



Client Alert



Contact Attorneys Regarding
This Matter:

Tracy M. Field
404.873.8648 - direct
404.873.8649 - fax
tracy.field@agg.com
Jessica Tobin Grozine
404.873.8526 - direct
404.873.8527 - fax
jessica.grozine@agg.com

Arnall Golden Gregory LLP
Attorneys at Law
171 17th Street NW
Suite 2100
Atlanta, GA 30363-1031
404.873.8500
www.agg.com

Medicare & Medicaid Audit Update

Recovery Audit Contractors

In a February 2010 Report, the U.S. Department of Health and Human Services Office of Inspector General (OIG) observed that during the Recovery Audit Contractor (RAC) demonstration program from March 2005 through March 2008, the RACs only referred two cases of potential fraud to the Centers for Medicare & Medicaid Services (CMS).

The two referrals involved rehabilitation service providers and both involved suspected alterations of medical records after the services were rendered. According to the RAC referral letters sent to CMS, the RAC had no contact with the providers in reference to the allegations and continued to complete its complex and/or automated, postpayment review of the providers. If CMS had determined that the referrals were potentially fraudulent, the RAC should have ceased its review of these claims.

While another RAC did not make any formal fraud referrals to CMS, it indicated that it notified CMS of multiple claims involving millions of dollars in improper payments to physician practices for Intravenous Immune Globulin (IVIG) treatments in Florida. CMS directed the RAC to close down its review of these claims. The RAC reported that CMS then referred these IVIG claims to the Program Safeguard Contractor (PSC) and/or law enforcement to develop cases against numerous providers throughout Florida. During this time, CMS decided to exclude claims from physician practices as well as claims from durable medical equipment suppliers in three southern counties of Florida from further RAC review.

As part of its findings, the OIG recommended CMS train RACs on identifying potential fraud. Importantly, CMS concurred and stated that it had already conducted two training sessions for RACs and scheduled an additional training session in January 2010. For a copy of the full OIG report, click [here](#).¹

Medicaid Integrity Program

The audit activity of the Medicaid Integrity Contractors (MICs) continues to increase as the program is rolled out across the country. As of February 5, 2010,

¹ http://www.agg.com/media/interior/publications/OIG-Recovery_Audit_Contractors_Fraud_Referrals.pdf

MIC audits are underway in 31 states, and 853 audits have been conducted nationally. The breakdown of the total number of audits/ provider types reviewed is as follows:

- 35% for hospitals;
- 24% for physicians/clinics;
- 16% for skilled nursing facilities;
- 16% for pharmacy claims; and
- 9% "other."

The Medicaid Integrity Group (MIG) has confirmed that overpayments have been identified through the program. The MIG anticipates that it will schedule an Open Door Forum in the spring of 2010 to update providers nationally on its activities.

The OIG's report and CMS's response signal a new focus for the RACs that providers need to consider in preparing for audits. In addition, the Medicaid audits are expanding across the country, with increasing cooperation between the auditors and law enforcement agencies. Given the increasing government focus on audit programs as a tool for fraud enforcement, ongoing efforts to monitor reviews and address issues proactively should help providers manage the process and avoid costly investigations.

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