

Q&A for Medicare Part D Recovery Audit Contractor (RAC) Program



These questions and answers provide important information relating to the Medicare Part D RAC Program for Part D plan sponsors, as well as details on where to obtain additional information.

What is the Medicare Part D RAC Program?

Title XVIII of the Social Security Act (the Act), section 1893(h), authorizes the use of recovery audit contractors (RACs). The Fee-For-Service (FFS) RAC Program was implemented as a demonstration project through The Tax Relief and Health Care Act of 2006. The Centers for Medicare & Medicaid Services (CMS) permanently implemented the FFS RAC Program on a nationwide basis in October 2009. The Affordable Care Act, section 6411(b), added section 1893(h)(9) to the Act, which expanded the use of RACs to include the Medicare Advantage (Part C) and prescription drug (Part D) programs. CMS' Center for Program Integrity (CPI) serves as the focal point for all national and statewide Medicare, Medicaid, and Child Health Insurance Program (CHIP) efforts for preventing and reducing fraud, waste, and abuse (FWA). Identifying and preventing overpayment in Part C and Part D is central to that work. CMS oversees the Part D RAC Program, which is being implemented by the CPI Medicare Program Integrity Group (MPIG), Division of Plan Oversight and Accountability (DPOA).

What is DPOA's role?

DPOA is the division at CMS responsible for safeguarding the integrity of Part C and Part D. DPOA is tasked with the implementation and oversight of the Part D RAC Program.

What does the RAC do?

The Part D RAC is tasked to identify underpayments and overpayments and recoup overpayments. In addition, section 1893(h)(9) of the Act requires Part C and Part D RACs to perform the following functions:

- Ensure that each MA plan under Part C and prescription drug plan under Part D has an anti-fraud plan in effect and to review the effectiveness of each such anti-fraud plan.
- Examine claims for reinsurance payments to determine whether prescription drug plans submitting such claims incurred costs in excess of the costs allowed.
- Review estimates submitted by prescription drug plans with respect to the enrollment of high-cost beneficiaries and compare such estimates with the numbers of such beneficiaries actually enrolled by such plans.

CMS has instructed the Part D RAC to refer any potential fraud findings identified during the auditing process to the Medicare Drug Integrity Contractor (MEDIC).

Who is the Part D RAC?

CMS has contracted with ACLR Strategic Business Solutions (ACLR, <http://aclrsbs.com>) to perform the Part D RAC audit functions under its guidance.

What is the Data Validation Contractor's (DVC) role?

CMS has contracted with Livanta (<http://www.livanta.com>) to perform the Part D RAC data validation functions under CMS guidance. The DVC ensures the integrity of the Part D RAC Program by performing an independent quality check that confirms the RAC's overpayment findings and measures the RAC's accuracy rate. The DVC must validate the RAC's overpayment findings before CMS issues a notification letter seeking return of an overpayment from a sponsor.

What happens if the DVC disagrees with RAC findings?

The DVC must provide its reason for rejecting the RAC findings. The RAC may then either accept or reject the DVC's findings. If rejected, the DVC must collaborate with the RAC to attempt resolution. CMS is the final decision maker to resolve disagreements on overpayment findings between the DVC and the RAC.

What should Part D plan sponsors do to prepare?

Part D plan sponsors are not expected to undertake major activities to prepare. If the RAC needs information from the Part D plan sponsor for an audit issue, the RAC will contact the Part D plan sponsor. Part D plan sponsors may need to identify a point of contact for the RAC and watch for updates, announcements, educational materials, and other information.

How are Part D RAC audits conducted?

There are three phases to the Part D RAC audit.

- **Pre-Audit:** CMS determines audit criteria and scope to conduct audits of previous Medicare Part D payments.
- **Audit:** The Part D RAC conducts payment analysis at the contract ID and plan ID level. The Part D plan sponsor will be notified of the RAC's findings, including the impact of the overpayment. The impact calculation is a combination of the reinsurance and low-income cost-sharing amounts.
- **Post-Audit:** Identified overpayments are collected from the Part D plan sponsor. If a Part D plan sponsor feels the RAC findings are in error, this is also the phase in which a sponsor is provided opportunity to appeal.

What is the scope of the RAC review?

CMS determines the year and the audit issue as well as the specific criteria on which the Part D RAC must conduct the review. CMS requires the RAC to review all contracts that fall within a particular year for a particular plan.

Will CMS give Part D plan sponsors notice about the audit issues on which the RAC might focus?

CMS has identified three areas that the RAC will initially focus on, which include reviewing Prescription Drug Event (PDE) records associated with excluded providers, Direct and Indirect Remuneration (DIR), and duplicate PDEs. For its first audit of the 2007 contract year, the RAC only focused on PDE records associated with excluded servicing providers (pharmacies) and excluded prescribers. CMS will identify additional audit issues and keep Part D plan sponsors apprised.

What data does the RAC use to identify overpayments and underpayments?

The RAC conducts payment analysis and creates impact calculations based on PDE data provided by CMS. In some instances, the RAC might send Requests for Additional Information to the Part D plan sponsor.

What are impact calculations and how are they conducted?

The impact of Part D RAC-identified overpayments is determined by calculating the effect of the overpayment on reinsurance and low-income cost sharing amounts. A reconciliation based on corrected payments is performed and then compared to the initial reconciliation to determine the total overpayment. The amount is reflected in the Notification of Improper Payment (NIP) letter as the interim offset amount.

What is done to protect confidential data during the RAC process?

All Part D plan sponsor data is managed according to Health Insurance Portability and Accountability Act of 1996 (HIPAA) guidelines.

What should I do if I receive a Notification of Improper Payment (NIP) letter from the RAC?

A Part D plan sponsor who receives one of these letters should research the findings and determine whether to pursue a Request for Redetermination. The NIP letter will identify a phone number and e-mail to reach the RAC if there are specific questions about the notification letter or the RAC process. Additionally, the letter will provide Part D plan sponsors with information on the amount of overpayment identified, the process of recoupment, and appeal information.

How does the Part D plan sponsor appeal the RAC's findings?

CMS provides the Part D plan sponsor with a two-tiered appeal process, should the sponsor disagree with the overpayment assessment. A Part D plan sponsor has 30 calendar days from the date of the NIP letter to submit a Request for Redetermination of the assessment. The Request for Redetermination must be e-mailed to ACLR at info@aclrrac.com and CMS at PartDRACAppeals@cms.hhs.gov. The contract number and the phrase "RAC Redetermination Request" must be in the e-mail's subject line (example, "H1234 RAC Redetermination Request"). The appeal submission must include all relevant information and be well organized.

If a Part D plan sponsor is not satisfied with the Redetermination Decision, the sponsor has 15 calendar days from the date of receipt of the decision to make a Request for Reconsideration. The Request for Reconsideration must be e-mailed to CMS at PartDRACReconsiderations@cms.hhs.gov. The contract number and the phrase "RAC Request for Reconsideration" must be in the e-mail's subject line (example, "H1234 RAC Request for Reconsideration").

How will CMS recoup the identified overpayment?

An interim adjustment in the amount owed will be made to a contract's monthly payment. This will be reflected in the Part D plan sponsor's Membership Detail Report approximately 2 months from the date of the NIP letter. Prior to CMS reopening reconciliation, this offset will be credited at the contract level. PDEs identified by the RAC that were originally paid in error must be submitted to CMS by the Part D plan sponsor immediately. The interim payment adjustment will be reversed during the reopening of reconciliation. Overpayment adjustment dates will be communicated to the Part D plan sponsor in the Plan Payment Letter that they receive from the Medicare Plan Payment Group.

What does it mean if I do not receive an NIP letter?

This means that the RAC has not currently identified overpayments made to the Part D plan sponsor. NIP letters will be sent to Part D plan sponsors only if the RAC has identified overpayments made to those sponsors. Not all Part D plan sponsors will receive these letters.

What are the relevant terms that Part D plan sponsors should know?

Part D plan sponsors are encouraged to become familiar with terms such as:

- **Excluded Provider:** An individual or entity that has been excluded from participation in Medicare, Medicaid, and all other Federal health care programs.
- **Exclusion:** Items and services furnished, ordered, or prescribed by an excluded individual or entity will not be reimbursed under Medicare, Medicaid, and all other Federal health care programs until the individual or entity is reinstated by the Office of Inspector General (OIG).
- **Overpayment:** Any funds that a person receives or retains under title XVIII (Medicare) or XIX (Medicaid) to which the person, after applicable reconciliation, is not entitled.

How will the RAC communicate with Part D plan sponsors?

Part D plan sponsors will receive notification of important RAC information via the Health Plan Management System (HPMS). Additionally, CMS has created the Parts C and D Recovery Audit Program website located at <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/recovery-audit-program-parts-c-and-d> on the Internet. The website will be updated periodically to ensure Part D plan sponsors have the most up-to-date information.

What is the role of StrategicHealthSolutions, LLC (Strategic)?

CMS has contracted with Strategic to facilitate dissemination of information and educational materials relevant to the Part D RAC Program. Moreover, Strategic provides ongoing technical assistance with the Part D RAC process.

CMS has created an e-mail account to communicate important information about the Part D RAC Program. Part D plan sponsors are encouraged to register their point of contact information to receive e-mail alerts, answers to frequently asked questions, and other important information as it becomes available. Please e-mail us at PartD_RACCommunications@cms.hhs.gov if you have questions about the Part D RAC Program. If you have questions or would like to discuss the process by which ACLR detected or calculated an overpayment, please call ACLR at 1-855-722-6333.



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