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January 20<sup>th</sup>, 2009

RAC Memorandum 09-01

TO: Chief Executive Officers  
 Chief Financial Officers

SUBJECT: **Amended Appeals Results of RAC Reviews in the Demonstration States**

COPY TO: Medicare Recovery Audit Contractor Liaisons

As of this writing, there has been no resolution issued by the General Accountability Office in response to the CMS RAC contract bid challenges brought by Viant, Inc. and PRG Schultz USA, Inc. However, that did not stop CMS from issuing its second follow-up report on the RAC experience in the demonstration states of California, Florida and New York. In accordance with protocols described in its July 11, 2008 final evaluation report on the RAC demonstration project, CMS has released updated figures on the appeals of RAC determinations. The following summarizes the changes in appeals statistics from July, 2008 through January of 2009:

Description	CMS report: 1/09	CMS report: 9/08	CMS report: 7/08
# of claims with overpayment determinations	525,133	525,133	525,133
# of claims appealed	118,051	102,705	73,266
# of appealed claims decided in the provider's favor	40,115	35,819	24,376
% of appealed claims won by the provider	34.0%	34.9%	33.3%
% of total overpayment claims overturned on appeal	7.6%	6.8%	4.6%

It must be pointed out that there are still a significant number of provider appeals that are not accounted for in these latest figures due to the timing of the various levels of appeal; the latest CMS report reflects appeals data as of August 31<sup>st</sup>, 2008. Also, even though the number of claims appealed and overturned has been revised, CMS has made no revisions to the dollar impacts of the RAC program as quoted in its original, July, 2008 report. That report indicated that RACs had identified almost \$1 billion in overpayments, and after subtracting RAC administration costs and provider-won appeals, a net of nearly \$700 million was returned to the

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Medicare trust fund. For your reference, the January, 2009 report is available on CMS' website; you can access it directly by clicking on the following link:

<http://www.cms.hhs.gov/RAC/Downloads/AppealUpdateThrough83108ofRACEvalReport.pdf>

As more information becomes available on the RAC program, we will continue to share it with you. **We urge you to make RAC preparation a high priority in the coming months by reviewing your internal processes and implementing any necessary improvements to minimize your financial risk under this program.** Please feel free to contact either of us directly if you have any questions or comments about the RAC program.

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