AMA
AMERICAN MEDICAL ASSOCIATION

JAMES L. MADARA, MD
EXECUTIVE VICE PRESIDENT, CEO

ama-assn.org
t (312) 464-5000

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Marilyn B. Tavenner
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Tavenner:

On behalf of the physician and medical student members of the American Medical Association (AMA), I write to you in regard to the Medicare Recovery Audit Contractor (RAC) program. As you know, the Centers for Medicare & Medicaid Services (CMS) initially paused RAC operations pending the award of the new RAC contracts; however, the agency recently restarted the program, allowing RACs to resume certain reviews. Given the growing concern among lawmakers and stakeholders about the accuracy of RACs and the uncertainty surrounding the next RAC contract period, the AMA is troubled by this decision to resume interim RAC activities. In addition, it is our understanding that CMS plans to revise—and potentially significantly raise—the medical record request limits for physicians once the new RAC contracts are awarded. Given the high denial rate of the RACs and the two-year backlog at the Office of Medicare Hearings and Appeals, which has been largely attributed to the RAC program, we are surprised and concerned that CMS is contemplating increasing the number of physician RAC audits. **The AMA strongly urges CMS to retain the current medical record request limits for physicians and focus its efforts instead on increasing the accuracy of the RAC contractors.**

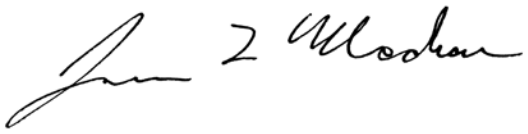
CMS has conveyed that the new RACs will adjust Additional Documentation Request (ADR) limits in accordance with a provider's denial rate. Providers with low denial rates will have lower ADR limits, while providers with high denial rates will have higher denial rates. While the AMA generally supports risk-based approaches to improper payment identification, it is our perception that CMS' planned revisions are likely to increase the average number of RAC audits that each physician receives, regardless of risk. We have serious concerns that this will exacerbate the multitude of problems that the RAC program already faces, including inappropriate denials, failed appeals, and poor performance.[1] In addition, increasing physicians' medical record request limits will undoubtedly add to practices' administrative and compliance costs. Physician resources are limited due to a litany of competing requirements including the Value Based Modifier, Meaningful Use, ICD-10 and others. Now, when

[1] *See e.g.*, United States Senate Special Committee on Aging, *Improving Audits: How We Can Strengthen the Medicare Program for Future Generations*, July 2014. *See also* Centers for Medicare & Medicaid Services, *Recovery Auditing in Medicare and Medicaid for Fiscal Year 2012* (reporting that 26.7 percent of RAC overpayment determinations were overturned on appeal in the provider's favor).

physicians are working towards adopting new delivery and payment models, is not the time to increase the burden of the RAC program on physicians.

It is our perception that the physician ADR limits are not part of the new RAC statement of work (SOW), and are therefore not requisite for the RAC contracts to be awarded. If CMS proceeds to adopt new ADR limits, we are certain that there will be significant operational issues with physicians accessing and understanding the new provider-specific limits. At a minimum, CMS should take the appropriate amount of time to engage with the AMA and other physician groups to understand the effects that increasing the RAC ADR limits will have on physicians.

Sincerely,



James L. Madara, MD