

RAC Program Stakeholder Engagement Meeting

Colorado Department of
Health Care Policy & Financing

May 12, 2023

Introductions:

Panelists today from the Department Include:

- Bart Armstrong, Fraud, Waste, and Abuse Division Director
- Alyssa Gilger, Contractor Audit Operations Unit Supervisor
- Sarah Geduldig, Provider Integrity Section Manager
- Raine Henry, Hospital & Specialty Care Section Manager

Goals of Today's Meeting

Since this is the first of many engagement opportunities, today we will be providing a high level overview of provider suggested enhancements to the Colorado RAC Program and new requirements made through HB23-1295.

Proposed enhancements and opportunities are not finalized, so please let us know what you think

As we only have 1 hour for these meetings we have created a Google Form, links on our website & on the presentation can be used in case we run out of time.

Agenda:

- RAC Program Enhancements Previously Committed to by the Department and related to HB23-1295
 - Website & Reporting
 - Stakeholder Engagement
 - Provider Education
 - HB23-1295 Additional Requirements
- Addressing Suggested Enhancements from Providers
- Q & A

**Questions can be submitted via the Zoom Chat and will be addressed during this portion of the presentation so we can address similar questions, given the time constraints of the Meeting.*

RAC Program Enhancements & Previous Commitments

Stakeholder Engagement

The Department RAC team will:

- Hold (at least quarterly) webinars for Stakeholder Engagement
- Update the HCPF RAC website with upcoming Stakeholder Engagement webinars
- Maintain meeting minutes and form submissions to ensure we follow up with Providers and identify common suggestions, enhancements, and opportunities to problem solve

Website Updates and Reporting

The HCPF RAC team will publish on their site:

- Summaries of the trends of audit findings
- Recently completed audit details
- Overpayment and Underpayment reports
- Error rates
- Scorecards
- The RAC Contract & Oversight of Deliverable

Provider Education

The Department RAC with the RAC Vendor(HMS) will:

- Create meaningful trainings posted on the HMS website and the Department website based on audit findings
- Update the websites from the Department and HMS to link to:
 - Existing Department training opportunities and helpful information available from HCPF
 - Existing Medicaid.gov & CMS.gov Provider training resources
 - Any other suggested or helpful information that support Provider Educational opportunities
- Publish a Calendar of Monthly & Quarterly RAC Program Training hosted by HMS and the Department

Additional House Bill HB23-1295 RAC Program Requirements

- Create a Provider Advisory Board
- OSA Conducted Audit of the RAC Program in 2023-2034 SFY
 - Conducted by Independent Contractor through the Office of State Auditors (OSA)

**Please note that other entities, such as CMS, OIG & GAO conduct audits of the RAC Program in Colorado and this is an additional requirement beyond the National standards for the RAC Program*



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Department of Health Care
Policy & Financing

Stakeholder Suggested Enhancements to the Colorado RAC Program

Suggested Update: Informal Reconsideration Timelines (Too Short & Process Issues)

Proposed Solution: Rulemaking to Streamline the Process

The Department has heard the provider community's suggestions regarding Informal Reconsideration (IR) timelines and the IR process.

In response, the plan is to conduct rulemaking to streamline the IR and appeal processes. This includes an extended IR timeline for all Providers to submit reconsiderations to the RAC Vendor.

The Department proposes amending state regulation to create a new section at 8.050 dedicated to RAC Overpayment Determination Appeals to effectuate this policy change.

Informal Reconsideration Timeline Updates (Cont.)

The proposed rule amendment at 8.050 will:

- Require IR prior to appeal. This will allow the Department another opportunity to review claims at issue and engage with the provider to correct any errors and educate the Providers on Findings.
- Double the deadline for providers to submit a request for IR—from 30 to 60 days. This will allow providers additional time to meaningfully engage in the IR process and hopefully reach a resolution.

Informal Reconsideration Timeline Updates (Cont.)

- Once a provider has gone through the IR process, if they are still not satisfied, they can then appeal to the Office of Administrative Courts (OAC).
- An appeal at OAC will be a de novo proceeding (Deciding the issues without reference to any legal conclusion or assumption made by the previous court to hear the case)
- At the appeal stage, the provider will need to prove by a preponderance of the evidence that it correctly received or is entitled to receive the amounts in dispute.

Suggested Update: Inpatient Audits, Options for Partial Payment

Proposed Solution: Allow Hospital Providers to Rebill for Inpatient Level of Care Setting Audit Findings

The Department has heard the provider community's suggestions regarding the Inpatient Level of Care Setting audit and recouping the full value of the claims when allowable services were rendered at a lower level of care.

In response, the plan is to issue an **Operational Memo** detailing the new RAC policy that will allow providers various opportunities to rebill for any allowable services rendered.

The Department will rely on proposed amendments to the Timely Filing regulation at 8.043.03 to effectuate this policy change.

The new proposed rule language will read:

- B. For denied and paid claims where the initial timely filing period has expired, the Fiscal agent must receive the resubmission or adjustment request within **60 days** from either:
 - a. The latest Remittance Statement run date or the latest other written letter from the fiscal agent, up to two years from the date of service; or
 - b. **The latest other written notification of adverse action or informal reconsideration decision permitting resubmission or adjustment.**

Suggested Update: Providers Need Clarification on Hospital Rules

Proposed Solution: Rulemaking

The Department has heard the provider community's suggestions regarding the hospital regulations and their request for additional clarity.

In response, the plan is to conduct rulemaking in order to:

- Create robust standards and guidance for Inpatient, Outpatient, and Observation Stays
- Shift from temporal standards for Observation to medical necessity standards
- Provide better clarity for when an Inpatient versus Observation Stay is appropriate

Hospital Rule Updates- Inpatient (Cont.)

Sample Updated Inpatient Definitions:

- **Inpatient** is a person who has been admitted to a Hospital for purposes of receiving Inpatient Hospital Services.
- **Inpatient Hospital Services** means services that are furnished by a Hospital for the care and treatment of Inpatients and are provided in the Hospital by or under the direction of a physician.

Hospital Rule Updates- Inpatient (Cont.)

Proposed Updates to Policy for Covered Hospital Services - Inpatient Admissions

- Reiterate that inpatient admission is only appropriate when Medically Necessary.
- Clarify how to support the Medical Necessity of an Inpatient admission.
- Admission should not be based solely on expected length of stay, but length of stay may be a factor.
- Medical records should support that the client required services involving an intensity of services that cannot be provided safely and effectively in Outpatient.

Admission should focus on clinical factors, such as:

- Client's current medical needs;
- Client's medical history;
- Severity of the signs and symptoms exhibited by the client at the time of presentation to the Hospital, and at the point of admission decision;
- Medical predictability of an adverse clinical event occurring with the client;
- Results of diagnostic studies, laboratory tests, and other clinical tests and examinations; and
- Types of services available to Inpatients and Outpatients at the specific Hospital of admission.

Hospital Rule Updates- Outpatient & Observation

Sample Updated Outpatient Definitions:

- **Outpatient** means a client who is receiving professional services at a Hospital or an off-campus location of a Hospital but is not admitted as an Inpatient.
- **Outpatient Hospital Services** means services that are furnished to Outpatients; and are furnished by or under the direction of a physician or dentist.
- **Observation Stay** means Outpatient Hospital Services provided in a Hospital for the purpose of evaluating a person for Inpatient admission or stabilization.

Hospital Rule Updates- Outpatient & Observation (Cont.)

Proposed Updates to Policy for Covered Hospital Services - Outpatient Observation Stay

- Reiterate that Observation Stay admission is only appropriate when Medically Necessary.
- Clarify how to support the Medical Necessity of an Observation Stay admission.
- Establish expectation that in a majority of cases, the decision whether to admit a client to Inpatient or discharge from Hospital can be made in less than twenty-four hours.
- Admission is also based on clinical factors—similar factors to Inpatient admission.

Medical records must demonstrate Observation Stay is Medically Necessary for the purposes of:

- Evaluating a client for possible Inpatient admission;
- Treating a client expected to be stabilized and released without the need for Inpatient admission; or
- Allowing extended recovery following a complication of an Outpatient procedure.

Only rarely shall Observation Stay exceed forty-eight hours in length.

Upcoming Stakeholder Engagement Meetings

- Thursday August 3rd, 2023 12pm-1pm MST
- Thursday November 2nd, 2023 12pm-1pm MST
- Thursday February 1st, 2024 12pm-1pm MST
- Thursday May 2nd, 2024 12pm-1pm MST

We Want to Hear From You!

Please use the Department RAC Stakeholder Engagement Google form to:

- Submit suggestions for the next meeting
- Give us feedback
- Submit Questions or Comments we need to follow up on for you

Link: [Department RAC Stakeholder Engagement Google Form](#) *(Clickable Link)*

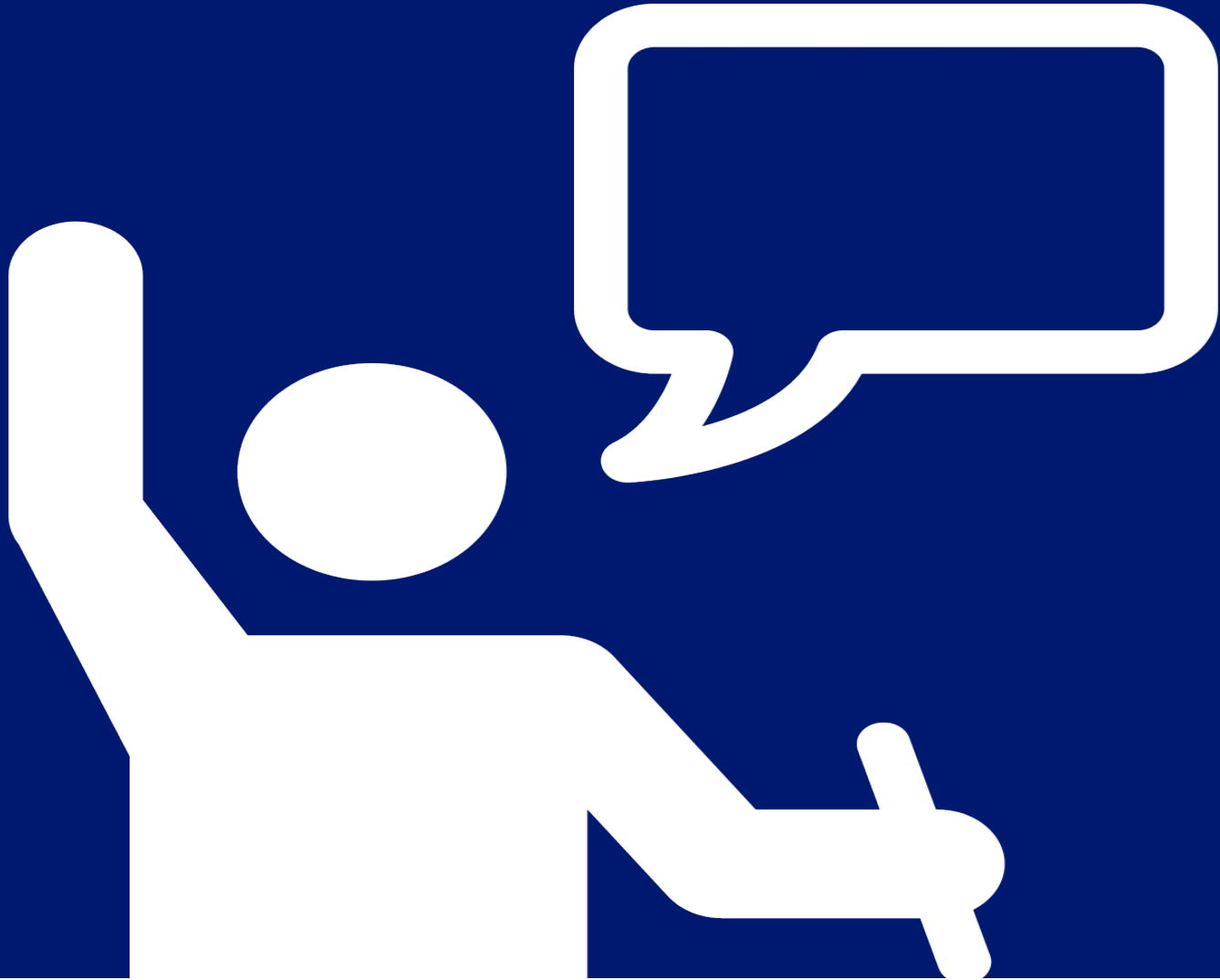
(Also on HCPF RAC Website)

HCPF RAC Website:

<https://hcpf.colorado.gov/recovery-audit-contractor-rac-program>

HMS Website with Training and Resources:

<https://resources.hms.com/state/colorado/rac>



Q & A