

NOVEMBER 5, 2008

**NATIONAL RECOVERY AUDIT CONTRACTOR PROGRAM ON
“TEMPORARY HOLD”**

CMS made the following announcement about the RAC program:

The Centers for Medicare & Medicaid Services (CMS) is required to impose an automatic stay in the contract work of the four Recovery Audit Contractors (RAC) program. This action is the result of protests filed by two unsuccessful bidders for the RAC program with the General Accountability Office (GAO).

An automatic stay will stop work for all four RAC regional awards until a determination is made by GAO, as required under provisions of the Competition and Contracting Act of 1984 (CICA).

Under the CICA, GAO has 100 days to issue its decision, which means a decision would be due for these protests in early February. The four RAC contracts – and any work under those contracts – are on hold pending the outcomes of the protests.

In the Tax Relief and Health Care Act of 2006, Congress required a permanent and national RAC program to be in place by January 1, 2010. The national RAC program is the outgrowth of a successful demonstration program that used RACs to identify Medicare overpayments and underpayments to health care providers and suppliers in California, Florida, New York, Massachusetts, South Carolina and Arizona. The demonstration resulted in over \$900 million in overpayments being returned to the Medicare Trust Fund between 2005 and 2008 and nearly \$38 million in underpayments returned to health care providers.

More information on the RAC program is available on the CMS website at <http://www.cms.hhs.gov/RAC/>.

Modern Healthcare had this report with additional details:

Bid protests lead to suspension of RAC activities

Actions taken by two contractors that unsuccessfully bid to be part of Medicare's permanent Recovery Audit Contractor program have led to a suspension in RAC activities, the CMS reported.

The agency received notice from the Government Accountability Office that Viant, Naperville, Ill., and PRG-Schultz International, Atlanta, had protested the awards given to contractors in the permanent RAC program, which began Oct. 6. GAO has 100 days to issue a decision on the protests, according to CMS

spokesman Peter Ashkenaz. In the meantime, activities surrounding the four permanent RAC contracts have been suspended pending the outcome of the two protests, under provisions required by the Competition in Contracting Act of 1984, he said.

Officials for PRG-Schultz, one of the most controversial RAC auditors in the program's demonstration project, were unavailable for comment at deadline. The auditor was the designated RAC for California during the demonstration and had a reputation for denying a large portion of the Medicare inpatient rehabilitation claims it reviewed in the state. A Viant spokesman acknowledged that the company had unsuccessfully bid on the permanent RAC program but would not comment further.

At deadline, the industry was awaiting more news from the CMS on the long-term implications of this protest action. The American Hospital Association has more questions than answers on how this procedural measure by the GAO will work, said Don May, AHA's vice president for policy. One thing is certain: The program is going to experience further delays, May said.