



American Hospital  
Association

# RAC REPORT

Prepared for state, metropolitan and regional hospital associations.  
(This report is one page.)

## Recovery Audit Contractor Program Update

May 28, 2009

In a meeting this week with AHA, the Centers for Medicare & Medicaid Services (CMS) provided the following updates on the Medicare Recovery Audit Contractor (RAC) Program. In addition, we have highlighted other recent RAC news and resources.

- CMS anticipates the following timeline for RAC audit activity to begin:
  - RAC automatic reviews – late June or July;
  - RAC complex reviews for medical necessity – early 2010; and
  - Other RAC complex reviews (DRG validation and coding) – Fall 2009.
- Attached is the sample demand letter that CMS has provided to the RACs. The demand letter articulates the amount of each overpayment identified by a RAC and initiates the formal Medicare appeals process.
- CMS clarified that providers will have the option to use the RAC discussion period from the date of the RAC Review Results Letter through the date of recoupment of an overpayment – 41 days following the date of the demand letter – rather than only through the issuance of the demand letter. Information on the discussion period and flowcharts for the review results and demand letters are provided in AHA's April 2009 Member Advisory, *RAC Permanent Program Basics*, which is available at [www.aha.org/rac](http://www.aha.org/rac). There you also will find the recent AHA RAC Education Series recordings and materials on Medicare appeals, information on AHA's new RACTrac tool and other RAC resources.
- The Government Accounting Office (GAO) is expecting to complete its analysis of the RAC program in November 2009. This analysis was requested in July 2008 by Reps. Rangel, Stark, Pallone, Dingell and Capps. The GAO is evaluating concerns regarding the RAC demonstration program and implementation of the national RAC program.

### Further Questions:

For more information on the RAC program, visit [www.aha.org/rac](http://www.aha.org/rac). If you have further questions, please e-mail [RACInfo@aha.org](mailto:RACInfo@aha.org).

**SAMPLE Demand Letter**



Region \_\_ Recovery Audit Contractor (RAC)

Date

RAC Point of Contact

Provider Name

Address 1

Address 2

City, State Zip

Re: Provider Name #123456789

Dear Medicare Provider,

The Centers for Medicare & Medicaid Services (CMS) has retained (name of RAC) \_\_\_\_\_ to carry out the Recovery Audit Contracting (RAC) program in the State of \_\_\_\_\_. The RAC program is mandated by Congress aimed at identifying Medicare improper payments.

This letter is to notify you that Medicare has made an overpayment to you for the amount of \$\_\_\_\_\_. A brief description of the claims associated with this overpayment can be found on the "Overpayment Report" page. Our review results letter dated xx/xx/xxxx provided the detailed reason(s) for the overpayment determination. In order to correct this overpayment, please refund \$\_\_\_\_\_ by xx/xx/xxxx.

Our request for additional medical documentation, detailed in a letter dated xx/xx/xxxx, constituted reopening under §1869(b) (1) (G) of the Social Security Act and 42 CFR 405.980(a) (1). Our good cause to reopen the claim, if required by 42 CFR 405.980(b) (2), was described in the letter as well.

**Please make the check payable to Medicare and send it with a copy of this letter to the following address:**

**Accounting Dept  
P.O. Box 9999  
City, State Zip**

If your local claims processing contractor offers an immediate offset option contact (name of contractor)\_\_\_\_\_.

NOTE: If the overpayment is for services that are not medically reasonable and necessary per Medicare standards, and you collected the amount of the overpayment from the beneficiary, the beneficiary has the right to request payment from Medicare. Any such indemnification will be recovered from you.

## Key Timeframes

As you review the overpayment, below is some important information and key timeframes (15, 30, 40 and 120 days) to consider:

### **15 Days:**

- **Rebuttal Process:** Under our existing regulations 42 CFR § 405.374, providers, physicians and suppliers have 15 days from the date of this demand letter to submit a rebuttal statement. The rebuttal process provides the debtor the opportunity to submit a statement and accompanying evidence indicating why recoupment should not be initiated. The outcome of the rebuttal process could change how or if CMS will recoup. If you have reason to believe the withhold should not occur on x/x/xxxx you must notify the claim processing contractor before \_\_\_\_\_. CMS will review your documentation. The claim processing contractor will advise you of its decision in writing within 15 days of your request. However, the rebuttal statement is not an appeal of the overpayment determination, and it will not delay/cease recoupment activities.

### **30 Days:**

- **Repayment Plans:** Please contact us immediately if you are unable to refund the entire amount at this time so that we may determine if you are eligible for a **repayment plan**. Any CMS approved repayment plan would run from the date of this letter. Recoupment by offset (which starts on day 41) can be averted by submitting a check with your repayment plan application.
- **Interest Assessment Begins on the 31<sup>st</sup> Day:** Under Medicare law, 42 CFR 405.378, a refund is required within 30 days from the date of this letter or interest will be assessed. Interest began to accrue as of the date of this demand letter and will continue to accrue at a rate of \_\_\_\_\_. Beginning on the 31<sup>st</sup> day interest will be assessed for each full 30-day period payment is not made on time. If the entire amount is refunded before day 30 no interest will be assessed on the overpayment. Example: An overpayment is identified for \$795.45 exists and a demand letter is sent on 03/01/09. The physician does not remit payment on the overpayment until 04/15/09 (45 days after the date of the initial demand letter). Therefore, on 04/01/09 interest accrues on the \$795.45 for one full 30-day period.
- **Information for those in Bankruptcy:** If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding, Medicare financial obligations will be resolved in accordance with the applicable bankruptcy process. Please contact us immediately to notify us about the bankruptcy so that we may coordinate with CMS and the Department of Justice to assure your situation is handled appropriately. Please supply the name and district under which the bankruptcy is filed if possible.

### **40 Days**

- **Recoupments:** After 40 days Medicare will begin withholding. NOTE: The withholding of Medicare payments will apply to current and future claims until the full overpayment amount and any applicable interest has been recouped or an acceptable extended repayment request is received.

## How to Stop Recoupment:

Even if the overpayment and any assessed interest have not been paid in full you can stop Medicare from recouping any payments if you act quickly and decisively. Medicare will permit providers, physicians and suppliers to **stop recoupment** at several points. The first occurs if Medicare receives a valid and timely request for a redetermination within 30 days from the date of this letter, if the appeal is filed later than 30 days, we will also stop recoupment at whatever point that an appeal is received but Medicare may not refund any recoupment already taken.

Medicare will again stop recoupment if, following an unfavorable or partially favorable redetermination decision, if you decide to act quickly and file a valid request for reconsideration with the Qualified Independent Contractor (QIC). The address and details on how to file a request for reconsideration will be included in the redetermination decision letter.

## What are the timeframes to stop recoupment:

**First Opportunity:** To avoid the recoupment, the appeal request must be filed within 30 days of this letter. We request that you clearly indicate on your appeal request that this is an **overpayment** appeal and you are requesting a redetermination. Send your appeal request to:

Contractor Name  
Address  
City, State and Postal ZIP Code

**Second Opportunity:** If the redetermination decision is 1) **unfavorable** Medicare can begin to recoup no earlier than the 61st day from the date of the Medicare redetermination notice (Medicare Appeal Decision Letter), or, 2) if the decision is **partially favorable**, we can begin to recoup no earlier than the 61st day from the date of the Medicare revised overpayment Notice/Revised Demand Letter or, 3) If the appeal request was received and validated after the 60th day Medicare will stop recoupment. The address and details on how to file a request for reconsideration will be included in the redetermination decision letter.

## What Happens following a reconsideration by a Qualified Independent Contractor.

Following decision or dismissal by the QIC, if the debt has not been paid in full, Medicare will begin or resume recoupment whether or not you appeal to any further level.

NOTE: Even when recoupment is stopped, interest continues to accrue.

## 120 Days

- **Appeals Must be Filed WITHIN 120 Days:** If you disagree with the overpayment decision, you may file an appeal. You have the option to appeal all of the claims from the overpayment letter or only part of the claims in the overpayment letter. An appeal is a review performed by people independent of those who have reviewed your claim so far. There are multiple levels of appeals. The first level of appeal is called a "**redetermination.**" A redetermination must be filed within 120 days of the date you receive this letter (presume five days following date of this letter). **However, if you wish to avoid recoupment from occurring and assessment of interest**

**of this overpayment you need to file your request for redetermination within 30 days from the date of this letter as described above.**

- **Filing An Appeal:** A request for a redetermination along with a copy of this letter should be mailed to:

**Appeal Dept  
P.O. Box 9999  
City, State Zip**

**NOTE: Interest continues to accrue throughout the appeals process.**

Thank you for your cooperation and prompt attention to this overpayment. If you have any questions regarding this letter or would like to discuss the overpayment identification, please direct your inquiry to the below associate at (phone number)\_\_\_\_\_.

Sincerely,

Auditor Name  
Ext: xxxx  
Enclosure

