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## **MEDICAID RECOVERY AUDIT CONTRACTORS RULE ANNOUNCED TO HELP REDUCE IMPROPER PAYMENTS**

### **CMS ANNOUNCES EDUCATION EFFORT TO SUPPORT PROGRAM**

The Centers for Medicare & Medicaid Services (CMS) today proposed new rules to help states reduce improper payments for Medicaid health care claims through the use of Medicaid Recovery Audit Contractors (RACs) as part of the Affordable Care Act's larger strategy to crack down on waste, fraud and abuse in the health care system. Medicaid RACs are contractors, working for States, that will audit payments made to health care providers to identify Medicaid payments that may have been underpaid or overpaid, and recover overpayments or correct underpayments, similar to the RAC program in Medicare.

"Reducing improper payments is a key goal of the Administration, and the tools provided by the Affordable Care Act will help us achieve that goal," said CMS Administrator Donald Berwick, M.D. "We are using many of the lessons that we learned from the Medicare RAC program in the development and implementation of the Medicaid RACs, including a far-reaching education effort for health care providers and State managers."

Under the Affordable Care Act, States must establish Medicaid RAC programs by submitting state plan amendments to CMS by December 31, 2010. The law allows CMS to provide extensions or exceptions to States, if necessary, and details regarding these processes are included in the proposed regulation. In addition, the proposed regulation issued by CMS today outlines the requirements that states must meet and the Federal contribution CMS will provide to assist in funding the state RAC programs.

Medicaid RACs will be paid by the States on a contingency basis to review Medicaid provider claims, identify and recover overpayments made for services provided under Medicaid State plans and Medicaid waivers. The proposed regulation allows States the discretion to determine whether to pay their Medicaid RACs on a contingency basis or under some other fee structure for identifying underpayments.

CMS is encouraging interested parties to comment on the proposals included in the regulation. These include the payment methodology for identifying overpayments and underpayments as well as the recovery of overpayments and correction of underpayments, and the requirement that RACs report fraud or criminal activity whenever they have reasonable grounds to believe such activity has occurred.

Under the regulation, as proposed, a State may use its current administrative appeals process or may modify its process for Medicaid RAC-related appeals. All fees paid to the Medicaid RACs must come from amounts recovered after all available appeals have been exhausted.

Because CMS has proposed to require States to implement their programs in a timely manner, CMS is providing educational programs to help States understand both the Medicare and Medicaid RAC programs. On October 1, 2010, CMS released a State Medicaid Director letter which provided initial guidance to the States regarding the RAC program. CMS issued an educational DVD entitled “Medicaid RACs: Are You Ready?” targeted to State Medicaid and Program Integrity Directors and held a webinar for states offering RAC procurement tips. Additionally, on November 4, 2010, CMS hosted an educational forum describing Lessons Learned from CMS’s experience with Medicare RACs.

A copy of the regulation may be viewed at the Federal Register’s website, <http://www.ofr.gov/inspection.aspx>. For Additional information on the Affordable Care Act can be accessed at, <http://www.healthcare.gov/>.