

RAC Audits on the Upswing

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If the experience of Warner Norcross & Judd attorneys is any indication, audits of providers and suppliers of all types by Medicare, Medicaid and other third party payors are on the upswing.

By now, you have heard of Recovery Audit Contractors (RACs), the independent third-party contractors paid on a contingency basis to identify and correct improper Medicare payments. While these “bounty hunters” have focused their efforts primarily on hospital providers, others are at risk, too. Namely, non-institutional providers, including physicians, home health services and Durable Medical Equipment (DME) suppliers also may be targeted for a RAC audit.

Unfortunately, smaller providers are not always as equipped as larger, institutional providers to respond to a RAC audit. The timelines for responding to RAC audits are very tight, and failure to meet them will result in an overpayment.

For all providers – hospitals, physicians, home health services, DME suppliers – the time is now to prepare for a RAC audit. Steps you should take now include:

- Designate one person in your office or organization to handle RAC audits. It is important that all members of the organization know about your RAC designee and about the RAC process. Again, the timelines for complying with the RAC’s request for records are very tight. It is important that you comply within the time frame and maintain documentation of your timely response.
- Review the RAC webpage and other Medicare guidance to stay educated on the areas that could be the subject of a RAC audit. (However, be careful with internal audits of past claims. Decisions about retrospective audits should be made in consultation with your health care attorney in order to prevent the creation of a non-privileged review of internal billing problems.)
- Locate and review copies of documentation of past post-payment audits. This information could be helpful in defending current or future audits.
- If you don’t already have a compliance plan, consider implementing one.

But RACs are not the end of the story. Audits by carriers, Program Safeguard Contractors (PSCs), Zone Program Integrity Contractors (ZPICs), private third-party payors and others also are on the rise. We’ll address other audits in subsequent issues of this newsletter.



In the meantime, questions about RAC audits or other aspects of health law may be directed to Deborah Williamson (dwilliamson@wnj.com or 248.784.5056) or another attorney in the Warner Norcross & Judd Health Law Group.