OBER | KALER
Attorneys at Law

Payment Matters®
Update on Medicare and Medicaid payment issues





Payment Group

The Payment Group is a work group within Ober|Kaler's Health Law Group.

Principals

Thomas W. Coons

Leslie Demaree Goldsmith

Carel T. Hedlund

S. Craig Holden

Julie E. Kass

Paul W. Kim

Robert E. Mazer

Christine M. Morse

Laurence B. Russell

Donna J. Senft

Susan A. Turner

Associates

DECEMBER 18, 2009

# Will New RAC Documentation Limits Really Provide Relief?

***Paul W. Kim***
*410-347-7344*
***pwkim@ober.com***

***Lisa D. Stevenson***
*410-347-7381*
***ldstevenson@ober.com***

Beginning December 1, 2009, new limits on the number of additional medical records that can be requested by the RAC will take effect for the remainder of FY 2010. On December 2, 2009, CMS announced that it modified limitations on the number of medical records that RACs can request for DRG Validation Reviews. This announcement can found by clicking here [PDF].

Currently, documentation limits are based on 1% of the average monthly Medicare services per National Provider Identifier (NPI) per 45 days, up to a maximum of 200 documents per 45 days.

The new documentation limits will be based on a "campus unit" methodology rather than the former NPI methodology. Under this new methodology documentation limits will be set at 1% of all claims, including claims for professional services, submitted by the campus unit for the previous calendar year divided into eight periods of 45 days.

According to CMS there will be two caps in FY 2010. The RAC may request a maximum of 200 documents per 45 days per campus unit through March 2010. However, from April 2010 through September 2010, the RAC is permitted to request an additional 300 documents per 45 days per campus unit from providers/suppliers who bill more than $100,000 in claims to Medicare. Thus, beginning April 2010 providers/suppliers billing more than $100,000 in claims to Medicare may be required to produce up to 500 medical records every 45 days.

CMS defines a campus unit as the servicing provider/supplier's Tax Identification Number (TIN) and the first 3 positions of the ZIP code where they are physically located. Thus, a campus unit may consist of one or more separate facilities/practices under a single organizational umbrella. According to CMS, using TINs rather than NPIs will reduce the total number of limits that would have been imposed per organization and will promote equitability for regional or national organizations.

Despite the new documentation limits, RACs will be given discretion to determine the exact composition of additional medical records it requests. CMS provides the following example of such discretion: "the RAC may request inpatient records up to the full limit even though the provider's inpatient

Kristin Cilento Carter

Joshua J. Freemire

Mark A. Stanley

Lisa D. Stevenson

business may only be a small portion of their total claim volume." Thus, RAC requests may be disproportionately weighed towards one type of claim, which may not be representative of the providers business.

Additionally, after the first 6 months of the 2010 fiscal year RACs will be allowed to request permission from CMS to exceed the documentation cap. According to CMS, RAC requests to exceed the cap will be evaluated on a case-by-case basis. Although CMS stated that providers will be notified before receiving additionally requests, CMS did not indicate whether providers would have an opportunity to appeal approvals for additional documents.

CMS stated that it will post documentation limits for reviews of other types of providers and suppliers at a later date. Additionally, new per campus documentation limits will be set and announced annually.

Ober|Kaler's Comments: If you have not already done so, you should supply your local RAC with the full contact information of your RAC coordinator(s) for each TIN so that RAC correspondences and record requests are promptly received, addressed, documented, and tracked.

Copyright© 2009, Ober, Kaler, Grimes & Shriver