# CMS Announces RAC Transition and Refinements

On February 18, 2014, The Centers for Medicare and Medicaid Services (CMS) announced that due to the upcoming transition of contractors responsible for performing Recovery Audit Contractor (RAC) duties, providers may see a pause in RAC activities. As the initial RAC contracts are reaching the end of their term, CMS is in the process of reviewing responses to a request for proposals (RFPs) which will ultimately result in the award of new RAC contracts in the next few months. As part of this process, CMS will be consolidating the RAC contract for DMEPOS, Home Health and Hospice services into a single RAC contract that will provide all RAC services nationwide for these three benefit categories. Previously these services were performed by all four RAC contractors under the current contract model. CMS has stated that the reason for the pause in RAC activities is to allow the current RAC contractors to complete any audits already in process before the expiration of their contract.

In its release, CMS indicated that the last day a RAC contractor may send an additional documentation request (ADR) to a provider is February 21, 2014. The last day a RAC may send an overpayment notice to a Medicare Administrative Contractor (MAC) for purposes of collection is June 1, 2014.

While it is important to understand that this pause in no way reduces a provider's financial liability for RAC identified overpayments, as the new contractor will be able to review claims submitted during the transition period, it is important to remain cognizant of these dates. Any ADR requests received after February 21, 2014 from existing RAC contractors should be questioned as CMS has instructed the RACs not to send any new ADRs past this date. Providers should use the 30 day discussion period to challenge any ADRs received after February 21st. Remember the currently applicable limits of ADR requests for O&P, namely—we will be watching this limit closely for compliance once there is a new national RAC contractor announced.

Unfortunately, we do NOT know either the target date for the announcement and implementation of the new national RAC contractor. We would not expect that the delay between June 1 deadline for sending an overpayment notice and the effective date for the new RAC contractor will be a long one. We would also urge members to be prepared for the onset of some transitional SNAFUs and for the new RAC contractors to be very vigilant in eventually asserting its role as the "new sheriff."

In addition to the announcement regarding the pause in RAC activities during the transition between contractors, CMS also announced several refinements to the RAC program that it intends to implement with the new contract awards.

(over)

AOPA, and other provider groups have been continually pressing CMS regarding the need for major reform to the unfair, prejudicial, and unreasonable RAC program.

While the refinements in the chart below represent only a small part of the reform that is necessary to fix the broken RAC system, it is encouraging to know that CMS has at least heard the concerns of AOPA and other affected groups and is willing to refine the RAC system in response to those concerns. The chart below is reproduced from and is also available on the CMS website, .

| Concern | Program Change |
|---|---|
| Upon notification of an appeal by a provider, the Recovery Auditor is required to stop the discussion period. | Recovery Auditors must wait 30 days to allow for a discussion before sending the claim to the MAC for adjustment. Providers will not have to choose between initiating a discussion and an appeal. |
| Providers do not receive confirmation that their discussion request has been received. | Recovery Auditors must confirm receipt of a discussion request within three days. |
| Recovery Auditors are paid their contingency fee after recoupment of improper payments, even if the provider chooses to appeal. | Recovery Auditors must wait until the second level of appeal is exhausted before they receive their contingency fee. |
| Additional documentation request (ADR) limits are based on the entire facility, without regard to the differences in department within the facility. | The CMS is establishing revised ADR limits that will be diversified across different claim types (e.g., inpatient, outpatient). |
| ADR limits are the same for all providers of similar size and are not adjusted based on a provider's compliance with Medicare rules. | CMS will require Recovery Auditors 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. |

AOPA will continue to monitor developments regarding changes to the RAC program and communicate any updates to AOPA members in an efficient manner.