

RAC Reform Awaits Government Action

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By AHIMA's Advocacy and Policy Team

Although the First session of the 113th Congress is coming to a close, plenty of work remains for the members of Congress to accomplish in the coming year. AHIMA has worked closely with federal legislators to raise awareness on key initiatives that affect health information management (HIM) professionals. Currently, members of the US House of Representatives and the US Senate are considering legislation that could make changes—much needed and somewhat overdue—to the Recovery Audit Contractor (RAC) program.

The Medicare Prescription Drug, Improvement, and Modernization Act mandated the creation of the Recovery Audit Contractor (RAC) program. The program was created to identify and recover improper Medicare payments made to healthcare providers. Since the RAC program was first implemented in 2005, there have been ongoing concerns over the effectiveness of the audit process. HIM professionals are the primary points of contact for audits and understand the deficiencies in the audit processes firsthand. Armed with this knowledge, AHIMA members have been advocating fervently on efforts to reform the RAC program.

A Program in Need of Reform

The RAC program began as a three-year demonstration program in three states—New York, California, and Florida. However, the program was made permanent in 2006 under the Tax Relief and Health Care Act which required the Secretary of the US Department of Health and Human Services (HHS) to establish a national RAC program by January 1, 2010. The RAC program is overseen by the Centers for Medicare and Medicaid Services (CMS) with RAC contractors performing the actual work of reviewing, auditing, and identifying improper Medicare payments. Improper payments include:

- Incorrect payment amounts
- Incorrectly coded services (i.e., the codes submitted to Medicare do not match the documentation in the record)
- Non-covered services
- Duplicate services

However, unlike other Medicare contractors, RACs are paid a percentage of the improper payments they recoup. As a result, auditors are invested in rejecting payment claims made by providers.

AHIMA supports an audit process for Medicare payments that is fair, transparent, and effective. As the cost of healthcare is expected to continue rising, the efficient and appropriate use of resources remains a top priority. HIM professionals are deeply involved in the collection of the health data that is the subject of RAC audits. This makes HIM professionals the point of contact for responding to the additional document requests made throughout the audit process—and often during the subsequent appeals process as well. One of the key principles of the HIM profession is data integrity. However, AHIMA does not believe that this principle can be achieved under the current RAC program.

During the audit process, when a possible improper payment is detected the contractor will contact the provider and submit a request for additional documentation. Previously, CMS set a limit of 400 claims within a 45-day period for which an auditor could request additional documentation. However, CMS has begun to waive that cap at the request of the auditors. This places an undue burden on HIM professionals who are tasked with fulfilling the document requests with limited time and resources. Additionally, auditors are failing to meet the timeline in which they must make a determination if a payment was improper. Determinations must be made within 60 days of the additional documentation request. Without penalties, auditors are not adhering to determination deadlines. Furthermore, the level of audit process transparency needed for a functional RAC program is not currently present.

In response to industry concerns, the Office of the Inspector General (OIG) conducted a study on the RAC program, available at <https://oig.hhs.gov/oei/reports/oei-04-11-00680.pdf>. This study revealed several RAC oversight issues. The study concluded that of the RAC decisions that were appealed, nearly 50 percent were overturned in favor of the provider. A study by the American Hospital Association (AHA) puts that percentage closer to 72 percent. It should be noted that each appeal typically takes two years for a final decision.

As managers of health data, HIM professionals need sufficient notice to provide the requested information to support the claims throughout the appeal process. This is labor intensive for HIM professionals and exhausts financial resources as well. According to the AHA, hospitals spend \$10,000 to \$100,000 in a single quarter managing the RAC process.

The results of the OIG study concluded that while CMS took action on some of the vulnerabilities in the payment processes for Medicare, it fell short in thoroughly evaluating RAC performance. AHIMA supports CMS's efforts to address vulnerabilities that lead to improper payments. However, it is clear that the current program is ineffective, which is evidenced by the high percentage of successful appeals.

Legislative Initiatives Launched, Support Needed

AHIMA supports legislative efforts to improve the efficiency of the RAC program and increase oversight of its contractors. Earlier this year, 200 AHIMA members participated in AHIMA's Hill Day event in Washington, DC. One of the key advocacy issues discussed with legislators during Hill Day was the need to reform the RAC program.

US Representative Adam Schiff (CA-29th) announced to AHIMA's members that he was introducing a bipartisan bill with US Representative Sam Graves (MO-6th) to reform the current RAC program. H.R. 1250, the Medicare Audit Improvement Act of 2013, was introduced in the US House of Representatives during AHIMA's Hill Day. Since then, US Senator Roy Blunt (MO) introduced S. 1012, a companion bill to H.R. 1250. The introduction of a companion bill makes it more likely that legislative progress will be made.

Combined, these bills would make key changes to the RAC program, including:

- Increased transparency throughout the audit process. This would require information such as audit rates, denials, appeal outcomes, and independent performance evaluations to be readily available to stakeholders.
- The establishment of annual limits for the number of audits that can be requested in a year. Responding to multiple audits is an undue burden when HIM professionals are working with limited resources to meet patient care and quality assessment needs.
- Improved auditor performance through the implementation of financial penalties. RAC auditors would be required to pay a fee to the provider in cases where a claim denial is overturned on appeal.

While much needed progress has been made to reform the RAC program, help is still needed to ensure that these proposed reforms are implemented. Contact your congressional representatives via AHIMA's Advocacy Assistant, available at <http://www.ahima.org/about/advocacy>, and ask for their support for H.R. 1250 and S. 1012. Meaningful change will require the full support of AHIMA's membership on these important legislative initiatives.

ONC Emphasizes Consumer Engagement

The Office of the National Coordinator for Health IT (ONC) has had a busy year implementing federally mandated initiatives, managing major changes in leadership, and expanding consumer engagement in healthcare. ONC focused on the latter at the Consumer Health IT Summit held in September in Washington, DC.

With more than 1,000 participants for the event, the summit was held in an effort to raise awareness and drive demand for the Blue Button campaign—an initiative that gives patients easy electronic access to their health information. The outgoing National Coordinator, Dr. Farzad Mostashari, kicked off the summit by asking, "Is it time for this movement to move beyond being misfits to the broader world of healthcare?"

The summit highlighted programs and policies that increase patient access to their medical information. Highlights included a discussion on the HITECH Act changes to HIPAA regulations, which give patients greater access to their electronic health

records. Stage 2 of the "meaningful use" EHR Incentive Program was also discussed, detailing requirements that enable patients to readily download their medical records. ONC encouraged summit participants to build upon this momentum and raise awareness of the Blue Button campaign on a grassroots level.

In 2014, ONC is rolling out banners, public service announcements (PSAs), and webinars to bolster the Blue Button movement. Summit participants were able to preview the PSAs. For more information on this important ONC initiative, visit www.healthit.gov/bluebutton.

Reference

American Hospital Association. "RAC Trac: Exploring the Impact of the RAC Program on Hospitals Nationwide." June 1, 2013. <http://www.aha.org/content/13/13q1ractracresults.pdf>

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