



April 29, 2014

The Honorable Kevin Brady
United States House of Representatives
Chairman, House Ways & Means Subcommittee on Health
1101 Longworth HOB,
Washington, D.C. 20515

Dear Chairman Brady,

Our coalition appreciates the opportunity to contribute recommendations on ways to combat Medicare waste, fraud and abuse. In advance of the health subcommittee's hearing on this topic and in support of our mission to eliminate improper payments, I want to share the facts about the Recovery Audit Contractor (RAC) program, which is a vital tool for fighting waste in Medicare:

Solution to a Program Plagued by Improper Payments

- Medicare loses more money to waste than any other federal program. According to the Department of Health and Human Services (HHS) FY2013 Agency Financial Report, since 2011, the rate of improper payments has risen steadily from 8.6% to 10.1%.ⁱ In addition, in FY2013, providers overbilled Medicare by \$45.6 billion.ⁱⁱ Due to this alarming trend, the Medicare Board of Trustees estimates that the Medicare Trust Fund will be insolvent by 2026.ⁱⁱⁱ
- In 2003, Congress mandated the creation of a program to combat rampant Medicare waste. In 2009, the Centers for Medicare and Medicaid Services (CMS) implemented the permanent RAC program to identify improper payments and recover misused taxpayer funds. Since then, **RACs have recovered over \$8.9 billion, while reviewing less than 2% of medical records.**

A Highly Effective Weapon Against Waste

- According to CMS, the RAC program works. In its annual RAC report released March 25, 2014, CMS says, "In accordance with the President's initiative to eliminate waste and improper payments across Federal programs, the Medicare FFS **Recovery Audit Program has proven to be a valuable tool to reduce improper payments.**"^{iv}
- By the end of FY2013, the RAC program was returning over \$1 billion per quarter to the Medicare Trust Fund.^v
- In April 2014, the HHS Office of Inspector General named the RAC program the 'most improved' healthcare integrity initiative with a \$1.4 billion increase in recoveries from FY2012 to FY2013.^{vi}

A Legacy of Accuracy

- According to CMS, the existing RAC pay structure and penalties promote accuracy above all. As CMS explains: "If an improper payment determination is overturned at any level of appeal, the Recovery Auditor contingency fee must be returned to CMS. **This process helps ensure the accuracy of the Recovery Auditors' reviews.**"^{vii} Furthermore, RACs invest significant front-end resources to ensure accuracy, including using teams of certified coders, nurses and other clinicians to review hundreds of medical records. As a result, **RACs have an average accuracy rating of 96%**, according the report released last week.^{viii}
- According to CMS, few RAC decisions are overturned on appeal. In FY2012, only 7% of RAC decisions were appealed and overturned. And in the recent budget justification, CMS explained that the RAC program's consistently low rates of appeal show the agency has been "effective in ensuring that only valid claims are denied by the Recovery Auditors."^{ix}
- According to CMS, RAC program oversight is robust and effective. From the FY2015 budget justification: "**CMS has several policies in place to oversee and limit Recovery Auditor actions.** Many of these requirements have been in place since the national program began. First, CMS approves all RAC review methodologies prior to allowing RACs to identify improper payments. [...] Second, an independent validation contractor then selects a random sample of claims, from each RAC, on a monthly basis. The results of these validation reviews are compiled to create an annual "accuracy" score for each RAC, which is published in the Recovery Audit Programs' Report to Congress."^x

This hearing comes at a critical time for the Medicare Trust Fund. In February, CMS decided to bar recovery auditors from requesting medical records from providers while the agency transitions to the new RAC program contracts, effectively halting all oversight. CMS anticipates auditing will resume when the new RAC contracts are awarded, however the status and start dates for the new contracts are unknown. Given the significant financial implications of this pause in oversight, our coalition urges the committee to request that CMS expedite the contract-awarding process.

Our coalition strongly supports the ongoing improvement to Medicare oversight. In its five-year existence, the RAC program has been a critical partner to CMS in bolstering Medicare integrity and promoting program oversight. Furthermore, our coalition encourages the committee to consider strategies that strengthen the RAC program and healthcare integrity overall.

On behalf of program integrity contractors and the nearly 50 million seniors who rely on Medicare every day, thank you for your consideration and for your efforts to improve oversight of our nation's marquee healthcare program.

Sincerely,



Rebecca Reeves
The American Coalition for Healthcare Claims Integrity

ⁱ The Department of Health and Human Services, FY2013 Agency Financial Report, December 2013, Page 15: <http://www.hhs.gov/afr/2013-hhs-agency-financial-report.pdf>

ⁱⁱ The Department of Health and Human Services, FY2013 Agency Financial Report, December 2013, Page 161: <http://www.hhs.gov/afr/2013-hhs-agency-financial-report.pdf>

ⁱⁱⁱ The Board of Trustees, Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, May 31, 2013, Page 6: <http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2013.pdf>

^{iv} Centers for Medicare & Medicaid Services, FY2012 RAC Report to Congress, March 2014, Page 11: http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Recovery-Audit-Program/Downloads/Report-To-Congress-Recovery-Auditing-in-Medicare-and-Medicaid-for-Fiscal-Year-2012_013114.pdf

^v Centers for Medicare and Medicaid Services, Medicare Fee for Service National Recovery Audit Program Quarterly Newsletter, September 2013, <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Recovery-Audit-Program/Downloads/Medicare-FFS-Recovery-Audit-Program-4th-Qtr-2013.pdf>

^{vi} Department of Health and Human Services Office of Inspector General, U.S. Department of Health and Human Services Met Many Requirements of the Improper Payments Information Act of 2002 But Did Not Fully Comply for Fiscal Year 2013, April 2014, Page 9: <http://oig.hhs.gov/oas/reports/other/171452000.pdf>

^{vii} Centers for Medicare & Medicaid Services, FY2010 RAC Report to Congress, Oct. 2012, Page 11: <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Recovery-Audit-Program/Downloads/FY2010ReportCongress.pdf>

^{viii} Centers for Medicare & Medicaid Services, FY2011 RAC Report to Congress, Oct. 2012, Page 32: <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Recovery-Audit-Program/Downloads/FY2011-Report-To-Congress.pdf>

^{ix} Centers for Medicare & Medicaid Services, Justification of Estimates for Appropriations Committees, March 2014, Page 219: <http://www.cms.gov/About-CMS/Agency-Information/PerformanceBudget/Downloads/FY2015-CJ-Final.pdf>

^x Centers for Medicare & Medicaid Services, Justification of Estimates for Appropriations Committees, March 2014, Page 338: <http://www.cms.gov/About-CMS/Agency-Information/PerformanceBudget/Downloads/FY2015-CJ-Final.pdf>