



## Client Alert

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### **CMS Moves Forward with Medicaid RAC Implementation**

The Centers for Medicare & Medicaid Services (CMS) has taken one step closer to implementation of a Recovery Audit Contractor (RAC) program for Medicaid. On September 10, 2010, the CMS released a template State Plan Amendment that is designed to ease States' burdens with respect to making the changes necessary to establish Medicaid RAC programs.

The Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act, both enacted in March of 2010, require states to establish, by December 31, 2010, programs by which they contract with one or more RACs to conduct audits of Medicaid providers. State Medicaid programs must enter into contracts with RACs to identify underpayments and recoup overpayments of claims submitted by Medicaid providers or providers that participate in Medicaid waiver programs.

States are required to submit State Plan Amendments to make the necessary changes to their Medicaid programs. The template amendment that was issued by the CMS helps states comply with that requirement. The template lists several criteria for RAC expansion into Medicaid, including provisions related to how payments will be made to RACs, processes for appealing adverse RAC determinations and the coordination of RAC efforts with other auditing entities (e.g., Medicaid integrity program).

According to the CMS, state Medicaid RACs are not required to be fully operational by the end of the year. Rather, states may submit an amendment attesting that they will establish a Medicaid RAC program. States have been given broad discretion with respect to Medicaid RAC program design and the number of entities with they elect to contract. Medicaid RAC programs must be consistent with state law, and states have the flexibility to tailor a RAC's activities to unique aspects of a particular Medicaid program and to target areas of susceptibility for improper payments.

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