

## UPDATE: CMS TO ANNUALLY AUDIT ALL MEDICARE ADVANTAGE PLANS AND ACCELERATE COMPLETION OF PRIOR PAYMENT YEAR RADV AUDITS

On May 21, 2025, the Centers for Medicare & Medicaid Services (“CMS”) announced a substantial expansion of its Risk Adjustment Data Validation (“RADV”) audit program for all Medicare Advantage (“MA”) plans. Effective immediately, CMS will audit all eligible MA plans annually and aims to complete outstanding audits for prior payment years (“PY”) 2018-2024 by early 2026. These changes follow CMS’s 2023 final rule allowing extrapolation of RADV overpayments and signal an era of heightened scrutiny of MA billing practices under the current administration.

### BACKGROUND

CMS’s recent announcement aligns with broader federal efforts to curb fraud, waste and abuse in federally funded programs. The increased oversight of MA is not surprising given the program’s size and evolving federal priorities. The MA program enrolled over 31 million beneficiaries, accounting for **\$455 billion in federal spending** (excluding Medicare Part D). CMS **estimates** that approximately 5% of expenditures are attributed to improper payments.

CMS relies on RADV audits to address improper payments in the MA program by identifying overpayments stemming from unsupported or inaccurate risk-adjusted diagnosis codes. CMS estimates that MA plans overbill the federal government by approximately **\$17 billion annually**, while the Medicare Advisory Commission (“MedPAC”) suggests this figure could be substantially higher. In response, CMS finalized a 2013 rule revising its RADV audit methodology. Beginning with PY 2018, CMS was to extrapolate audit findings across the full audit population of a given MA plan, rather than limiting overpayment recovery to only those payments identified in the sample size (35 patient records). This shift significantly increased potential financial liability for MA plans and risk-bearing providers. However, CMS has not officially released its new extrapolation methodology and has previously stated that findings for PY 2018-2024 will be issued in early 2026.

### POLICY CHANGES AND IMPLICATIONS

#### 1. Annual Audits for All MA Plans

In previous years, CMS audited around 60 MA plans annually based on risk indicators and analyses that indicated billing abnormalities. However, with this recent announcement, CMS will audit all eligible MA plans annually, resulting in approximately 550 audits for each payment year. This shift introduces new burdens and risks for MA plans, including:

1. Significantly increased administrative effort to respond to audit requests;
2. Greater likelihood of extrapolated overpayment recoupments; and
3. Heightened legal exposure through administrative and judicial challenges.

Beyond MA plans, downstream providers with considerable MA patient panels participating in risk-sharing agreements may be exposed to claw-backs for overpayments from prior PYs. This additional exposure also extends to a reduction in future income for PYs where a final plan reconciliation has not yet occurred. As CMS’s new RADV audit plans are implemented, MA plans are likely to become more assertive in requiring providers to agree, through amendments or changes in other MA plan policies, to repayment for losses tied to errors in medical records that CMS may find during an audit or apply to extrapolation.

#### 2. CMS expects to complete existing PY audits by early 2026.

In addition to annual RADV audits, the agency also expects to finalize PYs 2018-2024 audits by early 2026. Audits typically take several years to complete due to their complexity. Should CMS successfully operationalize this announcement, MA plans may be subject to audit-related requests and recoupments on a significantly compressed timeline.

#### 3. To facilitate these changes, CMS will increase personnel and implement enhanced technology.

CMS has announced plans to implement “enhanced technology” that streamlines the process for identifying unsupported diagnoses in medical records. Given the scale of this announcement, CMS may utilize artificial intelligence (“AI”), as required for Medicare Parts A and B in the [2025 Federal Budget Reconciliation Bill](#), which will potentially require the Department of Health and Human Services to deploy AI tools for auditing improper Medicare payments. Regardless of whether the Reconciliation Bill passes, increased reliance on AI is likely to generate legal challenges over transparency, model training and due process.

## **PRACTICAL TAKEAWAYS**

- If implemented, these changes will likely introduce substantial financial and logistical burdens for MA plans, risk-bearing providers and vendors.
- MA plans may be subject to audit-related requests and recoupments on a significantly compressed timeline.
- This expanded audit activity may also increase False Claims Act (“FCA”) exposure and DOJ referrals for FCA investigations.
- Consider taking the following steps to mitigate risk:
  - a. Conduct expedited, proactive internal and provider-facing audits to assess potential deficiencies and risk.
  - b. Continuously update corporate compliance programs to include MA.
  - c. Amend provider agreements to address identified deficiencies before RADV audit timelines impose stricter deadlines and increase operational burden.
  - d. Establish and reaffirm workflows for efficient medical record collection, review and submission.
  - e. Train staff on CMS RADV documentation standards and response protocols.
  - f. Familiarize compliance teams with RADV appeal timelines and procedures.
  - g. For participating providers, MA plans are expected to increase their scrutiny of billing practices and identify avenues for passing on RADV recoupment risk. Participating providers should consider reviewing indemnification, claw-back, RADV recoupment and arbitration clauses in current and future provider agreements to mitigate this risk.
  - h. When disputes over extrapolation methodologies arise, consider requiring the MA plans to conduct an independent actuarial review.

If you have any questions or would like more information on this topic, please contact:

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