

Preparing for an RAC Audit Under the Affordable Care Act

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Among the situations that create angst for today's physicians, being audited is second only to being sued for malpractice. When it comes to Medicare, the thought of receiving a recovery audit contractor (RAC) audit certainly is a frightening proposition.

In 2005, the RAC program was created to help the Centers for Medicare and Medicaid Services (CMS) reign in the high costs associated with improper payments made through Medicare. After a short and successful (approximately \$1 billion for the CMS) stint as a pilot program that was limited to 3 then expanded to 6 states, Congress made the program permanent and expanded it nationally in 2008. Although the detection of fraud and abuse has been a priority for the CMS, the stakes substantially increased with the advent of the Patient Protection and Affordable Care Act (PPACA) that Congress and the president enacted in late 2010. With the success of the Medicare RACs, the PPACA expanded the current RAC program to Medicaid and Medicare Parts C and D in September 2011.¹ The PPACA now provides for an additional \$350 million over 10 years to ramp up their antifraud efforts, including increased scrutiny of claims before they have been paid as well as investment in sophisticated proprietary software,^{2,3} all indicating a much more aggressive push to collect overpayments.

Understanding the Process

Initially, the RAC program had little oversight, and in some cases, targeted health care entities were subject to erroneous claims and substantial hardships (ie, time consuming, financial) that created quite a backlash in the medical community. Through the efforts of the American Medical Association and

other medical societies, subsequent improvements to the program were secured. For instance, each RAC now is required to have a physician medical director and certified coders. Additionally, the look-back period for the RAC to go back and recover monies is 3 years from the date a claim was paid. Medical record requests also are limited to 10 per 45-day period per single practitioner, and RACs now must pay back contingency fees if they lose on any level of appeal.⁴

For the first few years, the RAC program targeted inpatient facilities, but now auditors are looking more closely at physicians in private practice. Each RAC is associated with a particular region of the country known as a Medicare administrative contractor jurisdiction. For example, my state is part of jurisdiction 12, which has its own specific RAC. As one of the improvements to the program, regional RACs are now required to maintain a list of auditable issues on their Web sites that they are specifically targeting. Knowing this information prior to an audit may give you a heads up to look closely at your own practice and make any necessary adjustments.

Each regional RAC is paid by the CMS on a contingency basis (ie, 20 cents per dollar recovered), which turns out to be beneficial for both the RAC and the US government as a cheap source of revenue in a fiscally challenged economy. Over the next 5 years, the US Department of Health and Human Services projects that this effort will save Medicaid and Medicare \$2.1 billion.⁵ For this reason, RAC audits will continue to increase in regularity; in fact, almost all of us will likely cross paths with an RAC auditor in the foreseeable future.

Preparing for a Successful Audit

It is important for dermatologists to understand the RAC audit process, but you also should be aware of the need to be prepared. As it often is said, those who do not prepare are doomed to fail. With appropriate preparation, you can exponentially increase your chances of a successful audit (Table).

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First, you need to be ready to recognize the audit request. A formal letter of request will be sent by mail from the Medicare administrative contractor, and you must be ready to respond in a proper and timely fashion. In fact, timing is everything. It is highly recommended that you appeal most every request, especially if it is a complex nonautomated review; because the appeals process is time sensitive, you essentially have lost if you miss the deadline. You only have 30 days to respond to avoid recoupment of the sum of money the RAC is requesting.

It also is important to designate responsibilities to your staff members in the event of an RAC audit to ensure that you have a process-oriented response in place. The only way you will successfully meet the deadlines of the appeals process is to have the exact timeline in front of you. Respond to everything in writing, preferably certified mail, and keep dated copies.

You also should be comfortable with your Current Procedural Terminology (CPT) coding and documentation. The more proficient you become, the less intimidated you will be by an RAC audit. For example, recent RAC audits have targeted evaluation and management services on the same day as a surgical (procedural) service. In dermatology, we code for this patient service quite often using CPT modifier 25. Dermatologists by nature of their office practice are entitled to use the CPT modifier 25 often. Unfortunately, you may be perceived as an outlier and be targeted for an audit; however, do not be afraid, as succinct and accurate documentation will allow for a successful audit in every case.

Finally, I strongly recommend that you set up an in-house compliance program. In 2000, the Office of the Inspector General (OIG) created a voluntary compliance program for individual and small group practices. The OIG's compliance program contains several components, but the first and foremost is conducting internal monitoring and auditing.⁶ Internal

self-auditing is, in the OIG's opinion, the most important compliance goal. These self-audits will not only make providers more confident and less prone to error but also may reduce the chances of an RAC audit.

Conclusion

There are several resources available that can help you understand and navigate through the RAC audit process more clearly. Both the CMS (www.cms.gov) and the American Medical Association (www.ama-assn.org) recently have posted webinars on their respective Web sites to keep physicians informed about the RAC program. In response to its members' needs, the American Academy of Dermatology has created an audit survival toolkit (<http://www.aad.org/member-tools-and-benefits/practice-management-resources>), which emphasizes self-auditing evaluation and management coding and gives specific information on how to handle an RAC audit. You also can access the OIG compliance guidelines in the *Federal Register* (<http://www.hhs.gov/oig>).

Although these audits by the CMS are well intentioned, all too often they entangle physicians who are conscientious and play by the rules. The appeals process may be expensive and time consuming, not to mention the mental anguish physicians often go through. Many dermatologists are not aware that physicians can obtain insurance to cover the overall costs of preparing an audit defense. Audit insurance is indeed available to help alleviate the damage of a lengthy audit process. In some cases, it is quite affordable. Similar to malpractice insurance, the comfort of having a policy in place can certainly ease the pain of an extended audit process.

REFERENCES

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Tips to Ensure a Successful RAC Audit

- Be ready to recognize and respond to an audit request in a timely manner
- Designate responsibilities to staff members for a process-oriented response
- Become comfortable with your Current Procedural Terminology coding and documentation process
- Activate an in-house compliance program for your practice

Abbreviation: RAC, recovery audit contractor.