

June 2009

Lilly Oncology

Reimbursement Update

Previous Reimbursement Updates can be found at www.LillyPatientOne.com

Lilly Oncology is pleased to offer this newsletter as part of our commitment to patient access to care. For more information about the topics discussed in this issue, please contact Rick Ford, Director of Reimbursement Consulting for AccessMED, at 913-744-6001.

MG58201

© 2009 AccessMED, Inc.

This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of the written law or regulations or local payer guidelines. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.

Recovery Audit Contractors to Supplement Medicare Payment Audits

The Centers for Medicare and Medicaid Services (CMS) is introducing physician practices nationwide to a new tool in the agency's ongoing effort to identify improper payments in the Medicare fee-for-service program. Four Recovery Audit Contractors (RACs) are now under contract with CMS to conduct payment audits of physician practices, hospitals, and other entities that provide services covered under Medicare Parts A and B.

RAC audits will be performed in addition to other Medicare payment auditing activities conducted by organizations such as Medicare Administrative Contractors (MACs), Carriers, Fiscal Intermediaries, Durable Medical Equipment Regional Carriers (DMACs), Program Safeguard Contractors (PSCs), the Office of the Inspector General (OIG), or Quality Improvement Organizations (QIOs).ⁱ

The RAC program was initially introduced as a demonstration project that was in effect between 2005 and 2008 in California, Florida, New York, Massachusetts, South Carolina and Arizona. According to CMS, the demonstration project returned over \$900 million in overpayments to the Medicare Trust Fund. Nearly \$38 million in underpayments were returned to health care providers.ⁱⁱ

The success of the demonstration project led to legislationⁱⁱⁱ to make the RAC program permanent and to expand it nationwide by January 1, 2010.

RACs currently may audit claims filed to Medicare Part A and Part B fee-for-service programs.^{iv} The RACs may not audit claims filed to Medicare Advantage plans or to the Medicare prescription drug program (Medicare Part D). Other auditing protocols apply to those programs.

What do the RACs do? RACs will analyze databases of paid Medicare claims to identify patterns or trends that may indicate that Medicare has overpaid or underpaid providers. There are two types of assessments: an automated process that relies on programmed analysis to identify a problem, and a more complex assessment that requires the RAC to review medical records obtained from providers.^v The RACs will assess paid claims using the same Medicare policies as the MAC or other contractor that initially processed the claims, including National Coverage Decisions, Local Coverage Decisions, and CMS manuals. They are required to employ a staff consisting of nurses, therapists, certified coders, and a physician Carrier Medical Director.^{vi}

Continued on Page 2

Recovery Audit Contractors – from page 1

RACs may currently only review claims paid on or after October 1, 2007. Eventually, the time limit will become no more than three years from the date of the initial claim determination, but no earlier than October 1, 2007.^{vii}

How many medical records will audited providers need to supply? There is a limit on the number of medical records that the RAC can request in a 45-day period. The 2009 limits are shown in Table 1. CMS will require the RACs to accept medical records not only on paper, but also on CDs and DVDs.

• Solo Practitioner:	10 per 45 days
• Partnership of 2-5 individuals:	20 per 45 days
• Group of 6-15 individuals:	30 per 45 days
• Large Group (16+ individuals):	50 per 45 days

Source: CMS. Available at: http://www.cms.hhs.gov/RAC/Downloads/RAC_Medical_Record_Request_Limits.pdf

What happens if the RAC identifies an overpayment? If an overpayment is identified, the RAC will send the provider a review results letter. The provider will then have the opportunity to discuss the improper payment determination with the RAC. If the issue cannot be resolved during the discussion period, the RAC will send the provider a demand letter for the amount of the overpayment. If the provider continues to disagree with the review findings, then the provider can initiate the regular Medicare appeals process. Appeals options start with a redetermination from the MAC who originally processed the claim, followed by an independent reconsideration, an Administrative Law Judge Hearing, and appeal to Federal District Court. Providers who do not request appeals will need to refund the amount of the overpayment either by check or via the Medicare recoupment process.^{viii}

Can the RAC extrapolate the findings of a small sample to a larger group of claims? RACs are authorized to extrapolate their findings under certain circumstances (e.g., if standard data analysis determines that the potential sample is very large or that a potential error has been chronic over a long period of time).^{ix} The larger sample may not contain claims paid prior to October 1, 2007.

Extrapolation has been used in Medicare auditing for many years. CMS has instructed RACs that they may not routinely use extrapolation in their audit activities and must use statisticians in designing any random audit to which extrapolation may be applied. In addition, the audit is subject to review and approval by an independent RAC validation contractor before it is implemented. Extrapolated results may be appealed by the provider.

How are RACs compensated? CMS will pay the RACs on a contingency basis for the overpayments and underpayments that they discover, unless their findings are overturned on appeal. Contingency fees range from 9% to 12.5% of the overpaid or underpaid funds identified.^x

What can physicians and other health care providers expect as the RAC program is rolled out?

- The RAC program is active now in a limited number of states and will be rolled out to the remaining states throughout 2009.^{xi}
- Physicians who receive a request for medical records from a RAC will have 45 days (plus 5 days both before and after the 45-day period for mail delivery) to send the records to the RAC. If the records are not received within this timeframe, the RAC may conduct one follow-up with the practice. If no response is received, the claims requested may be denied and a refund will be owed, or it will be necessary for the practice to file an appeal.^{xii}

To prevent this from happening, CMS recommends that practices identify an individual who will be responsible for responding to RAC requests. A back-up for that person when he or she is away from the office should also be designated.^{xiii}

- The discussion period that begins after the RAC sends a provider a review results letter is a new opportunity for providers to communicate with the reviewers before a demand letter is sent and before the formal appeals process begins. A similar discussion period does not exist in any other Medicare appeal program. Providers will have an opportunity to provide additional information for the RAC to consider before the audit is finalized.

CMS plans to post information about issues that have been approved for RAC review on the RAC Web site.^{xiv}

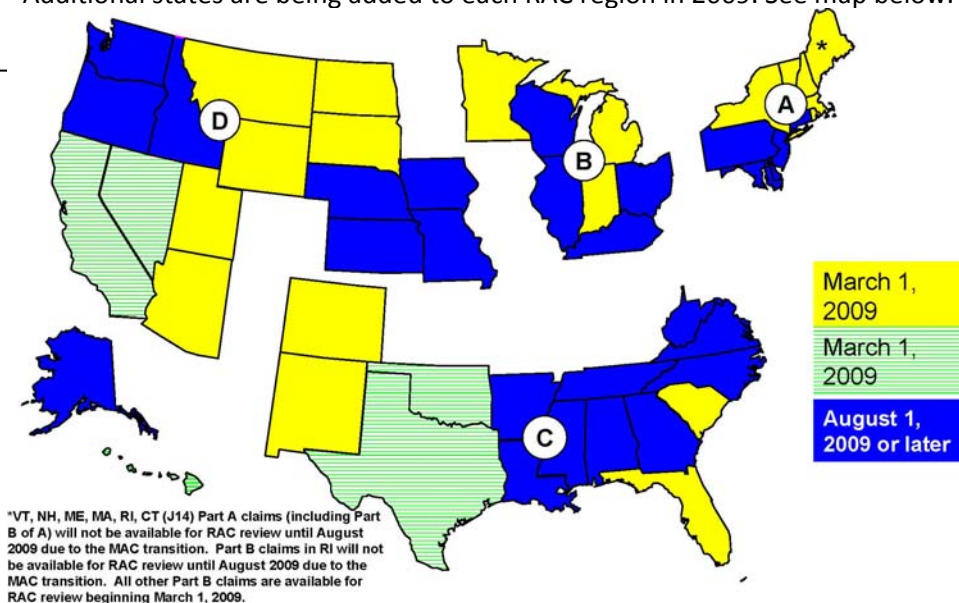
In a recent Open Door teleconference,^{xv} CMS recommended that practices check the RAC Web site (www.cms.gov/RAC) to learn about the types of improper payments that were found during the RAC demonstration project. CMS also suggested that practices refer to reports on improper payments issued by other agencies, such as the OIG or the General Accounting Office (GAO) for guidance.

For more information about the RAC program, visit the CMS Web site at www.cms.gov/RAC. There is an option to sign up to get RAC e-mail updates, which should be useful as this program is rolled out. ♦

Who Are the RACs?

- **Diversified Collection Services, Inc. of Livermore, California**, in Region A, initially working in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and New York.
- **CGI Technologies and Solutions, Inc. of Fairfax, Virginia**, in Region B, initially working in Michigan, Indiana and Minnesota.
- **Connolly Consulting Associates, Inc. of Wilton, Connecticut**, in Region C, initially working in South
- **HealthDataInsights, Inc. of Las Vegas, Nevada**, in Region D, initially working in Montana, Wyoming, North Dakota, South Dakota, Utah and Arizona.

Additional states are being added to each RAC region in 2009. See map below.



Source: CMS. Available at: [http://www.cms.hhs.gov/RAC/Downloads/RAC Expansion Schedule Web.pdf](http://www.cms.hhs.gov/RAC/Downloads/RAC%20Expansion%20Schedule%20Web.pdf)

ENDNOTES:

- ⁱ CMS RAC Frequently Asked Questions – Available at: http://questions.cms.hhs.gov/cgi-bin/cmshhs.cfg/php/enduser/std_adp.php?p_faqid=7733&p_created=1153331290&p_sid=5a6kKBzi&p_accessibility=0&p_redirect=&p_lva=&p_sp=cF9zcmNoPSZwX3NvcnRfYnk9JnBfZ3JpZHNvcnQ9JnBfcm93X2NudD0yOCwyOCZwX3Byb2RzPSZwX2NhdHM9JnBfcHY9NC40OTcmcF9jdj0mcF9zZWFyY2hfdHlwZT1hbnN3ZXJzLnNlYXJjaF9ubCZwX3BhZ2U9MQ**&p_li=&p_topview=1. Accessed June 5, 2009.
- ⁱⁱ CMS RAC Demonstration Evaluation Report, p. 8. Available at: http://www.cms.hhs.gov/RAC/Downloads/RAC_Evaluation_Report.pdf. Accessed June 5, 2009.
- ⁱⁱⁱ The Tax Relief and Health Care Act of 2006, Section 302. Available at: <http://www.cms.hhs.gov/RAC/Downloads/Legislation%20for%20Permanent%20RACs.pdf>. Accessed June 5, 2009.
- ^{iv} CMS RAC Statement of Work, p 6. Available at: http://www.cms.hhs.gov/rac/downloads/Final_RAC_SOW.pdf. Accessed June 5, 2009.
- ^v CMS RAC Statement of Work, pp 17 – 19. Available at: http://www.cms.hhs.gov/rac/downloads/Final_RAC_SOW.pdf. Accessed June 5, 2009.
- ^{vi} CMS RAC Program Slide Presentation, p 6. Available at: [http://www.cms.hhs.gov/RAC/Downloads/Recovery_Audit_Contractor_\(RAC\)_Program_Slide_Presentation.pdf](http://www.cms.hhs.gov/RAC/Downloads/Recovery_Audit_Contractor_(RAC)_Program_Slide_Presentation.pdf). Accessed June 5, 2009.
- ^{vii} CMS RAC Statement of Work, p 8. Available at: http://www.cms.hhs.gov/rac/downloads/Final_RAC_SOW.pdf. Accessed June 5, 2009.
- ^{viii} CMS RAC Program Slide Presentation, pp 7-9. Available at: [http://www.cms.hhs.gov/RAC/Downloads/Recovery_Audit_Contractor_\(RAC\)_Program_Slide_Presentation.pdf](http://www.cms.hhs.gov/RAC/Downloads/Recovery_Audit_Contractor_(RAC)_Program_Slide_Presentation.pdf). Accessed June 5, 2009.
- ^{ix} RAC Statement of Work, pp 9 and 24. Available at: http://www.cms.hhs.gov/rac/downloads/Final_RAC_SOW.pdf. Accessed June 5, 2009.
- ^x CMS / Federal Business Opportunities Solicitation. Available at: <https://www.fbo.gov/index?s=opportunity&mode=form&id=5c8c7d4b00249ba579d4d77d64bd0aea&tab=core&cvview=1&cck=1&au=&ck=>. Accessed June 5, 2009.
- ^{xi} CMS RAC Overview. Available at: http://www.cms.hhs.gov/RAC/01_Overview.asp. Accessed June 5, 2009.
- ^{xii} CMS RAC Statement of Work, p 13. Available at: http://www.cms.hhs.gov/rac/downloads/Final_RAC_SOW.pdf; CMS RAC Program Slide Presentation, p 19. Available at: [http://www.cms.hhs.gov/RAC/Downloads/Recovery_Audit_Contractor_\(RAC\)_Program_Slide_Presentation.pdf](http://www.cms.hhs.gov/RAC/Downloads/Recovery_Audit_Contractor_(RAC)_Program_Slide_Presentation.pdf). Accessed June 5, 2009.
- ^{xiii} CMS RAC Open Door Forum transcript, pp 15 – 16. Available at: <http://www.cms.hhs.gov/OpenDoorForums/Downloads/BulkfilePartBRAC041409.pdf>. Accessed June 5, 2009.
- ^{xiv} CMS RAC Program Slide Presentation, p 16 – 20. Available at: [http://www.cms.hhs.gov/RAC/Downloads/Recovery_Audit_Contractor_\(RAC\)_Program_Slide_Presentation.pdf](http://www.cms.hhs.gov/RAC/Downloads/Recovery_Audit_Contractor_(RAC)_Program_Slide_Presentation.pdf). Accessed June 5, 2009.
- ^{xv} CMS RAC Open Door Forum transcript, pp 12 – 13. Available at: <http://www.cms.hhs.gov/OpenDoorForums/Downloads/BulkfilePartBRAC041409.pdf>. Accessed June 5, 2009.