



## APPEALING A MEDICARE RECOVERY AUDIT CONTRACTOR (RAC) OVERPAYMENT: UNDERSTANDING THE APPEALS PROCESS

If you have received a letter from a Medicare Recovery Audit Contractor (RAC) requesting overpayment(s) and you believe it is incorrect, you may appeal. It is important to understand key deadlines in the appeals process. Outlined below are the steps you should take.

### FAST FACTS:

- **Recoupment(s) Halted:** If physician appeals within 30 days of receiving letter requesting overpayment.
- **Interest Accrues:** With or without an appeal 31 days from date physician receives overpayment letter, unless full repayment is made before this time.
- **Max Time to File Initial Appeal:** 120 days

### **STEP 1: CALL**

If you receive an overpayment letter, call your RAC within 15 days from the date you receive it to discuss the overpayment and send any evidence to counter an offset. NOTE: Calling your RAC does not constitute a formal appeal.

### **STEP 2: APPEAL**

If you continue to believe the request for overpayment is unjustified, you must file an appeal. If you do so within 30 days of receipt of the overpayment letter you will avoid a Medicare recoupment action. NOTE: Interest, begins to accrue 31 days from the receipt of the overpayment letter regardless of whether an appeal is filed. No interest accrues if repayment is made within 30 days.

There are five levels of appeal.

#### **1<sup>st</sup> Level Appeal**

→ You have 120 days to file the first appeal which is referred to as a “redetermination.” Redeterminations are conducted by Carriers or Medicare Administrative Contractors (MAC). If the overpayment is upheld at the redetermination level, you have 180 days to appeal to the 2<sup>nd</sup> level. NOTE: While you have 120 days to file the first appeal, you can only avoid a Medicare recoupment action if you do so within 30 days.

#### **2<sup>nd</sup> Level Appeal**

→ Second level appeals are referred to as “reconsiderations.” Reconsiderations are conducted by Qualified Independent Contractors (QICs). If the overpayment is upheld at the reconsideration level, you have 60 days to appeal to the 3<sup>rd</sup> level.

#### **3<sup>rd</sup> Level Appeal**

→ At the third level of appeal, an Administrative Law Judge (ALJ) will review your case. If the overpayment is upheld, you have 60 days to appeal to the 4<sup>th</sup> level.

#### **4<sup>th</sup> Level Appeal**

→ At the fourth level of appeal, an HHS Department Appeals Board will review your case. If the overpayment is upheld you have 60 days to appeal to the 5<sup>th</sup> level.

#### **5<sup>th</sup> Level Appeal**

→ At the fifth level of appeal a Federal District Court will review your case.

### **STEP 3: REFUNDING OVERPAYMENT**

If your appeal is upheld and making a repayment in full represents a hardship, ask your RAC if you qualify for an extended repayment plan. NOTE: Interest is waived if an overpayment has been returned within 30 days of final determination.

**IMPORTANT NOTE:** To comply with limitation on recoupment provisions found in Section 935 of the Medicare Modernization Act (MMA), passed by Congress in 2003, CMS proposed changes to its appeals process in September 2006. CMS has begun to implement these changes but they have not yet been finalized. The affect of these changes allows physicians to avert Medicare recoupment through offsets if they appeal within 30 days up to the 2<sup>nd</sup> level of appeal. If a physician is unsuccessful in overturning the appeal at the 2<sup>nd</sup> level, offset begins and interest accrues back to the day of the overpayment letter. For more information on the Limitation on Recoupment provision go to: <http://www.cms.hhs.gov/MLNMMattersArticles/downloads/MM6183.pdf>. For more information on the Medicare appeals process