Crowell

Strategic Playbook:
RADV Audits and Appeals

Audit Preparation and Response Strategies for Medicare Advantage Organizations

In May 2025, the Centers for Medicare and Medicaid Services (CMS) announced significant expansion and acceleration of its Risk Adjustment Data Validation (RADV) audits. Pursuant to newly issued directives, CMS plans to audit all eligible Medicare Advantage (MA) contracts for payment year (PY) 2020 and beyond, an increase from approximately 60 to approximately 550 plans per PY.

CMS also announced it would invest additional resources to expedite the completion of audits for PY 2018 through PY 2024, targeting completion of all such audits by early 2026. To accomplish this, CMS plans to expand its medical coding workforce and use "enhanced technology" to review medical records and flag unsupported diagnoses. Though CMS has not specified the technology it plans to use, the agency's FY 2026 budget request to Congress explains that it is leveraging artificial intelligence to screen medical records, and that CMS is "developing a strategy to make it more efficient at identifying overpayments while reducing agency burden." MA organizations should take steps now to ensure they can comply with these audit obligations and protect themselves against adverse audit findings.

How Crowell & Moring Can Support MA Organizations

Our attorneys provide crucial assistance through the RADV lifecycle, including:

- Reviewing submissions to ensure compliance with PY-specific audit requirements.
- Counseling plans on preservation of appeal rights and strong record development during audit submissions, including potential issues with CMS's processes.
- Advising plans on addressing fraud, waste, and abuse risks around audit submissions.
- Counseling plans on how to strengthen medical record documentation and other audit compliance processes.
- Assessing and strengthening plan risk adjustment processes and procedures in light of historical audit activity, CMS regulatory activity, and government enforcement initiatives.
- Assisting plans on payment issues and disputes with vendors/providers resulting from CMS payment reconciliation and/or extrapolation.

Practical Steps Toward Compliance Through the RADV Audit Lifecycle

Process audit notice(s). Given the expedited timeline, plans should have a process in place to ensure that audit notices are timely received and communicated promptly to appropriate internal parties.

Confirm point(s) of contact. CMS allows a maximum of seven designated points of contact, including an organization's CEO and MCO, to receive information through an audit's lifecycle. CMS's designated POC form must be submitted for each contract selected for an audit, and plans may choose to have different POCs for each selected contract, so plans should proactively plan, delegate, and update as necessary.

If applicable, file a hardship exception request. CMS recognizes that certain circumstances prevent an audited MA organization from providing medical records in a timely manner. Plans should timely submit these requests if needed, adhering to often tight regulatory deadlines.

Initiate medical record collection, assessment, and submission. Request from health care providers, assess, and prepare applicable medical records for submission. After submission, only medical records deemed valid by CMS move forward to the diagnosis code abstraction step of the RADV audit process, and only valid medical records may be a basis for medical record review determination appeals.

Verify and submit medical records. Ensure medical records and coversheets reflect CMS specification and are submitted through CMS's secure RADV system, the Central Data Abstraction Tool (CDAT). If feasible, submit early, as MA organizations may re-submit materials CMS deems invalid if the submission window remains open.

Assess audit report results. Timing is critical for appeals. MA organizations have only 60 days from the date of issuance of the RADV audit report to file a written request for appeal. Plans should have a process in place to ensure that audit reports are assessed quickly.

Consider appealing adverse audit findings. MA organizations can pursue two types of appeals: *medical record review determinations* and *payment error calculations.* Medical record review determination appeals allow an MA organization to justify how the medical record indicates a diagnosis that supports the audited Hierarchical Condition Category (HCC), whereas a payment error calculation appeal specifies where the Secretary's calculation was erroneous. For both types, the process involves up to three levels of administrative appeal: (1) reconsideration, (2) hearing, and (3) CMS Administrator review. Each level of appeal contemplates specific filing requirements set out in CMS regulations and guidance.

Filing a RADV Appeal: Steps and Considerations

In seeking an appeal, the MA organization bears the burden of proof by a preponderance of the evidence demonstrating that CMS's determination or calculation was incorrect.

1. **Reconsideration.** Within 60 days of the audit report's issuance, the MA organization must file a written request to appeal with CMS. A medical record review professional – or a third party not involved in the initial RADV payment error calculation, depending on the type of appeal – reviews, reconsiders, or recalculates as applicable.
2. **Hearing.** Within 60 days of receiving the reconsideration officer's decision, an MA organization that disagrees with the same must file a written request for hearing with the hearing officer. A hearing officer will review the applicable materials (depending on the type of appeal request), including briefs addressing the reconsideration official's decision. The hearing officer is generally limited to review of the record.
3. **CMS Administrator review.** Within 60 days of receiving the hearing officer's decision, an MA organization must request review by the CMS Administrator. The Administrator has the discretion to elect or decline to review the hearing officer's decision.
4. **Order matters.** If an MA organization plans to appeal both the medical record review determination and payment error calculation, it must exhaust all three levels of appeal for medical record review determinations first. Because medical record review determinations must be final before initiating a payment error calculation appeal, MA organizations will forgo a medical record review determination appeal if they choose to file only a payment error calculation.

Potential Legal Challenges Under the APA

MA organizations may consider legal challenges to the RADV audit process. We can help assess an MA organization's basis for such challenge as well as any relevant factors (e.g., action type and timing). For additional information on potential legal challenges, review Crowell's other RADV thought leadership resources, including our **Strategic Playbook: Legal Challenges**.

Contacts

Steven Hamilton
Partner
Chicago
+ 1.312.379.7615| shamilton@crowell.com

Michael Lieberman
Partner
Washington, D.C.
+ 1.202.624.2776| mlieberman@crowell.com

Payal Nanavati
Counsel
Washington, D.C.
+ 1.202.624.2580| pnanavati@crowell.com

Roma Sharma
Counsel
Washington, D.C.
+ 1.202.624.2850 | rsharma@crowell.com

Kathleen Swanson
Associate
Washington, D.C.
+ 1.202.624.2850| kswanson@crowell.com

About Us

Crowell & Moring is an international law firm with operations in the United States, Europe, MENA, and Asia. Drawing on significant government, business, industry, and legal experience, the firm helps clients capitalize on opportunities and provides creative solutions to complex regulatory and policy, litigation, transactional, and intellectual property issues. The firm is consistently recognized for its commitment to pro bono service, as well as its comprehensive programs and initiatives to advance the professional and personal development of all members of the Crowell community.