



## BALCH & BINGHAM LLP

Alabama • Georgia • Mississippi • Washington, D.C.

### MEMORANDUM

**DATE:** July 30, 2009

**RE:** Medicare Recovery Audit Contractor (RAC) Program

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On July 24, representatives from the Centers for Medicare and Medicaid Services (CMS) and Connolly Healthcare (the RAC contractor for the Southeast region, including the states of Alabama, Georgia, Mississippi, and Tennessee) held a briefing in Birmingham on the elements and timing of the RAC program roll-out.. The briefing was sponsored by the Alabama Hospital Association.

1. The presentation closely followed a set of PowerPoint slides which is available upon request.
2. CMS and Connolly representatives confirmed that no RAC-related medical records requests have been made to any providers as of the date of the briefing. They indicated that “automated” reviews (claims reviews that do not require access to medical records) could begin as soon public outreach has been completed in each state. Requests for medical records relating to “complex” reviews not requiring medical necessity determinations (*e.g.*, coding errors) could begin as early as October 1. Complex reviews based on medical necessity could begin on or after January 1, 2010.
3. CMS and Connolly reviewed the administrative timelines for responding to medical documentation requests.
  - A 10-day grace period will be added to the 45-day response timeline for medical record requests. This is intended to account for normal mailing delays. The response period will be measured from the date on the Connolly request letter. Documentation must be received by Connolly, not just postmarked, no later than 55 days from that date.
  - Connolly expressed a willingness to grant reasonable extensions to the deadlines – particularly during the first year of the program – and recommended that such requests be communicated as soon as a provider realizes that an extension will be necessary.
  - Connolly advised providers who wish to use electronic media to submit medical documentation to send a test submission in order to ensure that Connolly systems will be able to read the recorded images.



- CMS and Connolly indicated that efforts were underway to develop a mechanism for secure internet transmission of medical records, but for the moment, Connolly will only accept paper records, CDs, DVDs, and faxes.
  - Connolly urged providers to designate a central point of contact for documentation requests and other correspondence. In the absence of a designation, Connolly will use mailing addresses supplied by CMS. A copy of a form for making a designation is available on the Connolly website. ([www.connollyhealthcare.com/RAC/pages/cms\\_RAC\\_Program.aspx](http://www.connollyhealthcare.com/RAC/pages/cms_RAC_Program.aspx))
4. CMS representatives reviewed the record request limits outlined on the CMS RAC website. ([www.cms.hhs.gov/RAC/01\\_Overview.asp](http://www.cms.hhs.gov/RAC/01_Overview.asp)) They indicated that the limits can be aggregated for providers with multiple provider numbers. For example, health systems with multiple provider numbers (*e.g.*, more than one hospital or provider type) will be able to petition Connolly to be treated as a single entity for purposes of the request limits. How far this concept might be extrapolated to large health systems or chain providers was not entirely clear. CMS expressed concern about overloading centralized medical records departments and predicted that additional guidance will be forthcoming as the program is rolled out. Connolly has developed a form for providers to request aggregation of multiple provider numbers.
  5. Connolly confirmed that all audit issues must be approved by CMS in advance and posted to Connolly's website before automated denials or requests for medical records can proceed. However, there is no minimum notification period, so once an issue is posted, claims reviews or requests for documentation could begin at any time.
  6. CMS did not address the appeals process in detail, except to note the availability of an informal discussion period following initial notice of a negative RAC audit finding. This period does not take the place of the formal appeals process or extend the deadlines for filing an appeal. Connolly made a point of urging providers to take advantage of this opportunity to question findings with which they disagree. Connolly indicated that it would accept additional documentation during this period and would be prepared to engage in telephone conversations with provider representatives on a nurse-to-nurse, coder-to-coder, or physician-to-physician basis.
  7. The Connolly Medical Director (Dr. James Lee) introduced himself as a board-certified in emergency medicine physician and a licensed pharmacist. He joined the Company in May 2007. Prior to that he served as a military physician, including a 12-month tour in Iraq. He still practices emergency medicine on weekends at both a large academic hospital and a small rural hospital. He made a point of concluding his remarks by describing medicine as an art not a science –



and indicated that he will try to be respectful of the views of treating physicians when addressing a disputed course of medical care.

8. Connolly stated that it has no current intention of using statistical samples to extrapolate overpayments. Connolly explained that it wishes to develop credibility with the basic claims review process before taking that step. The Company expects to make a general announcement to providers if and when it is prepared to use extrapolation.
9. CMS and Connolly clarified that where an inpatient admission (*e.g.*, hospital, SNF) is denied by the RAC, claims for physician services associated with the admission will not be denied automatically. However, these claims may be reviewed separately and may be subject to adjustment based on that review.

For copies of the PowerPoint slide presentation used by CMS and Connolly or for additional information relating to the RAC program please contact any one of the following.

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