

## Chicago-style operation mars medical audits

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Wed, Mar 21, 2012

You hear it from politicians of both political parties: “We are going to pay for this health care bill by eliminating fraud, waste, and abuse.” Don’t believe it!

Have you ever heard of a RAC (pronounced “rack”) audit? Unless you work in the medical profession, you probably have not.

As the American Academy of Orthopedic Surgeons explains, the Recovery Audit Contractor (RAC) program, created through the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, is designed to extract waste from the Medicare system by identifying and recovering improper payments paid to healthcare providers. They do that by reclaiming money paid out over the past three years to hospitals and physicians, an audit process known as “claw back.”

On the surface, this would sound reasonable, but the way it works is astoundingly unfair to honest hospitals and honest physicians.

You know the IRS cannot write new rules today and then go backwards three years and punish taxpayers who did not follow those then non-existent rules. But in RAC audits, that is exactly what Medicare is doing.

Today, RAC auditors are digging through every word of every patient hospital surgery record involving spinal fusions, total joint replacements, and pacemaker or defibrillator surgeries. If certain “magic words” (which were not required on the day of surgery) do not exist in the surgery record, then the RAC auditor determines that Medicare should recover what it paid to the hospital and to the physician.

Even the way RAC selects its targets is unfair: only Spine Surgeons, Total Joint Surgeons, and Invasive Cardiologists, and only in 11 states -- Florida, California, Michigan, Texas, New York, Louisiana, Illinois, Pennsylvania, Ohio, North Carolina, and Missouri.

Why these selective targets? “Because that is where the money is.” These 11 states have about half of all the Nation’s Medicare aged patients, and these surgical procedures are primarily needed only by Medicare aged patients. It’s easy pickings.

And unlike the IRS, RAC auditors are not Federal employees. They are essentially third party bounty hunters -- they get to keep a portion of what they “recover.”

Thus, there is no incentive to look for any Medicare underpayments which should have been made, further insulting the physician and hospital targets.

In February 2008, Orthopedics Today reported that “more than half of California’s Congressional delegation notified CMS [Medicare] expressing concern that the RAC demonstration lacked sufficient oversight.”

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## Page 2

They further explained that since nearly all claims for patients with joint replacement procedures admitted into inpatient rehabilitation facilities were being denied, the facilities were being forced to divert resources away from patient care to appeal these RAC determinations.

Diversion of hospital resources is still a fact of life. Every hospital in every one of the targeted 11 states is under extreme stress. It could take only a few RAC “recoveries” to do very serious damage to a hospital’s survival. And they have very limited time to respond to the determination before the “recovery” is withheld from future compensation payments.

Since the surgeons did not know to include those new “magic words” into the hospital records, the hospitals are having to look to the surgeon’s office medical records to prove that “appropriate conservative care” had been tried prior to surgery.

I have had to respond to one, which took me almost 3 hours to research, document, and write: a tennis knee injury in 2003 which finally resulted in a total knee replacement in December, 2011. That was 8 years of conservative care.

And yes, that’s right. These new “magic word” requirements were not a standard requirement in Texas as recently as three months ago!

The system is already designed to detect fraud. We have a number of compliance audits, where we are randomly asked to send patient records to verify that the claim submitted is correct.

Further, individual physician and hospital claim histories are well established. This then sets industry standards for those communities. Any deviation from this standard would trigger a red flag, requiring further investigation.

Abuse of the system can be resolved as soon as patients must personally hand money to their healthcare providers. As long as they think healthcare is “free,” the system will be abused.

And if politicians really wanted to eliminate waste, they would eliminate the bureaucracy, but we know they have no intentions of doing that.

The Medicare Prescription Drug, Improvement, and Modernization Act was signed into law by President George Bush, creating the RAC, and it has been brought into this Chicago-style operation by the current administration. As I keep saying, it has taken both political parties to create this current healthcare mess.

Until politicians are willing to return control of healthcare back to the individual American or until the system completely blows up, economic healthcare resources will continue to be diverted just so your doctors and your hospitals can fight the Federal government for the right to survive.

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