

Update: Recovery Audit Contractors (RACs) and Medicare

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Background

- What is a RAC?
- Who will the RACs affect?
- Why RACs?
- What does a RAC do?
- What has CMS identified as keys to success?
- What can providers do to get ready?

What is a RAC?

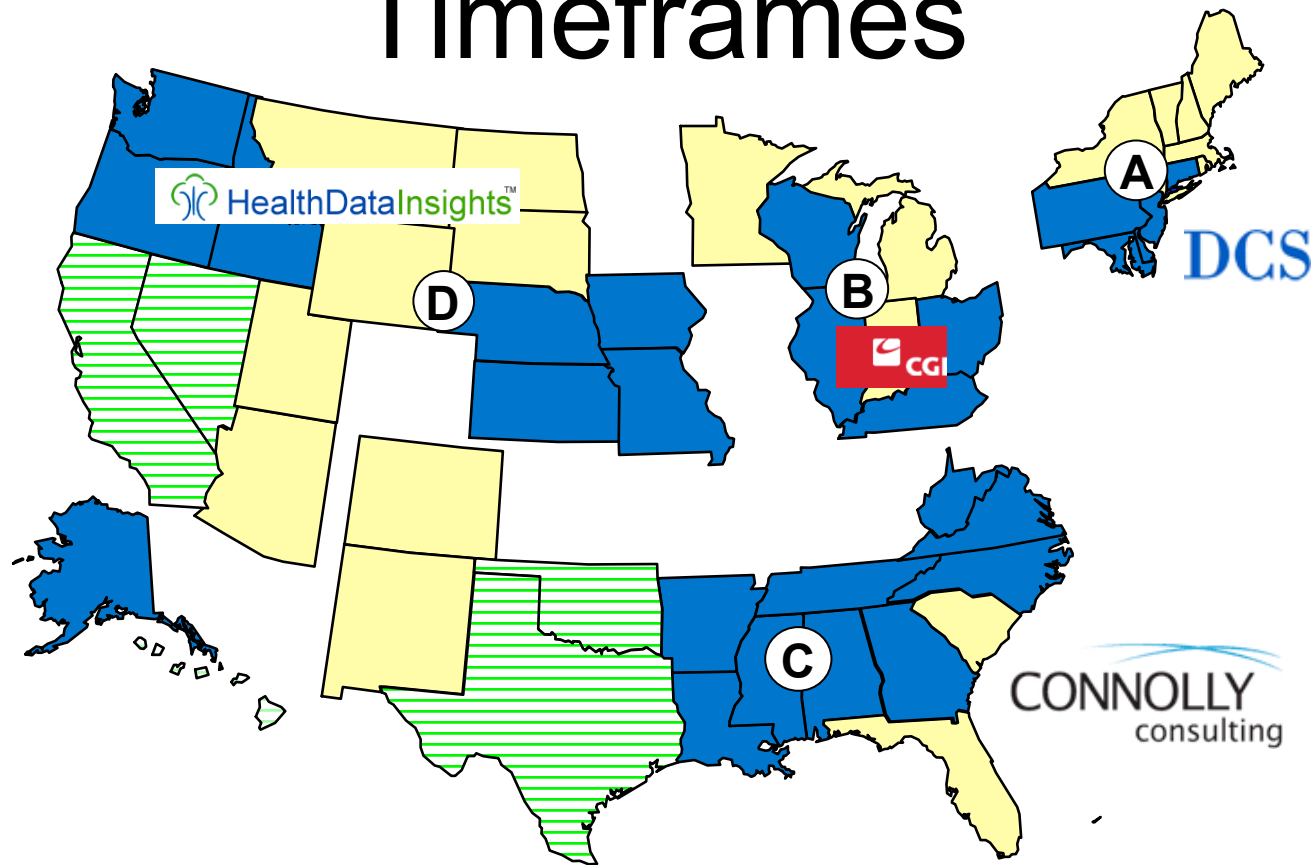
The RAC Program Mission

- The RACs will detect and correct past improper payments so that CMS and Carriers, FIs, and MACs can implement actions that will prevent future improper payments
 - **Providers** can avoid submitting claims that do not comply with Medicare rules
 - **CMS** can lower its error rate
 - **Taxpayers** and future Medicare beneficiaries are protected

Who will the RACs affect?

- Anyone who bills Fee-for-Service Medicare is subject to claim review by the RACs
- Provider outreach has resumed following resolution of the contract protests

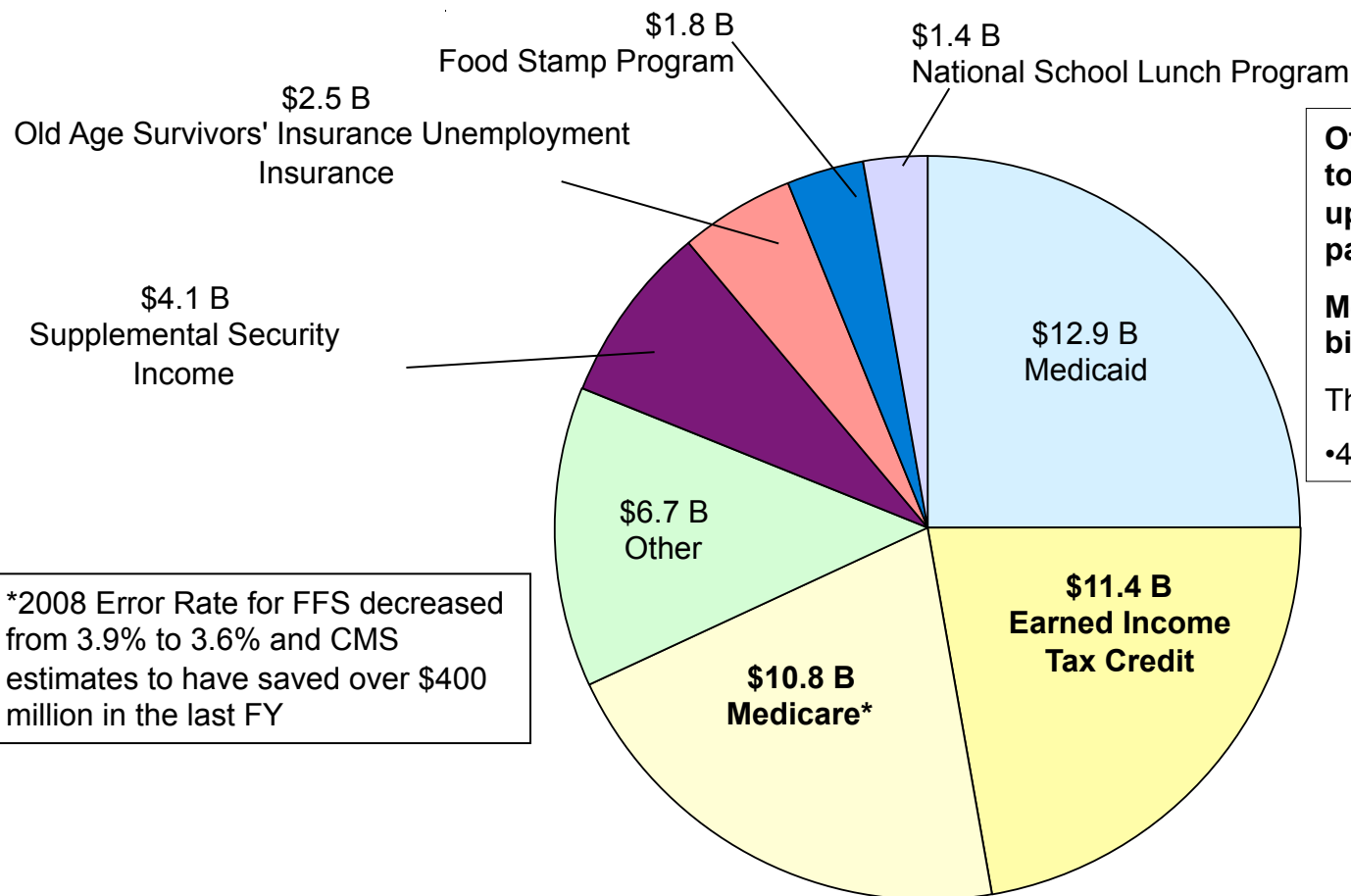
Timeframes



Claims Available for Analysis	Provider Outreach	Earliest Correspondence
March 1, 2009	March 1, 2009	March 1, 2009
March 1, 2009	March 1, 2009	March 1, 2009
August 1, 2009	August 1, 2009	August 1, 2009

Why do we have RACs?

Top 8 Federal Programs with Improper Payments, 2007



Of all agencies that reported to OMB in 2007, these 8 make up 88% of the improper payments.

Medicare receives over 1.2 billion claims per year.

This equates to:
 •4.5 million claims per work day

*2008 Error Rate for FFS decreased from 3.9% to 3.6% and CMS estimates to have saved over \$400 million in the last FY

RAC Legislation

- Medicare Modernization Act, Section 306
 - Required the three year RAC demonstration
- Tax Relief and Healthcare Act of 2006, Section 302
 - Requires a permanent and nationwide RAC program by no later than 2010

*Both of these statutes gave CMS the authority to pay the RACs on a contingency fee basis

What does a RAC do?

The RAC Review Process

- RACs review claims on a post-payment basis
- RACs use the same Medicare policies as Carriers, FIs and MACs: NCDs, LCDs and CMS Manuals
- Two types of review:
 - Automated (no medical record needed)
 - Complex (medical record required)
- RACs will not be able to review claims paid prior to October 1, 2007
 - RACs will be able to look back three years from the date the claim was paid
- RACs are required to employ a staff consisting of nurses, therapists, certified coders, and a physician CMD

The Collection Process

- Same as for Carrier, FI and MAC identified overpayments (except the demand letter comes from the RAC)
 - Carriers, FIs and MACs issue Remittance Advice
 - Remark Code N432: “Adjustment Based on Recovery Audit”
 - Carrier/FI/MAC recoups by offset unless provider has submitted a check or a valid appeal

What is different?

- Demand letter is issued by the RAC
- RAC will offer an opportunity for the provider to discuss the improper payment determination with the RAC (this is outside the normal appeal process)
- Issues reviewed by the RAC will be approved by CMS prior to widespread review
- Approved issues will be posted to a RAC website before widespread review

What are providers' options?

If you agree with the RAC's determination:

- Pay by check on or before Day 30 (interest is not assessed) and do not appeal
- Allow recoupment (OP + int) on Day 41 and do not appeal
- Request or apply for extended payment plan (OP+ int) and do not appeal

If you disagree with the RAC's determination:

- Pay by check on or before Day 30 (interest is not assessed) and file an appeal by Day 120
- Allow recoupment (OP + int) on Day 41 and file an appeal by Day 120
- Stop the recoupment by filing an appeal before to Day 31
- Request or apply for extended payment plan (OP+ int) and appeal by Day 120

Three Keys to Success

- Minimize Provider Burden
- Ensure Accuracy
- Maximize Transparency

Minimize Provider Burden

- Limit the RAC “look back period” to three years
 - Maximum look back date is October 1, 2007
- RACs will accept imaged medical records on CD/DVD (CMS requirements coming soon)
- Limit the number of medical record requests

Summary of Medical Record Limits (FY 2009)

- Inpatient Hospital, IRF, SNF, Hospice
 - 10% of the average monthly Medicare claims (max 200) per 45 days per NPI
- Other Part A Billers (HH)
 - 1% of the average monthly Medicare services (max 200) per 45 days per NPI
- Physicians (including podiatrists, chiropractors)
 - Sole Practitioner: 10 medical records per 45 days per NPI
 - Partnership (2-5 individuals): 20 medical records per 45 days per NPI
 - Group (6-15 individuals): 30 medical records per 45 days per NPI
 - Large Group (16+ individuals): 50 medical records per 45 days per NPI
- Other Part B Billers (DME, Lab, Outpatient Hospital)
 - 1% of the average monthly Medicare claim lines (max 200) per NPI per 45 days

Ensure Accuracy

- Each RAC employs:
 - Certified coders
 - Nurses
 - Therapists
 - A physician CMD
- CMS' New Issue Review Board provides greater oversight
- RAC Validation Contractor provides annual accuracy scores for each RAC
- If a RAC loses at any level of appeal, the RAC must return its contingency fee

Maximize Transparency

- New issues are posted to the web
- Vulnerabilities are posted to the web
- RAC claim status website (2010)
- Detailed Review Results Letter following all Complex Reviews

What can providers
do to get ready?

Know where previous improper payments have been found

- Look to see what improper payments were found by the RACs:
 - Demonstration findings: www.cms.hhs.gov/rac
 - Permanent RAC findings: will be listed on the RACs' websites
- Look to see what improper payments have been found in OIG and CERT reports
 - OIG reports: www.oig.hhs.gov/reports.html
 - CERT reports: www.cms.hhs.gov/cert

Know if you are submitting claims with improper payments

- Conduct an internal assessment to identify if you are in compliance with Medicare rules
- Identify corrective actions to promote compliance
- Appeal when necessary
- Learn from past experiences

Prepare to respond to RAC medical record requests

- Tell your RAC the precise address and contact person they should use when sending Medical Record Request Letters
 - Call RAC
 - No later 1/1/2010: use RAC websites
- When necessary, check on the status of your medical record (Did the RAC receive it?)
 - Call RAC
 - No later 1/1/2010: use RAC websites

Who will be in charge of responding to RAC Medical Record requests?

What address will we use?

Who will be in charge of tracking our RAC Medical Record requests?

Appeal when necessary

- The appeal process for RAC denials is the same as the appeal process for Carrier/FI/MAC denials
- Do not confuse the “RAC Discussion Period” with the Appeals process
 - If you disagree with the RAC determination...
 - Do not stop with sending a discussion letter
 - File an appeal before the 120th day after the Demand letter

Who will be in charge of deciding whether to appeal a RAC denial?

How will we keep track of what we want to appeal, what we have appealed, what our overturn rate is, etc.?

Learn from past experiences

- Keep track of denied claims
- Look for patterns
- Determine what corrective actions you need to take to avoid improper payments





Who will be in charge of tracking our RAC denials, looking for patterns?

How will we avoid making similar improper payment claims in the future?



Contacts

- RAC Website: www.cms.hhs.gov/RAC
- RAC Email: RAC@cms.hhs.gov

RAC Contacts at CMS

RAC	CMS Contact Person	Phone
A 	Ebony Brandon	410-786-1585
B 	Scott Wakefield	410-786-4301
C 	Amy Reese	410-786-8627
D 	Kathleen Wallace	410-786-1534

RAC Medical Directors

	RAC	Contact Person	Specialty
A		Richard Pozen, MD	Cardiology
B		Percival Seaward, MD	General Surgery
C		James Lee, DO, R.Ph.	Emergency Medicine
D		Ellen Evans, MD	Geriatrics and Family Medicine