

KMAP and the RAC

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Kansas Specific History

- Section 6411 of the Patient Protection and Affordable Care Act (PPACA) expanded the Recovery Audit Contractor (RAC) program to include Medicaid.
- The RAC Program's mission is to reduce Medicaid and CHIP improper payments through the efficient detection and collection of overpayments, the identification of underpayments and the identification of actions that will assist KHPA in preventing future improper payments.
- State of Kansas FY 2011 budget bill required the Kansas Health Policy Authority to enter into a contract that coordinated with the Federal RAC by October 1, 2010, and that the Request for Proposal (RFP) process should be used. The Kansas Legislature expanded the scope of the RAC program. The program may include medical and pharmacy services provided outside of Medicaid and specifically will include SEHP.



Kansas Specific History

- The RAC vendor is only paid on a contingency fee basis for all recovered overpayments and repaid underpayments. HDI bid overpayment recovery at a contingency fee of 17⁰% and an underpayment contingency fee of 18⁰%.
- HDI will only be paid for overpayments that have actually been recovered and not overturned on appeal and overpayments that have actually been paid to the provider.
- HDI cannot base an overpayment upon extrapolation.
- HDI was awarded the Kansas RAC contract on December 8, 2010.

Differences between Medicare and Medicaid RACs

Medicare

- Look back period of 3 years
- There is payment for medical record requests
- Different contact information and provider portal (though both are HDI)
- Adjustment code on RA prior to recoupment
- Appeals timeline and recoupments may occur prior to outcome of the appeal
- Provider may pay overpayment by check
- RAC validation contractor

Medicaid

- Look back period of 4 years for overpayments and 2 years for underpayments
- No payment for medical records
- Different contact information and provider portal (though both are HDI)
- No adjustment code on the RA prior to recoupment, though claims will be locked down
- Appeals timeline and no recoupments should occur prior to final outcome of the appeal
- Medicaid requests that providers do not send a check
- RAC validation is done by the State of Kansas, not a contractor



Fair Hearings Basics

- After a “final agency action” HDI will issue a letter that states its decision and will have language similar to:
- You have the right to request a fair hearing under the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.* and K.A.R. 30-7-64, *et seq.* If you wish to request a fair hearing only, you must file a written request within (30) calendar days of the date of this letter to the following address:
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 - Office of Administrative (OAH) Hearings
 - 1020 S. Kansas Ave.
 - Topeka, KS 66612
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- The Office of Administrative Hearings will notify you of a hearing date and time.
- The notice is very important because
 - It limits the time to appeal or challenge a decision to 30 days (with three additional days for mailing),
 - It limits the venue to Office of Administrative Hearings, and
 - It limits the standard of review.

Fair Hearings Procedure

- The provider makes a request for a hearing to the Office of Administrative Hearings (OAH) upon receipt of the demand letter from HDI, or upon receipt of the administrative reconsideration letter from HDI upholding the results of the initial review.
- Agency summary-Agency must file within 15 days of request for Fair Hearing. K.A.R. § 30-7-75
- The OAH conducts a hearing and makes an initial order. K.S.A. 77-526
- Generally the actual parties are required to attend the hearing in person. This decision is up to the OAH hearing officer.
- Either party, upon motion, may file a petition for review of the initial order. K.S.A. 77-527
- Agency writes the final order. K.S.A. 77-527
- The final order can be reviewed by the State Appeals Committee (SAC) and then a district court under the Kansas Act for Judicial Review.



State Review of the RAC

- The State will maintain oversight of the RAC throughout the process.
- The RAC will identify and propose vulnerability plans to the State to assist the State identifying and preventing improper payments before they occur.
- HDI's RAC reports, including reporting by provider number, will be reviewed monthly to ensure proper implementation.
- RAC stats will be reported to CMS and to the state legislature.