



THE
HEALTH
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The RAC Sheet

The Health Law Partners, P.C. ("The HLP") is pleased to send you the November 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 as RACs begin auditing activities. If you have 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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WILL THE RACS ATTEMPT TO IDENTIFY UNDERPAYMENTS?

Recovery Audit Contractors ("RACs") are tasked to identify both underpayments and overpayments. Although historical data establishes that RACs will likely focus their auditing activities on overpayments as opposed to underpayments, RACs will attempt to identify underpayments as well. In fact, during the course of the three-year demonstration program, the RACs identified and ordered repayment of \$37.8 million in underpayments to Medicare providers and suppliers.

On October 4 through October 6, 2009, The HLP partner Abby Pendleton spoke at the 2009 American Health Lawyers Association ("ALHLA") Fraud and Compliance Forum on the topic of "Recovery Audit Contractors and Medicare Audits: Lessons Learned and the Road Ahead." Ms. Pendleton co-presented with attorney Donald Romano and with Connie Leonard, Director of the Centers for Medicare and Medicaid Services ("CMS") Division of Recovery Audit Operations.

During this presentation, Ms. Leonard confirmed that RACs are tasked to identify all types of improper payments, both underpayments and overpayments. Ms. Leonard indicated that although RACs will not entertain suggestions from specific providers regarding areas in which to look for underpayments, RACs will consider suggestions from provider organizations (e.g., hospital associations, other professional associations) regarding areas in which to look for underpayments. Therefore, providers that are aware of areas involving potential underpayments should be assertive in communicating with their professional associations, and encourage their professional associations to communicate with the RACs regarding these areas.

HLP's Monthly RAC Tip: Monitor the CMS website for RAC developments

CMS regularly updates its RAC website with frequently asked questions. In the past month alone, CMS has added at least five (5) new frequently asked questions to its website. These updates provide important information to providers as the RAC permanent program is rolled out. RAC Frequently Asked Questions are available by clicking [here](#).

UPCOMING EVENTS

- On Tuesday, December 1, 2009, Jessica Gustafson will be presenting to the Oakland County Medical Society/Oakland County Bar Association Medical Legal Committee on the topic of Recovery Audit Contractors.
- On December 7, 2009, Abby Pendleton will be presenting to the World Research Group on the topic of Recovery Audit Contractors. More information is available from the [World Research Group website](#).
- On Thursday, February 25, 2010, Abby Pendleton will be speaking to the Georgia Hospice and Palliative Care Organization ("GHPCO") on the topic of Recovery Audit Contractors. More information is available from the [GHPCO website](#).
- On August 22-26, 2010, Abby Pendleton and Jessica Gustafson will be presenting to the Association for Medical Imaging Management ("AHRA") on the topic of Recovery Audit Contractors. Information will be available from the [AHRA website](#).