Policy Update

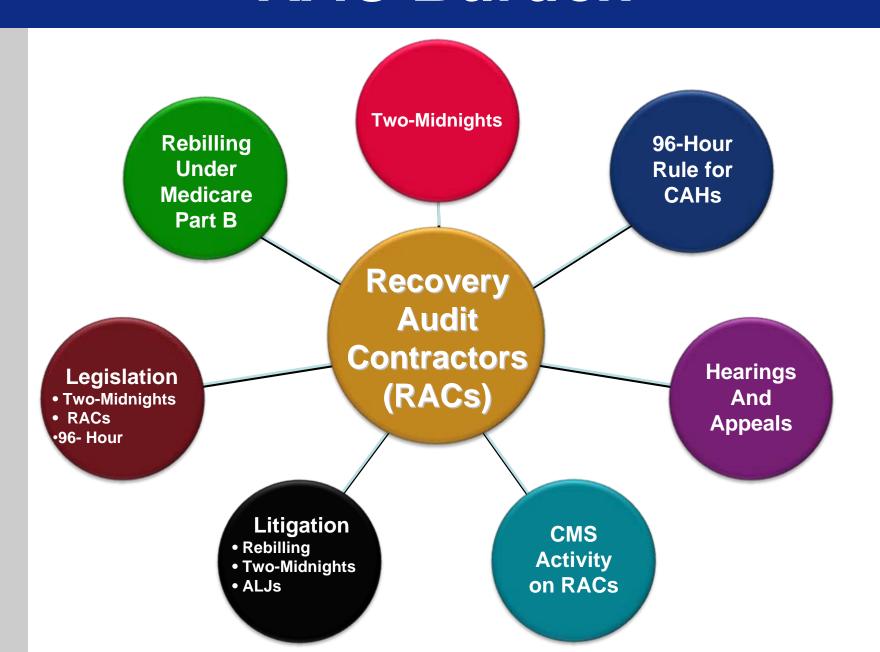






American Hospital Association RAC Summit November 13, 2014

RAC Burden



Part B Rebilling

- Issue: CMS's rebilling policy prevented hospitals from receiving payment after RACs denied inpatient admissions
- AHA response: The American Hospital Association, et al., v. Sylvia Burwell
 - CMS reversed course with Administrator's Ruling, new rebilling policy in FY 2014 IPPS final rule
 - Court dismissed case Sept. 17
 - One year timely filing limit addressed in twomidnight lawsuit

Two-midnight Policy

 Issue: RAC focus on inpatient admissions prompted CMS to create new time-based inpatient admission criteria

 AHA response: Challenge two-midnight policy while working to mitigate its impact

on hospitals



Two-midnight Policy: Legal Challenges

- Challenge to policy
 - Two-midnight policy
 - Physician order requirement
 - One year timely filing requirement
- Challenge to 0.2 percent reimbursement cut in FY 2014



Two-midnight Policy:

Two Midnight Rule Delay Act of 2013 / Two Midnight Coordination and Improvement Act

H.R. 3698 and S. 2082



Rep. Gerlach (R-PA)



Rep. Crowley (D-NY)



Sen. Menendez (D-NJ)



Sen. Fischer (R-NE)

Two-midnight Policy: Regulatory

- Three CMS delays (one legislative)
- Probe and Educate audits
- Change to physician certification requirement – CY 2015 OPPS
- Short stay payment policy



96-Hour Rule: Legislative

Critical Access Hospital Relief Act

113TH CONGRESS 2D SESSION

S. 2037

To amend title XVIII of the Social Security Act to remove the 96-hour physician certification requirement for inpatient critical access hospital services.

> 113TH CONGRESS 2D SESSION

H. R. 3991

To amend title XVIII of the Social Security Act to remove the 96-hour physician certification requirement for inpatient critical access hospital services.

AHA is working with concerned lawmakers to pass legislation that would remove the 96-hour piece of the physician certification requirement as a condition of payment.

ALJ Hearings Backlog

- Issue: Inappropriate RAC denials have forced hospitals to pursue payment through the appeals system, contributing to a significant backlog of appeals
- AHA response: Push policymakers to address backlog and enact significant RAC reform

ALJ Hearings Backlog: Legal Challenge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

AMERICAN HOSPITAL ASSOCIATION Liberty Place, Suite 700 325 Seventh Street, NW Washington, D.C. 20004-2802

BAXTER REGIONAL HOSPITAL, INC. D/B/A/ BAXTER REGIONAL MEDICAL CENTER 624 Hospital Drive Mountain Home, Arkansas 72653

COVENANT HEALTH 100 Fort Sanders West Boulevard Knoxville, Tennessee 37922

RUTLAND HOSPITAL, INC. D/B/A RUTLAND REGIONAL MEDICAL CENTER 160 Allen Street Rutland. Vermont 05701

Plaintiff's,

V.

KATHLEEN SEBELIUS, in her official capacity as SECRETARY OF HEALTH AND HUMAN SERVICES 200 Independence Avenue, SW Washington, DC 20201

Defendant.

Civil Action No. 14-cv-851

Issue: HHS is not complying with its statutory duty to decide ALJ appeals within 90 days of receipt

CMS Settlement Offer

Administrative agreement

- Voluntary
- 68 percent of Medicare payable amount
- Eligible hospitals
 - Acute inpatient hospitals
 - Critical Access Hospitals

AHA concerns

- Amount
- CMS parameters ever changing
- Does not resolve issues that caused the backup





CMS's proposal is narrowly tallored. In previous discussions with the AHA about a potential resolution to the intradable delays in payment caused by the ALI work stoppage, CMS proposed to offer hospitals a significantly lower partial payment. The announced offer and its now higher percentage of payout could provide some temporary relief to hospitals given the tremendous financial hardship the ALI delay confinues to create for many hospitals. However, the offer still falls to address directly the underlying cause of the problem – overzealous Recovery Audit Contractor (RAC) reviewers. The Offer also falls to explain how the settlement would affect any payments to the RACs related to their initial denials of the claims affected by the settlement. Read the latest column from AHA President and CEQ Rich Umbdenstook on the need to rein in the RACs, and see how the AHA is advocating for fair and streamlined audits by clicking here (their/linway abs orgonement/14/14/0822-rea-abaneus-golf-rea-abaneus-gol

CMS will host a teleconference about the offer on Tuesday, Sept. 9 at 1 pm ET. CMS expects to post registration information for the teleconference soon at MLN Connects™ Upcoming Calls (http://www.eventsvc.com/bilhtechnologies). CMS also



RAC Relief

 Medicare Audit Improvement Act H.R. 1250 231 Representatives
 S. 1012 — 16 Senators



Rep. Schiff (D-CA)



Rep. Graves (R-MO)



Sen. Pryor (D-AR)



Sen. Blunt (R-MO)

RAC Procurement Process

- Multi-year contracts ended Feb. 2014
- Pre-award challenge to new contracts in federal court
- After brief pause, RACs conducting limited audits under temporary extension



AHA RACTrac Survey

- Examining impact of rebilling policy, two-midnight enforcement delay, pause and ALJ backup
- Stay tuned:
 - Report on administrative burden
 - Survey on appeals settlement offer



Questions?







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