

**AMERICAN COLLEGE OF RHEUMATOLOGY
POSITION STATEMENT**

SUBJECT: Medicare Recovery Audit Contractors

PRESENTED BY: Committee on Government Affairs

**FOR DISTRIBUTION TO: Members of the American College of Rheumatology
United States Congress
Medical Societies**

BACKGROUND

1 The American College of Rheumatology acknowledges that the Centers for Medicare and
2 Medicaid Services loses billions of dollars every year due to fraud and abuse. In order to
3 help recoup those losses, Congress established a recovery audit system utilizing Recovery
4 Audit Contractors under the auspices of CMS. RACs are private contractors that utilize
5 CMS guidelines to review claims.
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7 For claims that are not found to be properly supported by medical documentation, RACs
8 have the authority to mandate repayments and, in some cases, may assess additional
9 financial penalties. Importantly, RACs themselves are paid in direct proportion to the
10 amount of monies returned from participating CMS providers. This payment scheme
11 mirrors the system used by various government authorities to arrest criminal fugitives
12 popularly know as “bounty hunting” which, historically, has been feared because of the
13 many documented instances of abuse resulting from overzealous behavior by bounty
14 hunters themselves. It has been our experience that the practitioner is presumed
15 guilty a priori.
16

POSITION

17 The Government Accountability Office was asked by several members of Congress to
18 evaluate the system and published GAO-10-143. These recommendations are listed
19 below. The ACR supports these recommendations in general.
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22 The ACR strongly opposes the contingency fee system for the payment for RACs. RACs
23 should be neutral arbiters without additional incentive to argue claims other than CMS
24 regulations themselves.
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26 The ACR supports the notion that any and all costs that individual practitioners bear for
27 participating in RAC audits be borne by the RACs unless willful disregard for CMS
28 billing rules is subsequently established.
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33 “As a result of the RAC demonstration project, the Centers for Medicare & Medicaid Services
34 (CMS) included the following features in the RAC national program:
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- 36 • RACs are to have a physician medical director.
- 37 • RACs are to be staffed with registered nurses or therapists to make coverage and medical
38 necessity determinations and certified coders to make coding determinations.
- 39 • RACs are to make credentials of reviewers available to providers upon request.
- 40 • Providers will be able to discuss claim denials with the RAC medical director upon
41 request.
- 42 • The minimum claim amount that the RACs will review was raised to \$10 minimum per
43 claim (instead of \$10 minimum for aggregated claims).
- 44 • CMS will use a validation contractor to independently examine the criteria each RAC
45 plans to use to make its determinations and the accuracy of RAC determinations.
- 46 • RACs must return the related contingency fee if a claim is overturned on appeal.
- 47 • RACs must use standardized letters to notify providers of overpayments
- 48 • The look-back period (from claim payment date to date of medical record request) is
49 reduced from 4 years to 3 years.
- 50 • The RACs are allowed to review claims paid in the current fiscal year.
- 51 • CMS is putting limits on the number of medical record requests in a 45 day period.
- 52 • The time frame for paying hospital medical record photocopying vouchers is to be set at
53 45 days from receipt of medical record.
- 54 • CMS is not including Medicare Secondary Payer claims audits in the National Program.
- 55 • RACs are to have quality assurance/ internal control audits.
- 56 • RACs are to list the reason for review on “request for records” letters and
57 overpayment letters.
- 58 • The status of specific claims are to be posted on RAC Web page.
- 59 • RAC contingency fees are to be made publicly available. ¹
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61 ¹Medicare Recovery Audit Contracting. Weaknesses Remain in Addressing Vulnerabilities
62 to Improper Payments, Although Improvements Made to Contractor Oversight: GAO-10-
63 143
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66 Approved by Government Affairs Committee June 2010

67 Approved by Board of Directors August 2010