CMS Manual System

Pub 100-06 Medicare Financial Management

Transmittal 68

Date: MAY 20, 2005

Change Request 3773

SUBJECT: Instructions for Affiliated Contractors Involved in the Recovery Audit Contractor (RAC) Demonstration

I. SUMMARY OF CHANGES: This change request provides detailed instructions to affiliated contractors involved in the recovery audit contractor demonstration. They instruct contractors to change their medical review process and overpayment process for claim types being reviewed by the recovery audit contractor. Section 100 was added to Chapter 4 of the Medicare Financial Management Manual to capture contractor instructions. FIs, Carriers and DMERCs impacted: NHIC (31140 & 31146), CIGNA DMERC (5655), Palmetto DMERC (885), FCSO (90 & 590), UGS (California 454), Healthnow DMERC (811), Empire (308 & 803), GHI (14330), Healthnow (801).

NEW/REVISED MATERIAL :
EFFECTIVE DATE : June 20, 2005
IMPLEMENTATION DATE : June 20, 2005

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)
R = REVISED, N = NEW, D = DELETED – *Only One Per Row.*

R/N/D	Chapter / Section / SubSection / Title
R	4/Table of Contents
N	4/100/Affiliated Contractor and PSC Interaction with the Non-MSP Recovery Audit Contractors
N	4/100.1/Non-Medicare Secondary Payer (Non-MSP) Recovery Audit Contractors (RACs)
N	4/100.2/AC/PSC Communication with the RACs
N	4/100.3/Overview of the RAC Process

N	4/100.4/AC/Full PSC Requirements Surrounding RAC Non-MSP Identification Process
N	4/100.4/100.4.1/Providing Suppressed Cases to the RAC Database
N	4/100.4/100.4.2/Adjusting the Claim
N	4/100.5/Disputing/Disagreeing with a RAC Decision
N	4/100.6/Handling Overpayment and Underpayments Resulting from the RAC Findings
N	4/100.6/100.6.1/Underpayments
N	4/100.6/100.6.2/Setting up an Accounts Receivable
N	4/100.6/100.6.3/Recoupments Received on a RAC initiated overpayment
N	4/100.6/100.6.4/Extended Repayments Received on a RAC initiated overpayment
N	4/100.7/Handling Appeals Resulting from RAC Initiated Denials
N	4/100.8/Referrals to the Department of Treasury
N	4/100.9/Tracking Overpayments and Appeals
N	4/100.9/100.9.1/Tracking Overpayments
N	4/100.9/100.9.2/Tracking Appeals
N	4/100.10/Reporting Administrative Costs Directly Associated with the RAC Demonstration Project
N	4/100.11/Potential Fraud
N	4/100.12/AC/Full PSC Requirements Involving RAC Information Dissemination
N	4/100.13/Contacting Non-Responders
N	4/100.14/Voluntary Refunds
N	4/100.15/Working with the RAC Evaluation Contractor

III. FUNDING:
Funding for implementation activities will be provided to contractors through the regular budget process.

IV. ATTACHMENTS:

Business Requirements
Manual Instruction

Unless otherwise specified, the effective date is the date of service.

Medicare Financial Management
Chapter 4 - Debt Collection

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(Rev. 68, 05-20-05)

100 – Affiliated Contractor and PSC Interaction with the Non-MSP Recovery Audit Contractors
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

100.1 – Non-Medicare-Secondary-Payer (Non-MSP) Recovery Audit Contractors (RACs)
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

Section 306 of the Medicare Modernization Act (MMA) is entitled "Demonstration Project for Use of Recovery Audit Contractors". This provision requires the Secretary to conduct a demonstration project of not longer than three years in length to pay recovery audit contractors on a contingency basis to identify Medicare underpayments and overpayments and to recoup overpayments for both Part A and Part B services. A Report to Congress is required six months after completion of the demonstration. The report to Congress will analyze the impact of the demonstration on Medicare savings and will include recommendations on extending or expanding the project.

CMS has established Non-MSP RACs in the following states:

- California;
- Florida; and
- New York.

For the purpose of this section of the manual, the term "affiliated contractor" (or AC) shall be used to refer to carriers and FIs who process claims for providers in California, Florida and New York and DMERCs who process claims for beneficiaries who reside in California, Florida and New York. Currently, this includes:

- UGS- CA #454
- NHIC- CA #31140 & #31146
- Cigna- CA #5655
- FCSO- FL #90 & #590
- Palmetto DMERC- FL #885
- Empire- NY #308 & #803
- Healthnow- NY #801
- Healthnow DMERC- NY #811
- GHI- NY # 14330

The term "full PSC" shall be used to refer to any Program Safeguard Contractor (PSC) tasked with prepayment medical review responsibilities for DMEPOS claims for beneficiaries residing in one of the RAC states or claims submitted to carriers or FIs from providers in one of these 3 RAC states. Currently, this includes Tricenturion which performs prepay Medical Review for DMEPOS claims for beneficiaries who reside in New York.

The term "postpay MR PSC" shall be used to refer to any PSC tasked with postpay (but not prepay) MR for DMEPOS claims for beneficiaries residing in one of the RAC states or claims submitted to carriers or FIs from providers in one of these 3 RAC states. The term "BI PSC" shall be used to refer to any PSC tasked with benefit integrity (BI) responsibilities for DMEPOS claims for beneficiaries residing in one of the RAC states or claims submitted to carriers or FIs from providers in one of these 3 RAC states.

The term "RAC" shall be used to refer to any non- MSP recovery audit contractor tasked with identifying Medicare underpayments and overpayments and recouping Medicare overpayments.

The instructions in Chapter 12.4 of the Medicare Program Integrity Manual, Pub. 100-08, provide non-MSP review coordination instructions to ACs and PSCs who perform non-MSP claim review functions in the non-MSP RAC States. The instructions in Chapter 3 & 4 of the Medicare Financial Management Manual, Pub. 100-06, provide non-MSP overpayment collection instructions to ACs.

100.2 - AC/PSC Communication with the RACs
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

A. RAC Staff

When ACs/full PSCs have questions regarding the RAC demonstration or need to contact a RAC contractor, they should contact the CMS Project Officer or his/her delegate.

Unless prior written approval is given to the AC/full PSC by the CMS Project Officer, the AC/full PSC shall not contact the RAC directly.

B. AC/full PSC RAC Points of Contact (POC)

ACs shall provide the CMS Project Officer with the name, phone number, address, fax number, and e-mail address of a point of contact (POC) and an alternate POC. The majority of communications between the RAC and the AC will be conducted through the RAC Database. The point of contact or alternate will be responsible for all communications with the CMS Project Officer and/or RAC if necessary. The AC's POC will be contacted to handle overpayment issues such as offsets, status of overpayment collections, and referrals to the Department of Treasury and other questions involving the AC's suppression cases, provider address information, status of claim adjustments and status of appeals.

C. Applications to Assist Communication

An online database has been developed to foster the communication and exchange of Non-MSP information between the RACs, ACs, MR PSCs, the CERT Review Contractor,

law enforcement, QIOs and CMS. For access to the RAC Database, email the Central Office contact at <u>RecoveryAuditDemo@cms.hhs.gov</u>.

The RAC Database manual will be given to all affected contractors before or during a training session which will be held in Baltimore, Maryland after the contract has been awarded. More information concerning the RAC Database and any training sessions will be released at the appropriate time.

D. Provider Names and Addresses

The AC shall provide the CMS Project Officer with a provider listing of all provider numbers, names and addresses. Further information along with a due date will be released separately. This listing shall be placed on a CD or DVD and shall be retrieved from the AC's internal system. On a quarterly basis the AC shall update this listing to include any changes and/or new entries. The update listing shall be due to the CMS Project Officer within 15 calendar days after the end of each quarter. If the provider has more than one address, the AC/full PSC shall ensure that the first address listed on the CD or DVD is the address most likely to contain the medical records.

The CMS Project Officer will forward this listing to the appropriate RAC so that the RAC may request a medical record or issue a demand letter and proceed with recoupment if necessary.

100.3 - Overview of the RAC Process
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

The RACs will receive a data file from CMS containing National Claims History (NCH) data about claims that have been processed by the affiliated AC in the appropriate state based on the RAC contract. The RACs will receive a data file updating the NCH data on a monthly basis. Non-MSP RACs will analyze this data to identify underpayments and overpayments. The RAC will enter individual claim information into the RAC Database for each claim that contains an overpayment or suspected overpayment. Assuming the claim has not been suppressed because of an ongoing post payment medical review investigation, an ongoing fraud or benefit integrity investigation or a potential criminal investigation, or inclusion in the CERT sample, the RAC will continue with the identification and recoupment process.

100.4 – AC/Full PSC Requirements Surrounding RAC Non-MSP Identification Process
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

Effective May 1, 2005, each AC and full PSC shall NOT conduct post payment medical reviews on service types that may be reviewed by the RAC for prior fiscal years. The AC may conduct post payment medical reviews for the current fiscal year. The one exception

is that prior fiscal year medical reviews that are currently in progress or are in progress at the end of the fiscal year shall continue.

ACs/full PSCs shall supply the RAC with needed information as indicated below.

100.4.1 - Providing Suppressed Cases to the RAC Database
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

The AC, full PSC, MR PSC, BI PSC and CERT Review Contractor shall input all cases and/or claims requiring suppression into the RAC Database. The AC/PSC can suppress a claim or a series of claims, a provider's entire claim submission or a provider's claim type. The following cases require suppression:

- o *A post payment medical review is already in progress;*
- o *Claims subjected to complex prepayment medical review;*
- o *A fraud/benefits integrity review is in progress; or*
- o *The AC has been instructed by an outside agency (law enforcement, OIG, DOJ) that an investigation is ongoing.*

ACs/PSCs shall NOT suppress cases that do not meet the above criteria. Claims that the AC is conducting education on should not be suppressed. The CERT Contractor shall suppress only those claims where medical records were requested as part of a CERT report from November 2003 forward.

The AC/PSC/CERT Review Contractor will enter all suppressed cases into the RAC Database before the RAC begins identification.(Additional information concerning timeframes shall be released separately.) After the initial data input, the BI PSCs shall update the RAC Database with a new fraud/benefits integrity review as soon as they learn of the investigation. ACs, full PSCs, and MR PSCs shall input complex prepay review cases each month as the cases are selected. ACs, full PSCs, and MR PSCs shall input new post payment medical reviews only at the initial entry and at the beginning of each fiscal year. However, if the AC, full PSC, or MR PSC revises their postpay review strategy in the middle of the year, they must update the RAC Database within 30 days of the revision. The CERT Review Contractor shall input selected cases each month as the cases are selected for CERT Review. Formats concerning the suppression files will be released in the RAC manual before the RACs begin identification.

The AC/PSC must keep documentation on file that supports the information they added to the RAC Database.

100.4.2 – Adjusting the Claim
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

The RAC will not have access to CWF or to the standard system utilized by the AC/full PSC. Therefore when overpayments are identified the RAC will be unable to adjust the claim. Instead, the RAC will notify the AC/full PSC that an overpayment has been

identified via the RAC Database and the AC/full PSC shall adjust the claim and report the overpayment amount into the RAC Database.

On an ongoing basis, the RAC will enter into the RAC Database the claims where it has identified an overpayment. The AC/full PSC shall perform the necessary claims adjustment within 14 calendar days of it being entered onto the RAC Database. In the case of a partial adjustment, the AC/full PSC shall perform the adjustment and enter the overpayment amount into the RAC Database within 14 calendar days of it being entered onto the RAC Database by the RAC.

In cases where the potential error does not affect payment, the AC/full PSC shall indicate such in the RAC Database within 14 calendar days of it being entered onto the RAC Database.

If available, the AC may list the adjustment indicator as 'HCFA'. ACs/full PSCs shall not make overpayment/underpayment adjustments on zero dollar claims, unless the AC/full PSC is contacting the provider to notify them of a new denial reason.

In the case of the full PSC, it is the full PSC who is responsible for providing re-priced information to the RAC.

100.5 - Disputing/ Disagreeing with a RAC Decision
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

ACs/ full PSCs may not dispute a RAC overpayment determination. However, if the AC/full PSC believes a pattern exists with overpayment determinations that may not be supportable the AC/full PSC shall notify the CMS Project Officer of the potential problem.

100.6 - Handling Overpayment and Underpayments Resulting from the RAC Findings
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

The administrative processing of a RAC determined overpayment will not be any different than an overpayment determined by the AC. The RAC determined overpayment will be sent to the AC for processing. It will be the responsibility of the AC to update the RAC Database with any recoupments received either through offset or by check. It will also be the responsibility of the AC to report the overpayment on the appropriate CMS financial statement.

100.6.1 - Underpayments
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

On a monthly basis the AC POC will receive a list of all potential underpayments identified by the RAC. The AC shall research the potential underpayment, determine its

legitimacy and make payment to the provider if necessary. This shall follow the normal underpayment process. Within 30 days of receipt, the AC shall indicate to the CMS PO if the underpayment was valid or not.

100.6.2 - Setting up an Accounts Receivable
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

Once the AC has made the appropriate claim adjustment and updated the RAC Database the AC shall create an accounts receivable. The AC shall NOT issue a demand letter, however the AC shall initiate offset on the applicable day following the guidelines in the Medicare Financial Management Manual (MFMM), Chapter 4, §20 and §80.
In the case of a full PSC, it is the claims processing contractor that will handle overpayment/underpayment actions.

If the AC/full PSC requires more information about the reason for the overpayment/underpayment than is available in the RAC Database, the AC/full PSC may contact the CMS Project Officer.

Once the RAC receives the overpayment amount from the claim adjustment the RAC will proceed with recoupment.

100.6.3 - Recoupments Received on a RAC initiated overpayment
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

The RAC will be required to follow the normal practices for sending a demand letter. If a demand letter is issued, the letter will instruct providers to send checks to the appropriate payment address of the AC.

The AC shall deposit the checks following normal procedures.

The AC shall update the RAC Database within 7 calendar days of applying the payment, be it by check or offset.

100.6.4 - Extended Repayment Requests Received on a RAC initiated overpayment
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

If the AC receives an Extended Repayment Plan (ERP) from a provider for a RAC initiated overpayment, the AC shall forward the ERP to the appropriate contact at the RAC. Point of contact information for ERPs only at the RAC location will be given in a separate instruction.

100.7 - Handling Appeals Resulting from RAC Initiated Denials
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

The ACs shall process any appeals stemming from a RAC initiated overpayment.(e.g., RAC decisions appealed by providers or beneficiaries). The ACs shall not automatically uphold or reverse the RAC's decision. Instead, the ACs shall ensure that the appeal is processed as any other appeal request.

In the case of the full PSC, it is the claims processing contractor that is responsible for processing appeals resulting from RAC initiated denials.

Upon receiving an appeal request for a RAC identified overpayment the AC shall request the medical records from the RAC. This request shall be coordinated through the RAC Database within 7 calendar days of determining the appeal request is valid and is for a RAC identified overpayment. The RAC shall forward (or make available) the medical records to the AC within 7 calendar days of notification through the RAC Database. Even if the AC believes they have enough documentation to make a determination on the appeal, the AC shall still request the medical records (providers may submit different documentation to the RAC than to the AC upon appeal).

ACs shall allocate the costs and workloads associated with handling appeals of RAC initiated overpayments as they do all other appeals.

100.8 – Referrals to the Department of Treasury
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

All overpayments identified by the RAC will follow the normal referral to Treasury process. The RAC will issue the Intent to Refer letter on or before the debt reaches 130 days delinquent. The RAC will then transfer the case to the AC. The AC shall accept the transferred case and proceed with the referral to Treasury. The RAC will continue to attempt to collect the overpayment until the referral to Treasury is complete. The AC shall update the RAC Database with the referral to Treasury status code once referral is complete. The AC shall not attempt to contact the provider or collect the date. The AC shall only proceed with the referral to Treasury. If the AC receives a question or dispute after referral that cannot be answered through the case file the AC shall contact the CMS Project Officer or delegate.

100.9 - Tracking Overpayments and Appeals
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

100.9.1 - Tracking Overpayments
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

The AC shall notify the RAC when a collection is received on an overpayment identified by the RAC. This notification shall occur through the RAC Database. If possible, the AC shall create an electronic file from their internal system indicating all collections and interest accruals. This electronic file can then be uploaded to the RAC Database. The electronic file and the upload shall occur at the end of every business day. If the creation of an electronic file is not possible, the RAC Database shall be updated with all

collections and interest accruals within 7 calendar days of their occurrence or receipt date.

On a monthly basis the AC shall provide a report to the CMS Project Officer listing all newly identified RAC overpayments for the preceding month, all collections and interest accruals occurring during the preceding month and the beginning and ending balance of all RAC identified overpayments. This report can be in the form of report generated from the AC's internal system or it may be an Excel spreadsheet or Access database. It may NOT be from the RAC Database. The detail in the report shall be claim level and the report shall be due on the 10th calendar day after the end of the preceding month. (For example, April's report shall be due on May 10th.) Until standard system changes can be made, the report utilized for the supporting documentation of the CMS Form-751 can be used to provide this information as long as it can be placed on an Excel spreadsheet or Access database.

100.9.2 - Tracking Appeals
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

Appeal requests received in response to a RAC initiated overpayment shall be tracked through the RAC Database. The appeals shall be tracked so that the RAC will know when recoupment must cease during the appeal process and so that appeal data will be available when drafting the report to Congress.   The status of the appeal shall be tracked all throughout the appeal process. The RAC Database has a status code for every level of appeal. The AC shall update the RAC Database with the update in the appeal status code within 7 calendar days of learning of the new request and/or update.

100.10 - Reporting Administrative Costs Directly Associated with the RAC Demonstration Project
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

All costs associated with the RAC demonstration will be captured using a specific MMA activity code. This activity code will be released to Medicare contractors in a later instruction. Activities that may be included in the specific activity code for RAC activity include inputting claims in for suppression, performing the claim adjustment, creating the accounts receivable and suppressing the demand letter, updating the RAC Database, reporting statistics to the CMS Project Officer, reporting appeal status to the RAC Database, and any customer service inquiries directly related to the RAC.

100.11 - Potential Fraud
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

The RAC will refer any claims it determines to be potentially fraudulent to the appropriate AC or BI PSC. The AC or BI PSC shall follow normal procedures when investigating possible fraud. If need be, the AC or BI PSC shall initiate a suppression of the associated claims in the RAC Database.

100.12 – AC/full PSC Requirements Involving RAC Information Dissemination
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

When instructed by CMS, the ACs/full PSCs shall disseminate information concerning the RAC demonstration project to the provider community.   Questions and correspondence received from the provider community regarding RAC initiated overpayments shall be referred to the RAC. The RAC is required to have knowledgeable customer service representatives to assist the provider community.

The AC/full PSC shall notify the RAC when any community outreach and/or public education is taking place in the area. While not required, the RAC may decide to attend the function. The RAC may only address their function as recovery auditors. They may NOT address policy changes and/or provider education on other Medicare issues. The AC/full PSC is only required to notify the RAC of the event. It is up to the discretion of the AC/full PSC to invite the RAC to speak at the event. It is also up to the RAC if it wants to attend the event. All information disseminated to the provider community concerning the RAC demonstration project shall be approved by the CMS Project Officer. Information shall be sent by email to the CMS Project Officer 30 calendar days before the event.

100.13 – Contacting Non-Responders
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

The AC/full PSC has no responsibility to contact providers who do not respond to the RAC's request for medical records. It is the RAC's responsibility to retrieve the medical records or to make an overpayment determination.

100.14- Voluntary Refunds
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

If the AC receives a voluntary refund from a provider on a claim in the RAC Database, that has not yet been demanded by the RAC, the AC shall process the refund as they do all other voluntary refunds (i.e., in accordance with the Medicare Program Integrity Manual, Pub. 100-08, Ch. 3, §12.8.4 and §12.8.4.1).

100.15 – Working with RAC Evaluation Contractor
(Rev. 68, Issued: 05-20-05; Effective and Implementation Dates: 06-20-05)

CMS is in the process of contracting with a firm to evaluate the impact of the RAC Demonstration. The AC/PSCs shall work cooperatively with the RAC Evaluation Contractor and shall provide all requested data. Requests for information for the RAC Evaluation Contractor will come from the CMS Project Officer or designee unless alternative arrangements are made.