

The RAC initiative to be very real and financially dangerous

How RAC Preparation and Your Compliance Program Can Work Together



By: Bret S. Bissey, MBA, FACHE
As seen on the RACMonitor.com

It is my pleasure to write my first article for the RAC Monitor. With over 25 years of healthcare management experience including 11 years in Healthcare Regulatory Compliance, with hospitals (as a Compliance Officer), physicians' groups and the pharmaceutical industry, I find the current challenge that providers face with the RAC initiative to be very real and financially dangerous.

Different from other initiatives in the past, whether it be IL-372, Lab Audits, Evaluation and Management Documentation or old fashion fraudulent/abusive activities, etc. in which a whistle-blower (disgruntled employee) or another "labor intensive" source was the catalyst for a long investigation (with much paperwork to review/audit/debate) to validate a payback, the government now is using very powerful data mining technologies and capabilities to identify billing/payment abnormalities or "outliers" (a scary compliance term in some parts of the country) via their identified RAC Contractors, who happen to be directly incentivized to find overpayments. Thus what was previously a long, drawn out process (remember "shadow audits") is now quick and payback focused/driven.

Of course, as a healthcare provider you must also be concerned that if you have a long-standing billing/documentation practice that is inconsistent with the accepted applicable billing/documentation standards (ex: medical necessity) one could potentially argue against you that you have a "pattern or practice" of billings that could subject you to further reviews (longer time periods) with the potential for discussions of larger paybacks and possibilities of fines and/or penalties and all of the expense and negative exposure that is included. In some instances, it is not beyond the realm of possibility that criminal investigations could ensue if a provider has behaved in a manner that shows intent to defraud the government.

What I believe is not different between the RAC initiative and previous investigations/areas of focus is that all providers have the opportunity to utilize the Office of Inspector General's Model Hospital Program Compliance (first published in 1998 with a supplemental document published in 2005) as a pro-active resource/planning tool to prepare for the RAC initiative.

Obviously, for providers in some parts of the country you have already experienced the pain of RAC. However, whether you have "sat across the table from the RAC", appealed an identified overpayment(s), just learned or have not done anything to prepare, a refresher on the elements of the OIG Model Compliance Program Guidance for Hospitals ("CPG") is a must-read at this time.

Over the next several months, I will review the seven elements of the Model Program Guidance and offer some observations and suggestions on how you can utilize this in your institution to cover many of the issues that are necessary as you prepare for RAC.

As an introduction and refresher to the basic Compliance Plan Elements of the 1998 hospital CPG below is a summary of the structure and processes that make up the recommended seven elements of a compliance program.

The seven basic elements of a compliance program are the following:

- Designation of a compliance officer and compliance committee
- Development of compliance policies and procedures, including standards of conduct
- Development of open lines of communication
- Appropriate training and education
- Internal monitoring and auditing
- Response to Detected Deficiencies
- Enforcement of disciplinary actions

It is clear that one of the most important elements in having a successful Compliance Program is the direct commitment and involvement your board and senior management. Hospitals that have an organizational culture that values compliance are more likely to have effective compliance programs and, thus, are better able to prevent, detect, and correct problems. At this juncture, all of these individuals (board and senior management) should be fully informed about the RAC initiative and its applicability to your institution.