

October 16, 2012

The Honorable Sam Graves
1425 Longworth House Office Building
Washington, DC 20515

Dear Representative Graves:

On behalf of our more than 5,000 member hospitals, health systems and other health care organizations, and our nearly 42,000 individual members, the American Hospital Association (AHA) is pleased to support the *Medicare Audit Improvement Act of 2012*, and applauds your commitment to America's health care providers.

As you know, Recovery Audit Contractors (RACs) were authorized as a Medicare demonstration program via the *Medicare Modernization Act of 2003*, and made permanent by the *Tax Relief and Health Care Act of 2006*. RACs were extended to the Medicaid program through the 2010 *Patient Protection and Affordable Care Act*.

America's hospitals take seriously their obligation to properly bill for the services they provide to Medicare and Medicaid beneficiaries. They have a longstanding commitment to compliance, establishing programs and committing resources to ensure that they receive only the payment to which they are entitled. No one questions the need for auditors to identify billing errors; but the flood of new auditing programs, along with confusing and conflicting regulations, is drowning hospitals with a deluge of redundant audits, unmanageable medical record requests and inappropriate payment denials. Redundant government auditors are wasting hospital resources and contributing to growing health care costs.

While the AHA has zero tolerance for **real** fraud and abuse, these recovery auditors are paid contingency fee payments, a potential conflict of interest, leading to concerns that they focus on claims and services that have the highest likelihood of error, in order to increase their fees. Hospitals are experiencing a significant number of inappropriate denials amounting to hundreds of thousands of dollars in unjust recoupment payments for medically necessary care. According to AHA data, hospitals are successfully overturning RAC denials 75 percent of the time. The *Medicare Audit Improvement Act of 2012* provides much needed guidance for medical necessity audits, keeping auditors out of making medical decisions that should be between patients and their physicians. In addition, recovery auditors are not targeting widespread payment errors and are making subjective decisions on short-stay cases; their operational problems are persistent and widespread.



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Your legislation takes steps to improve the RAC program and other national audit programs. This legislation would:

- Establish a consolidated limit for medical record requests;
- Improve auditor performance by implementing financial penalties and by requiring medical necessity audits to focus on widespread payment errors;
- Improve recovery auditor transparency;
- Restore due process rights under the AB Rebilling Demonstration;
- Allow denied inpatient claims to be billed as outpatient claims when appropriate; and
- Require physician review for Medicare denials.

We are pleased to support this legislation and look forward to working with you and your colleagues to achieve its passage.

Sincerely,

Rick Pollack
Executive Vice President