

# Dealing with CMS' Alphabet Soup: What Compliance Professionals Need to Know to Effectively Manage RACs, MACs and HACs

by Kathy Johnson, RHIA

*New CMS regulations regarding Hospital Acquired Conditions (HACs), Medicare Administrative Contractors (MACs) and Recovery Audit Contractors (RACs) can adversely affect unprepared hospitals and health networks. Like any change, preparing for HACs, MACs and RACs causes anxiety and takes time. Proactively looking at the whole, rather than the sum of the parts, can alleviate stress and put processes in place to make the transitions easier for everyone. With more new coding requirements like the Acute Care Episode (ACE) three-year demonstration project on the horizon, it is important for leaders and their organizations to prepare for and adapt to each set of regulations as they approach and take effect. With different sets of regulations building one on another and a pipeline of ongoing change ahead, proactive planning and management offers the most reliable way to protect an organization's compliance, financial, and legal best interests.*

Causing confusion and concern throughout the industry, new regulations from the Centers for Medicare and Medicaid Services (CMS) may only look like a spoonful of alphabet soup, but Hospital Acquired Conditions (HACs), Medicare Administrative Contractors (MACs) and Recovery Audit Contractors (RACs) can wreak havoc on electronic record initiatives, organizational structure, work flow and processes, communication, and education for unprepared hospitals and health networks. Many compliance and legal pitfalls exist, but knowing what has been done, understanding what needs to be done, and effectively prioritizing efforts to ensure compliance can make all the difference.

First, leaders should reflect and gather information on what's been done to prepare for these regulations at an enterprise level, noting any efforts to meet customer quality requirements, comply with regulations, or ensure accuracy and reliability of codified data. Specifically, executives should determine which regulations pose the greatest threat or require the greatest amount of process and procedural changes, then designate these as higher priority.

This type of effective preparation can help organizations avoid financial, compliance, and legal setbacks and capitalize on new opportunities. Taking stock of what's been done to date provides a good baseline understanding of what needs to be done and helps organizations prepare, transition, and embrace change more efficiently and seamlessly. Plus, much of the effort spent preparing for certain regulations will lay the groundwork required to comply with others, because

the transitions happen simultaneously with some working toward the same end. Getting ready for RACs, for example, helps organizations prepare for MACs, and preparation for present on admission (POA) requirements can help smooth the way for HACs.

## Recovery Audit Contractors

Of the many government initiatives, RACs seem to receive the most public attention, and organizations should have this transition behind them. From a compliance perspective, RACs may not represent the biggest regulatory threat for hospitals and health networks in 2009, but the potential financial implications cannot only endanger an organization's financial health; they also can have a trickle down effect on other compliance initiatives. So it's critical to understand their potential impact and steps that have and will be taken to address them.

CMS developed the RAC program to identify and correct improper Medicare payments, reduce future improper payments, and improve its error rate. CMS released an "Update to the Evaluation of the 3-Year Demonstration" in January, which includes many statistics on the appeals process through August 31, 2008, including the number of claims, those appealed, and those with a favorable decision for the provider.

With the demonstration complete and several important RAC related rollout dates already past (see regional rollout

map for more information), most hospitals should be proactively reviewing claims data to identify and correct risk areas. Executives should look to their RAC team to ensure proper measures are being taken, as well as their health information management (HIM), legal, revenue cycle, quality improvement, and case management groups. Good questions to ask include the following tip of the iceberg. Do we have a protocol in place for re-billing, self reporting or self disclosure? Are we prepared to handle the five levels of the RAC appeal process?

Hospitals and health networks that have yet to assess their preparedness have fallen far behind. They should immediately determine where their organization stands and any work that lies ahead. From a legal and compliance standpoint, it's important to understand that RAC reviews conducted during the demonstration program aligned with Office of the Inspector General (OIG) focus areas. Assuming the national RAC rollout follows suit as it should, organizations can leverage data mining and analysis completed for the OIG to monitor improvements and stay informed about developing issues with RACs.

Compliance professionals can make other valuable contributions to their organization's RAC readiness effort. They should consider, among other things, contributing to efforts to develop the organization's criteria for RAC appeals and the standard language to be used in appeals. Risk management, legal, and compliance experts also can play invaluable roles in drafting communications for beneficiaries to help them understand what a RAC denial means and what their provider is doing in response to a RAC denial. CMS will send communications of their own to the beneficiaries; so encouraging proactive management and careful planning on this front can help organizations navigate the appeals process more smoothly.

Planning also should include deciding whether or not the internal RAC process will be integrated into the organization's corporate compliance program. Some organizations have their corporate compliance and patient financial services teams coordinate RAC audits. In addition, risk management should contribute by conducting comprehensive RAC vulnerability analyses to identify where the organization is today and what priorities need to be addressed moving forward.

The overall goal of all RAC preparedness efforts should focus on mitigating future exposure. By implementing quality management programs that review claims, educate staff, and monitor developments on an ongoing basis, compliance executives can position their organizations for smooth transitions and organizational change in light of RAC regulations.

### **Medicare Administrative Contractors**

MACs, like RACs, focus primarily on billing and reimbursement. Once in effect, MACs will completely replace fiscal intermediaries and carriers and should be fully operational by March 2010. The MAC program aims to improve CMS cus-

tomers service for providers by offering a single point of contact, increasing provider education and training, and improving claims and payment accuracy. Also similar to RACs, the MAC program rollout will happen in stages over various regions, but unlike RACs, the MAC program focuses on current, individual claims, rather than retrospective and aggregate claims data.

The MAC program restructures how claims are processed, and many departments will be affected by an organizational transition to accommodate MACs, particularly if the organization is unprepared. Because MACs focus so heavily on the claims process, executives should look to their patient financial services, information technology and revenue cycle departments to ensure necessary measures are in place. Many valid concerns exist, but some of the most important areas to investigate include the interdependencies of processes throughout the organization, the specific organizational processes most affected, and the need to identify resources that can help interpret CMS policy and regulations.

Compliance professionals should focus on high priority processes and procedures and help to specifically define them in ways that enable optimal performance, remembering that RAC preparations may have addressed some issues. Engaging in measurement, evaluation, tracking, and reporting as individual components of overall business transparency and integrity provides other opportunities to contribute. Offering guidance on how and when to execute self disclosure in the event issues arise during internal assessments, though, is one of the most important steps compliance professionals must be sure to complete.

Developing relationships with MACs can also help. By the March 2010 target, there will be 19 MACs in place to handle claims for Part A, Part B and durable medical equipment suppliers. As these new contacts take over, hospitals and health networks have the opportunity to start fresh with these CMS representatives. With just 19 MACs nationwide, executives should be sure to take advantage of any opportunities for face time to ensure open communication and transparency with their organization's contact.

Just as preparation done for RACs can help organizations prepare for MACs, preparing for POAs will help hospitals and health networks with HACs.

### **Hospital Acquired Conditions**

HACs stress the importance of value-based pricing and determining liability for a wide range of conditions and related issues, much like POA reporting. Unfortunately, organizations that mishandle or improperly code HAC or POA data create a risk of malpractice and other liabilities, as well as increased costs to their organizations.

As of October 2008, CMS no longer provides reimbursement over and above the typical inpatient prospective payment

system (IPPS) rate for care required to treat several types of healthcare-associated conditions. Under these regulations, CMS holds hospitals accountable and compensates them based on the value of care provided to patients. Therefore, any cost of treating a condition acquired during an inpatient hospital stay that was reasonably preventable is the responsibility of the hospital and will not be paid by Medicare or the beneficiary.

Examples of conditions that can qualify as HACs include foreign object retained after surgery, air embolism, blood incompatibility, falls and trauma, deep vein thrombosis and pulmonary embolism following certain orthopedic procedures, and certain surgical site infections. CMS also classifies certain events as “never events,” or serious reportable adverse events. These include surgeries on the wrong body part, surgeries on the wrong patients, or the wrong surgery altogether.

CMS and several private insurance payers that include Wellpoint, Cigna, and BlueCross BlueShield have non-payment policies for all “never events” and states are following suit. A group of states including Maine, Massachusetts, New York, and Pennsylvania are currently enacting laws to put similar non-payment policies in place regarding never events.

As when dealing with RACs and MACs, compliance, legal, and risk management professionals must determine what’s being done at the enterprise level to maximize compliance, minimize risks, and reduce the number of HAC incidents taking place. Across the organization, executives should focus first and foremost on identifying and correcting the root causes of potential HACs.

Risk management teams can do more than lead efforts to prevent HACs by ensuring basic preventive steps exist at the point of care. They also should work to ensure the organization properly (1) determines and codes whether a diagnosis was present at the time of the beneficiary’s admission as an inpatient, (2) documents the POA status for all diagnoses on CMS claims, and (3) follows relevant billing and reimbursement guidelines for each HAC that is subject to payment reduction. Again, effective POA preparation should be completed, which should lessen the burden associated with HAC preparation.

Beginning in October 2007, all IPPS hospitals were required by CMS to submit POA Indicator information for all primary and secondary diagnoses. From January 2007 to March 2008, CMS processed POA Indicator data and educated IPPS hospitals on reporting errors. Since April 2008, CMS returns all claims lacking proper POA reporting. Hospitals and health networks successfully navigating these POA regulations with minimal denials should have an easier time preparing to manage HACs.

HACs have the potential to cause enterprise-wide impact and should be addressed as such. Executives should work to address issues related to HAC readiness from point of care to coding and claim submission, ensuring physicians and others affected understand the regulations, their role in managing them, and po-

tential implications. Education plays a huge role in preparing an organization for HACs and the many intricacies they contain.

Many are surprised to learn that certain conditions are not classified by POA requirements as HACs. Any conditions acquired in an outpatient setting like the emergency room or during any other instance that occurs prior to the admission, for example, are not classified as HACs, but hospitals may not receive entitled reimbursement in these situations if coders misrepresent these pre-admission developments as HACs. Every organization’s compliance effort must include aggressive monitoring for over or under reporting of HACs in coded data.

The compliance and financial implications of ensuring these measures are taken can be staggering. It cannot only mean the difference between regulatory compliance and noncompliance; it also can help organizations avoid mountains of improperly coded and unreimbursed procedures.

### Conclusion

Like any transition, preparing for HACs, MACs and RACs causes anxiety and requires the time of many throughout the organization. HACs, MACs and RACs can positively or negatively impact many hospital initiatives, but the efforts to prepare for them should never occur in a vacuum. By proactively looking at the whole, rather than the sum of the parts, executives can alleviate stress and put processes in place to make the transitions easier for everyone.

With more new coding requirements like the Acute Care Episode (ACE) three-year demonstration project on the horizon, it’s incredibly important for leaders and their organizations to prepare for and adapt to each set of regulations as they approach and take effect. With different sets of regulations building one on another and a pipeline of ongoing change ahead, proactive planning and management offers the most reliable way to protect an organization’s compliance, financial, and legal best interests. ■

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