



THE
**HEALTH
LAW
PARTNERS**

RAC SHEET

The Health Law Partners, P.C. (HLP) is pleased to send you the August issue of The HLP RAC Sheet. This monthly newsletter will provide you with up-to-date developments regarding the Medicare Recovery Audit Contractor (RAC) program as it expands nationwide and RACs begin auditing activities. If you have any questions regarding RACs, Medicare audits or other payor audits, please call us at (248) 996-8510 or email [Abby Pendleton, Esq.](#) or [Jessica L. Gustafson, Esq.](#) Please also visit the [RAC page](#) of the [HLP website](#).

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CMS APPROVES ISSUES FOR COMPLEX CODING REVIEWS IN REGIONS C AND D

As first reported in the June and July editions of [The HLP RAC Sheet](#), and as confirmed by CMS pursuant to the recently-published [CMS RAC Review Phase In Strategy](#), complex reviews regarding DRG validation and coding errors were scheduled to begin in August or September 2009. Consistent with this timeframe, this month, the RACs for Region C ([Connolly Consulting, Inc.](#)) and Region D ([HealthDataInsights, Inc.](#)) published nearly-identical lists of issues that CMS has approved for complex coding review auditing. This means that Medicare providers and suppliers in [Regions C and D](#) (comprising the western, southern and southeastern states) will soon begin to receive requests for medical records from the RACs for review of the identified issues.

Approved issues include:

- Blood transfusions (excessive units)
- Untimed codes (excessive units)
- IV hydration therapy (excessive units)
- Bronchoscopy services (excessive units)
- Once-in-a-lifetime procedures
- Pediatric codes exceeding age parameters
- Injections - Pegfilgrastim, Neulasta

Notably, since the lists of approved issues is nearly identical for both Regions C and D, Medicare providers and suppliers in all regions are well advised to pay particular attention to these types of claims, as it is likely the RACs in Regions A and B may follow the lead of Regions C and D and select these same issues for review.

HLP's Monthly RAC Tip: Be Careful What You Sign!

During the RAC Demonstration Program, in conducting coding reviews, RACs oftentimes sent providers a form to sign, which asked the provider to agree with the RAC's coding review determination. In many cases, a member of a provider's coding or records staff would sign and return this form to the RAC (in essence agreeing that the provider had inappropriately coded a service), without the knowledge or approval of the provider's legal or management staff. If the provider thereafter decided to appeal the determination of the RAC, these signed forms posed a challenge, as a member of the provider's staff already had agreed that the RAC's determination was accurate, and these forms were made a part of the appeals file.

Now, as complex coding reviews are beginning to take place, it is essential that health care providers and suppliers designate a trained point-person that is authorized to correspond with the RACs. Other staff members should not be permitted to communicate with the RACs in writing. The RAC point-person should be a member of the provider's management and must be trained regarding potential appeals ramifications if admissions are made to the RACs. The point-person should only sign these types of forms if it is in fact the position of the provider that the RAC's review determination was accurate and the provider does not intend to appeal. On the other hand, if the point-person wishes to respond to a form sent by the RAC, but disagrees with the RAC's determination and plans to appeal, and if the form does not include a "disagree" response, then the point person should write-in this response and return the form in this manner.

UPCOMING EVENTS

- Abby Pendleton is scheduled to co-speak at the 2009 American Health Lawyers Association Fraud and Compliance Forum, scheduled for October 4 through 6, 2009, on the topic of Recovery Audit Contractors and Medicare Audits: Lessons Learned and the Road Ahead. Ms. Pendleton will be speaking with Don Romano, attorney, and Connie Leonard, Director, CMS Division of Recovery Audit Operations. For a copy of the program brochure, please click [here](#).