

## Report on Medicare Compliance Volume 33, Number 29. August 12, 2024 CMS 'Encourages' RACs to Reverse Mistaken Denials; More Documentation Is Needed for E/Ms

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By Nina Youngstrom

If recovery audit contractors (RACs) are wrong about errors, CMS wants them set aside, preferably during the “discussion period” with the provider, a CMS official said.

“We don’t think it’s negative” for an audit finding to be overturned after a discussion period, said Ashley Badami, division director of recovery audit operations in the Center for Program Integrity, at CMS’s National Provider Compliance Conference Aug. 8. “We encourage RACs to overturn decisions if the improper payment doesn’t exist.”

The discussion period, a sort of informal appeal of a RAC claim denial, is available after the provider receives the outcome of the audit in a review results letter and/or provider portal. In fact, the discussion period is the “preferred process for everyone for avoiding appeal of appropriately paid claims,” Badami said.

She said providers have options for the content of the discussion period, assuming they disagree with the RAC audit finding. The options include submitting more documentation to support the claim; requesting a peer-to-peer discussion between the provider who cared for the patient and the RAC’s medical director; and highlighting parts of the medical record the provider believes the RAC should pay attention to.

Providers have 30 days to request the discussion period. If 30 days go by without the RAC receiving a request for the discussion, it will ask the Medicare administrative contractor (MAC) to adjust the claim, and then it’s too late for a discussion period, Badami said. In that case, the five-step Medicare fee-for-service appeals process will kick in after the MAC sends providers the demand letter.

The topics for RAC reviews are based on data analysis, said Connie Leonard, director of CMS’s Provider Compliance Group in the Center for Program Integrity. “They’re targeted and specific.” But, Badami noted, “they’re not targeting specific providers or inferring providers are bad actors. Don’t take it personally.” Often, providers submit medical records to RACs, “and there are no findings.” RACs don’t get paid if findings are overturned at any level.

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