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The RAC Sheet

The Health Law Partners, P.C. ("The HLP") is pleased to send you the October issue of [The HLP RAC Sheet](#). This monthly newsletter will provide up-to-date developments regarding the Medicare Recovery Audit Contractor ("RAC") program as it expands nationwide. If you have questions regarding RACs, Medicare audits, Medicaid 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 ISSUES INITIAL QUARTERLY PROVIDER COMPLIANCE NEWSLETTER

This month, the Centers for Medicare and Medicaid Services ("CMS") published its inaugural [Medicare Quarterly Provider Compliance Newsletter](#) ("Newsletter"), a publication designed to provide guidance to Medicare providers and suppliers regarding common billing errors in a stated effort to assist providers, suppliers and their billing staffs to avoid such errors. The first edition outlines issues impacting a variety of provider and supplier types and focuses on billing errors identified during the RAC demonstration program. Future editions will focus on the "top" issues identified during a particular quarter, and may focus on a single provider type or singular set of items or services.

The issues identified in the Newsletter were related to common billing errors and other problems identified during the Recovery Audit Contractor ("RAC") Demonstration Program. These issues, as outlined, were cursory in nature, but the Newsletter did reference Medicare guidance related to the identified issues and provided recommendations regarding ways to avoid the identified errors. Issues identified in the October issue of the Newsletter included the following:

- Providers' and suppliers' failure to submit requested documentation on a timely basis;
- Issues related to inpatient/outpatient hospital claims, including billings for "services exceeding what was approved for the related

- CPT/HCPCS code descriptions." Generally, this issue amounts to a finding of insufficient documentation to support units billed;
- Inpatient claims for respiratory system diagnoses (where the principal diagnosis on the claim did not match the principal diagnosis identified in the medical record);
 - The medical necessity for cardiac pacemaker implantation;
 - Whether an inpatient level of care was medically necessary (as opposed to an outpatient level of care);
 - Excessive units billed for outpatient hospital claims;
 - Insufficient documentation to support services billed; and
 - Claims for pharmaceutical injectables.

Medicare providers and suppliers should take the opportunity to review such guidance and focus compliance efforts on these identified areas of potential vulnerabilities. For more information, please visit the [CMS RAC website](#).

THE HLP's MONTHLY RAC TIP: *Prepare for Records Requests*

As noted above, one key issue identified by CMS in its initial [Medicare Quarterly Provider Compliance Newsletter](#) ("Newsletter"), was the failure of providers and suppliers to submit requested records on a timely basis. In many cases, the failure of providers or suppliers to submit requested records within the time allotted is simply a function of having insufficient systems in place on the front end to meet the administrative burden of producing such records.

Last week, CMS published its [Additional Documentation Limits for FY 2011 for Durable Medical Equipment \("DME"\) Suppliers](#). This guidance sets the maximum number of records that a RAC may request per 45-day period during FY 2011. In summary, the maximum is based upon the number of claims submitted by the supplier (as defined by Tax Identification Number) during the preceding calendar year, subject to a cap (which the RAC may request to exceed on a case-by-case basis). DME suppliers should review this information in order to best prepare for records requests that may be forthcoming.

UPCOMING EVENTS

- On April 10, 2011, Abby Pendleton and Jessica Gustafson will co-speak with Donald H. Romano, a partner at Arent Fox and former division director of CMS, at the 2011 Health Care Compliance Association ("HCCA") Compliance Institute on the topic of "Compliance in the Age of EMR."

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