
42 C.F.R. § 422.311

RADV audit dispute and appeal processes.

- (a) *Risk adjustment data validation (RADV) audits.* In accordance with §§ 422.2 and 422.310(e), the Secretary conducts RADV audits to ensure risk-adjusted payment integrity and accuracy.
- (1) Recovery of improper payments from MA organizations is conducted in accordance with the Secretary's payment error extrapolation and recovery methodologies.
- (2) CMS may apply extrapolation to audits for payment year 2018 and subsequent payment years.
- (b) *RADV audit results.* (1) MA organizations that undergo RADV audits will be issued an audit report post medical record review that describes the results of the RADV audit as follows:
- (i) Detailed enrollee-level information relating to confirmed enrollee HCC discrepancies.
- (ii) The contract-level RADV payment error estimate in dollars.
- (iii) The contract-level payment adjustment amount to be made in dollars.
- (iv) An approximate timeframe for the payment adjustment.
- (v) A description of the MA organization's RADV audit appeal rights.
- (2) *Compliance date.* The compliance date for meeting RADV medical record submission requirements for the validation of risk adjustment data is the due date when MA organizations selected for RADV audit must submit medical records to the Secretary.
- (c) *RADV audit appeals—*(1) *Appeal rights.* MA organizations that do not agree with their RADV audit results may appeal.
- (2) *Issues eligible for RADV appeals—*(i) *General rules.* MA organizations may appeal RADV medical record review determinations and the Secretary's RADV payment error calculation. In order to be eligible for RADV appeal, MA organizations must adhere to the following:
- (A) Established RADV audit procedures and requirements.
- (B) RADV appeals procedures and requirements.
- (ii) *Failure to follow RADV rules.* Failure to follow the Secretary's RADV audit procedures and requirements and the Secretary's RADV appeals procedures and requirements will render the MA organization's request for appeal invalid.
- (iii) *RADV appeal rules.* The MA organization's written request for medical record review determination appeal must specify the following:
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- (A) The audited HCC(s) that the Secretary identified as being in error.
- (B) A justification in support of the audited HCC selected for appeal.
- (iv) *Number of medical records eligible for appeal.* For each audited HCC, MA organizations may appeal one medical record that has undergone RADV review. If an attestation was submitted to cure a signature or credential-related error, the attestation may be included in the HCC appeal.
- (v) *Selection of medical record for appeal.* The MA organization must select the medical record that undergoes appeal.
- (vi) *Written request for RADV payment error calculation appeal.* The written request for RADV payment error calculation appeal must clearly specify the following:
- (A) The MA organization's own RADV payment error calculation.
- (B) Where the Secretary's RADV payment error calculation was erroneous.
- (3) *Issues ineligible for RADV appeals.* (i) MA organizations' request for appeal may not include HCCs, medical records or other documents beyond the audited HCC, RADV-reviewed medical record, and any accompanying attestation that the MA organization chooses for appeal.
- (ii) MA organizations may not appeal the Secretary's medical record review determination methodology or RADV payment error calculation methodology.
- (iii) As part of the RADV payment error calculation appeal— MA organizations may not appeal RADV medical record review-related errors.
- (iv) MA organizations may not appeal RADV errors that result from an MA organization's failure to submit a medical record.
- (4) *Burden of proof.* The MA organization bears the burden of proof by a preponderance of the evidence in demonstrating that the Secretary's medical record review determination(s) or payment error calculation was incorrect.

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