

Claim Appeals and Audits: Recovery Audit Contractors and Other Medicare/Medicaid Payment Audits

Baker Hostetler's Healthcare Industry Team has attorneys, coast to coast, dedicated solely to addressing the comprehensive needs of health industry clients. Our attorneys have had extensive experience with Medicare and Medicaid appeals and audits, including Recovery Audit Contractors (RACs), Zone Program Integrity Contractors (ZPICs) and other payors and audit contractors. We are well-positioned to advise our clients in responding to and managing claims appeals and audits, including the RAC audits.

Successfully addressing RACs and other claims appeals activities involves an integrated approach on various levels, including: (1) preparing for and responding to the initial audit; (2) efficient and effective managing of the appeals process at all levels of appeals; and (3) counseling clients on compliance issues. Our approach is one of a partnership with our client's internal team to assure effective communication and enhance results throughout the entire process, from the beginning stages of the audits, through appeals, and beyond.

RAC Overview

The RAC initiative began as a demonstration program authorized by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) for the purpose of identifying past inaccurate payments under the Medicare fee-for-service program. Over the course of the three-year demonstration, the RACs identified more than \$1 billion in improper payments. Congress made the program permanent under the Tax Relief and Healthcare Act of 2006 and required its expansion to the entire country no later than 2010.

RACs are paid on a contingency basis for detecting overpayments and thus have "bounty-hunter" incentives to aggressively review and deny claims. The RACs' increasingly efficient detection of and ability to extrapolate possible improper payments translates into larger potential financial impacts for providers. However, all Medicare RAC findings are subject to the Medicare appeals process—the same appeals process that applies to ZPICs, Program Safety Contractors, and other various Medicare contractors and entities. Although the Medicare appeals process is not always a friendly process to the providers, Baker Hostetler has experienced repeated success in appealing Medicare overpayment decisions.

Our Approach: A Partnership

We work with clients to establish processes to ensure efficient, organized, and responsive replies to audit requests. Our collaboration with clients on staff education, policies, procedures, and communication can minimize avoidable unfavorable decisions. Proper documentation responses and organization at the initial stages of the audit provide the foundation for successful appeals later in the process. We also recognize the needs of our clients and respect their resources. Our experience has allowed us to reduce costs through streamlining the process, from docketing deadlines, to central coordination, to building efficiencies in the hearing process.

In sum, we work with clients to help them establish and maintain a process for responding to and addressing claims audits and appeals. We help our clients understand and maneuver through the various levels of the appeal process. Through this partnership approach, our clients are able to develop and pursue responses internally, with our team being available to assist throughout the process as needed, in particular with the higher levels of appeal at the Administrative Law Judge, Medicare Appeals Council, and federal district court.

Our Experience

Baker Hostetler's Healthcare Industry Team has been following the RAC program since its inception. Our attorneys have authored articles and made numerous presentations on the topic, including speaking engagements at various professional organizations and at individual hospitals and health systems. We have familiarity with the governing appeal regulations from prior and ongoing representative matters. Our experience include appeals concerning single and multiple claims, extrapolation of statistical sampling, and appeals involving a wide variety of billing issues and providers/physicians, including:

- Inpatient hospital admissions ("short stays")
- Inpatient rehabilitation unit admissions
- LTAC admissions
- Medical necessity of mental health/psychology services
- Teaching physician billing requirements
- Cardiology/ASC services
- Ambulance services
- E&M services

Our healthcare practice strengths—including reimbursement, compliance, corporate governance, and fraud and abuse—inform our approach for audit responses, appeals strategy, and client counseling.

One of Baker Hostetler's strength is helping clients to improve healthcare compliance and understanding the Medicare and Medicaid reimbursement issues. We also have extensive experience with counseling clients on fraud and abuse allegations, investigations, and litigation. This experience allows us to ably advise clients in crafting policies and procedures, provide support for self-audits, and counsel clients on possible further liabilities identified by the RAC audits.

Our experience and strengths in the healthcare industry means that clients will be well represented in any Medicare or Medicaid claims appeal and/or audit.

For More Information

To learn more about Baker Hostetler's Claims Appeals and Audit team, please contact:

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