

RACs Run Amok

How is the American Hospital Association advocating for fair and streamlined audits?



Started in 2010, the national RAC program needs serious reform. Many payment denials are for inpatient care that was medically needed but RACs contend it could have been provided in outpatient settings.



Medicare rules prohibit hospitals from rebilling these services as outpatient if they are older than 12 months, while RACs can audit medical records up to 3 years old and do so 75% of the time. Pressure from the AHA lawsuit forced CMS to allow hospitals some flexibility to rebill RAC-denied claims going forward. Claims that predated change are not eligible.

AHA lawsuit would allow hospitals to rebill claims denied by a RAC – even older ones.



RACs’ excessive rejection of short-stay inpatient claims led physicians to keep many patients in outpatient observation status, even though it may last several days. Those pressures led CMS to adopt a “two-midnight” policy that requires physicians to certify whether a patient’s condition is serious enough to warrant a hospital stay spanning two midnights in order to be reimbursed as an inpatient.

AHA, along with four state hospital associations and a number of individual hospitals, sued HHS in April 2014 stating that the two-midnight policy’s arbitrary standards and documentation requirements harm hospitals and patients. They also challenged an unfounded payment cut in the rule.



RACs’ overzealous denials broke the system. Because of a massive backlog at the third level of administrative appeals process, hundreds of thousands of appeals have yet to be assigned to an administrative law judge (ALJ). The delays leave billions of dollars in hospital reimbursement tied up in the appeals system for up to 5 years awaiting final resolution. These dollars are needed to support the continuing delivery of care to patients.

AHA and three hospitals filed a lawsuit in May 2014 asking that HHS be required to comply with the 90-day statutory deadline for ALJs to decide appeals.

MISMANAGED RACs CAUSE CONFUSION AND DIVERT PATIENT RESOURCES. THAT’S WHY THE AMERICAN HOSPITAL ASSOCIATION SUPPORTS



Medicare Audit Improvement Act, S. 1012/ H.R. 1250



Two Midnight Rule Coordination and Improvement Act, S. 2082