CLIENT ALERT: Recent Developments in Medicare Recovery Audits

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In a recent blog post, the Centers for Medicare and Medicaid Services (CMS) reported that it has improved its efficiency in reducing erroneous and improper Medicare payments to providers, while at the same time easing administrative burdens on such providers.

Principally, these improvements have been made in CMS' utilization of Recovery Audit Contractors (RACs) that it employs to audit providers in order to identify and correct improper payments. CMS claims that it has responded to complaints from providers, that RAC audits were too time consuming, which resulted in high administrative expenses in defending such audits and often result in lengthy appeals, by implementing the following:

- Improvement in oversight and performance of RACs, which now must maintain a 95% accuracy rate or have the number of claims they are allowed to review progressively reduced and by paying contingency fees to RACs only after the second level of appeal is exhausted, instead of payment of such fees being made immediately upon denial and recoupment of a claim; and
- Reducing the burden on providers by conducting fewer audits of those providers with low denial rates; requiring that RACs audit proportionately to the types of claims a provider submits, instead of allowing them to select a certain type of claim to audit; and allowing providers more time to submit additional documentation before requiring the repayment of a claim.

To the extent that these modifications will result in a more streamlined and equitable audit process as well as reduce the administrative time and expenses to providers they are a welcome change.

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