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## Medicaid RAC Cometh

By: [Paul W. Kim](#)

As if Medicare Recovery Audit Contractors (RACs) aren't enough to worry about, very soon providers and suppliers will be subject to Medicaid RACs as well. Section 6411 of the Patient Protection and Affordable Care Act enlarged the jurisdiction of the RACs to include Medicaid Programs, by revising Section 1902(a)(42) of the Social Security Act and requiring States to establish RAC programs for their Medicaid Programs. Specifically, each State must contract with at least one RAC by December 31, 2010. The Centers for Medicare and Medicaid Services requires States to fully implement their RAC programs and begin auditing Medicaid providers and suppliers by April 1, 2011. CMS plans to issue regulations to provide additional guidance.

In the meantime, on October 1, 2010, CMS issued a letter to all State Medicaid Directors regarding the Medicaid RAC Program ([hyperlink to attached document](#)). Like Medicare RACs, Medicaid RACs would conduct audits to identify both overpayments and underpayments. Medicaid RACs would be paid on contingency-based fee arrangements for discovering overpayments, but each State may determine the compensation structure for the Medicaid underpayments uncovered by the RACs. Fortunately, Medicaid providers and suppliers would be afforded appeal rights under a State's existing or new administrative RAC appeal process. Nevertheless, States would be able to exercise much discretion with respect to a RAC's qualifications; mandatory personnel; contract duration; responsibilities; task deadlines; look-back periods; coordination with other contractors and law enforcement; appeal procedures; and fees.

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