRs are a tool to help providers better understand Medicare billing rules and improve the level of care for patients. The MACs post CBR topics under the review section of their websites.

- CMS has issued seven Medicare Learning Network (MLN) articles and four Quarterly Provider Compliance Newsletters, providing detailed information on 17 findings identified by the Medicare FFS RACs in FY 2015. CMS has received positive feedback from provider associations regarding the value of these documents and plans to continue their issuance. For more information, these articles are available at the [MLN Provider Compliance website](#).

CMS contractors also post MLN Matters articles to their websites, as well as other educational material relevant to CMS policy and LCDs for their jurisdictions.

For more information, please review national policy guidance at the [Medicare Coverage Database](#).



## External Oversight

### GAO Oversight

The Government Accountability Office (GAO) regularly reviews CMS programs and offers recommendations for improvements. CMS welcomes the opportunity to collaborate on improvements to better its programs and processes.

On July 18, 2014, the GAO issued a report on oversight of postpayment claims reviews.<sup>17</sup> The report stated that while CMS has taken steps to prevent duplicative postpayment claims reviews among the Medicare review contractors, the data that CMS collected from the contractors and the guidance that CMS provided to them was insufficient to fully prevent duplicative reviews. This was due to the fact that the RAC Data Warehouse relied on contractors entering complete and accurate information about their postpayment reviews.

The GAO recommended that CMS take further actions to ensure the efficiency and effectiveness of contractors' postpayment review efforts, which include providing additional oversight and guidance regarding data, duplicative reviews, and contractor correspondence. CMS concurred with these recommendations and noted plans to improve CMS oversight and guidance. In July 2015, CMS reported that it was making revisions to the Program Integrity Manual (PIM) to clarify contractor reporting requirements for the RAC Data Warehouse and will incorporate further guidance and clarifications into the new contracts for contractors that conduct postpayment reviews. In addition, CMS has made a number of improvements to the format used for postpayment Additional Document Request letters (ADR) sent by the RACs, MACs, and CERT contractor. CMS is also working on revisions to requirements for contractors' review results letters.

*These improvements create more uniformity across all contractors' letters and create more clarity for providers responding to them.*

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During FY 2015, the GAO initiated an audit to examine claim review programs and prepayment reviews.<sup>18</sup> The report found that the RAC Prepayment Review Demonstration was successful; that RACs primarily focused their reviews on inpatient hospital claims during FY 2013 and FY 2014; and that during that time, the RACs had an average cost per review to CMS of \$158 and identified \$14 in improper payments per dollar paid by CMS to the RAs. The GAO recommended that CMS seek legal authority for the RACs to conduct prepayment reviews outside of the demonstration, however, based on these limitations of the existing systems and the findings of the demonstration, CMS did not extend the demonstration beyond its planned end date.

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<sup>17</sup>GAO-14-474, Medicare Program Integrity: Increased Oversight and Guidance Could Improve Effectiveness and Efficiency of Postpayment Claims Reviews. <http://gao.gov/products/GAO-14-474>

<sup>18</sup> GAO-16-394, Medicare: Claim Review Programs Could Be Improved With Additional Prepayment Reviews And Better Data. Report issued on April 13, 2016. <http://www.gao.gov/products/GAO-16-394>



## Continuous Improvement

CMS is committed to working with the RACs, the provider and supplier communities, and other stakeholders to continuously improve the RAC program and refine ongoing operations.

RACs continue to participate, and encourage providers to participate, in the esMD program, which facilitates the paperless transmission of electronic medical records. All four RACs saw provider participation in the esMD program increase in FY 2015. CMS anticipates even higher participation in FY 2016. Provider participation varies across RACs but is as high as 45 percent of all documentation submitted to Performant (Region A).<sup>19</sup>

*The esMD program promotes both efficiency and organization, while reducing provider burden and administrative costs.*

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CMS encourages the RACs and MACs to meet to discuss program issues and potential improvements. CMS hosts regular teleconference meetings with both contractors to address operational issues. RACs also meet regularly with the MACs in their region to discuss issues specific to their operations. In addition, CMS facilitates additional communication on appeals, medical review, policy interpretation, and other areas as needed. By nurturing contractor collaboration, CMS hopes to:

- Promote uniform policy application;
- Limit inaccurate identifications by the RACs based on different interpretations of policies;
- Limit unnecessary appeals to reduce provider burden and costs; and
- Ensure review topics are not being reviewed by more than one Medicare FFS review contractors to further reduce provider and supplier burden.

CMS continues to encourage RACs to expand their review strategies to include different types of providers, including a statement of work (SOW) change that emphasizes the review of claim types with high improper payment rates.

At times, CMS will refer issues of potential improper payments to the RACs for their review. These referrals may come from MACs and ZPICs, or external entities such as the Office of Inspector General (OIG) and Government Accountability Office (GAO). These referrals will typically include uniform review rationale and website language, as well as standard claim selection criteria and edit parameters so that all RACs are reviewing the claims consistently. These referrals are optional for the RACs, and should a RAC choose not to accept a particular issue, CMS retains the right to give those claims to a different RAC for review. RACs do receive an increased contingency fee on the OIG referrals that result in improper payment correction.

CMS regularly evaluates the RACs' performance and adherence to the requirements in their SOWs. Staff members go on location to observe medical reviewers, Information Technology systems, and customer

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<sup>19</sup> This data is self-reported by the RACs.

service areas. When onsite visits are not possible, CMS conducts desk audits on claims to confirm that all aspects of the review process were completed correctly and accounted for in the Data Warehouse. Regular meetings with MACs, provider groups, and other stakeholders are also monitored for additional contractor oversight. If there are any findings in these evaluations, CMS notifies the RAC and requires a corrective action plan. The results of these regular evaluations are consolidated annually in the CPARS for an overall performance rating for the year. These results are available to all federal agencies. CMS believes that regular contractor oversight is essential to the success of the Recovery Audit Program.

## Program Enhancements

In December 2014, CMS posted a list of *Recovery Audit Program Improvements*.<sup>20</sup> This document listed five of the improvements that would be implemented with the awarding of the new contracts. The five improvements were:

- RACs must wait 30 days to allow for a discussion after discovering an improper payment before sending the claim to the MAC for adjustment. Providers will not have to choose between initiating a discussion and an appeal.
- RACs must confirm receipt of a discussion request within three days.
- RACs must wait until the second level of appeal is exhausted before they receive the contingency fee.
- CMS is establishing revised ADR limits that will be diversified across different claim types (e.g., inpatient, outpatient claims).
- CMS will require RACs to adjust the ADR limits in accordance with a provider's denial rate. Providers with low denial rates will have lower ADR limits while provider with high denial rates will have higher ADR limits.

In FY 2015, CMS worked to implement many of these improvements. In November 2015, CMS posted a revised document<sup>21</sup> that updated the status of several of the enhancements, and included additional enhancements. Of note, CMS developed a provider survey to assess contractor performance and allow providers to give feedback on the Recovery Audit Program. CMS plans to use the results of that survey as a baseline from which to assess improvement in future survey results. CMS also established improved target accuracy and appeals overturn rates. Failure by the RAC to meet these targets will result in corrective actions, such as reducing available ADR limits or ceasing reviews in certain areas until corrective actions are taken. Due to the delay in the new contract awards, CMS included several of the enhancements in the November 2015 contract modifications to extend the RAC's period of performance. CMS is confident that these changes will result in a more effective and efficient program through enhanced oversight, reduced provider burden, and greater program transparency.

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<sup>20</sup> This document is available at the [Recovery Audit Program website](#).

<sup>21</sup> <https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Recovery-Audit-Program/Downloads/Recovery-Audit-Program-Enhancements11-6-15-Update-.pdf>.

## **Short-Stay Hospital Admission Claims**

As previously indicated, a major cause of the reduction in RAC collections in recent years has been the continued prohibition on performing patient status reviews on inpatient hospital claims. In August 2013, CMS published a final rule updating FY 2014 Medicare payment policies and rates under the IPPS and the Long-Term Care Hospital Prospective Payment System (LTCH PPS). The final rule modified and clarified CMS' longstanding policy on how Medicare contractors review inpatient hospital and critical access hospital admissions for payment purposes. Under the final rule, certain services are generally appropriate for inpatient hospital admission and payment under Medicare Part A when the physician (1) expects the beneficiary to require a stay that crosses at least two midnights and (2) admits the beneficiary to the hospital based upon that expectation. These types of reviews previously accounted for a substantial portion of RAC corrections.

CMS subsequently established the Probe and Educate process, which directed MACs to review inpatient hospital claims and provide education to providers in accordance with the final rule until December 31, 2013. CMS prohibited RACs from conducting inpatient hospital patient status reviews on claims with dates of admission between October 1, 2013 and December 31, 2013. CMS later extended these policies through September 30, 2014.

With the enactment of the Protecting Access to Medicare Act of 2014 (PAMA) on April 1, 2014, the Secretary was permitted to continue the Probe and Educate process until March 31, 2015 and required to continue the prohibition on RACs from conducting patient status reviews for inpatient claims with dates of admission through March 31, 2015. This prohibition was extended again through the enactment of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA). Section 521 of MACRA permitted CMS to further extend the medical review activities under the MAC hospital Probe and Educate process for inpatient claims through September 30, 2015, and extended the prohibition of RAC reviews of inpatient hospital patient status for claims with dates of admission through September 30, 2015.

CMS announced in August 2015 that it will not approve RACs to conduct patient status reviews for dates of admission of October 1, 2015 through December 31, 2015.<sup>22</sup>

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<sup>22</sup> Beginning in January 2016, RACs may conduct patient status reviews for those providers that have been referred by the QIO as exhibiting persistent noncompliance with Medicare payment policies