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# Audits and Appeals: A Routine Cost of Doing Business with Medicare

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# Meet Today's Speakers

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# Welcome

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- Download the slides for today's program by clicking the PDF link in the upper left corner of your screen.
- Also on the left is a Q&A box where you may type your questions. We'll look at those questions at the end of the program and answer as many as we can.
- At the end of the program, you'll receive an email with a link to a survey. Please take a moment to fill that out and give us your feedback.

# Medicare Administrative Contractor

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- Post-payment probe audits
- Statistical sampling and extrapolation
- Pre-payment reviews
- Look-back period
  - One year from payment for any or no reason
  - Between one and four years for “good cause”
  - More than four years for “fraud or similar fault”

# Recovery Audit Contractor

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- Four RACs
- Overpayments and underpayments
- Unrelated to fraud, waste, and abuse (FWA)
- Percentage-based contingency fee unless overturned
- Pre-payment reviews proposed
- Three-year look-back period
- Focus

# Zone Program Integrity Contractor

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- Seven ZPICs
- Post-payment probe audits
- Statistical sampling and extrapolation
- Pre-payment reviews
- Related to FWA
- Referrals to other agencies
- Same look-back period as MACs
- Focus

# Office of Inspector General

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- Post-payment probe audits
- Statistical sampling and extrapolation
- Recommendations to CMS
- Same look-back period as MACs
- Focus

# Internal Review

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- Compliance Program Activity
- 60-Day Rule
- Independent Third-Party Auditor
- Under Attorney-Client Privilege



# Look-Back Period / Claim Reopening

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- One year from payment for any or no reason by anyone
- Between one and four years for “good cause”
- More than four years for “fraud or similar fault”

# Rebuttal / Discussion

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- Not part of claims appeal process
- Rebuttal
- With local MAC
- Up to 15 days
- Discussion period
- With RAC
- Up to 30 days

# Redetermination

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- Local MAC
- 120 days to request
- Good cause
- 60 days for decision
- De Novo
- Almost always, medical necessity focus

# Redetermination

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- Beneficiary's name
- Health insurance claim number
- Service(s) and/or item(s)
- Date(s) of service
- Name and signature of appellant or representative

# Reconsideration

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- Qualified Independent Contractor: 9 QICs
- 180 days to request
- 60 days for decision
- Escalation for delay
- De Novo
- Early and full presentation of evidence
- New evidence
- Generally, medical necessity focus

# Reconsideration

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- Beneficiary's name
- HICN
- Service(s) and/or item(s)
- DOS
- Name and signature of appellant or representative
- Name of MAC

# ALJ Hearing

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- Office of Medicare Hearings & Appeals: 4 Field Offices
- 60 days to request
- In-person hearing
- Videoteleconference (VTC)
- Telephone
- On the Record
- De Novo
- 90 days for decision

# ALJ Hearing

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- Except for in-person hearing
- Request for waiver
- Escalation for delay
- Both clinical and non-clinical issues addressed
- Beneficiary's name, address, and HICN
- Appellant' name and address (if not beneficiary)
- Representative's name and address (if any)
- QIC appeal number



# ALJ Hearing

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- DOS
- Reasons the appellant disagrees with QIC
- Statement of any additional evidence to be submitted and date it will be submitted
- Good cause
- 2014 amount in controversy = \$140
- Certificate of service
- Independent expert
- CMS or contractor participation

# ALJ Hearing

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- ALJ request
- 10 days notice
- Limited role
- CMS or contractor as party
- Prohibited if beneficiary unrepresented
- 10 days notice
- 2-year moratorium on scheduling hearings
- Appeals filed on or after July 2013

# ALJ Hearing

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- Alleged overpayments fully recouped prior to hearing
- Good news for older appeals?
- Effect of CMS settlement proposal

# Medicare Appeals Council

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- Request for review
- 60 days to request
- 90 days for decision
- Escalation for delay
- No evidentiary hearing
- Written briefs optional
- Oral arguments optional

# Medicare Appeals Council

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- CMS appeal
- Administrative Contractor
- Own motion
- Abuse of discretion by ALJ
- Error of law
- Actions, findings, or conclusions of ALJ not supported by substantial evidence
- Broad policy or procedural issue that may affect general public interest

# Federal Court

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- Complaint
- 60 days to file
- 2014 AIC = \$1430

# Practical Tips

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- Paginate medical records
- Track deliveries
- Retain delivery receipts
- Follow up delays
- Document and copy

# Recoupment

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- Redetermination
- Begins 41st day after overpayment demand unless appealed within 30 days
- Reconsideration
- Begins 60th day after Redetermination unless appealed
- Begins 30 days after Reconsideration
- Interest earned only on amounts recouped



# Questions?

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# More questions? Contact us.

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