beazley

Healthcare Regulatory Liability

Glossary of regulatory liability industry terms

- **Affiliated Contractors (ACs) & Medicare Administrative Contractors (MACs)** – Medicare claims processing contractors such as carriers and fiscal intermediaries (FIs). They process claims submitted by physicians, hospitals, and other health care providers/suppliers, and submit payment to those providers in accordance with Medicare rules and regulations. This includes identifying and correcting underpayments and overpayments. An AC or a MAC Medical Review (MR) can be a prepayment or postpayment claim review.

- **Center for Medicare and Medicaid Services (CMS)** – previously known as the Health Care Financing Administration (HCFA), CMS is a federal agency within the United States Department of Health and Human Services (DHHS) that administers the Medicare program and works in partnership with state governments to administer Medicaid, the State Children's Health Insurance Program (SCHIP), and health insurance portability standards.

- **Comprehensive Error Rate Testing (CERT)** – the Centers for Medicare & Medicaid Services (CMS) implemented the Comprehensive Error Rate Testing (CERT) program to measure improper payments in the Medicare fee-for-service (FFS) program.

- **Corporate Integrity Agreement (CIA)** – is a document that outlines the obligations an entity agrees to as part of a civil settlement. An entity agrees to the CIA obligations in exchange for the OIG's agreement that it won't seek to exclude entity from participation in Medicare, Medicaid or other Federal health care programs.

- **Emergency Medical Treatment and Active Labor Act (EMTALA)** – it requires hospitals to provide care to anyone needing emergency healthcare treatment regardless of citizenship, legal status or ability to pay. There are no reimbursement provisions. Participating hospitals may only transfer or discharge patients needing emergency treatment under their own informed consent, after stabilization, or when their condition requires transfer to a hospital better equipped to administer the treatment.

- **False Claims Act** – is an American federal law that imposes liability on persons and companies (typicall federal contractors) who defraud governmental programs. The law includes a "qui tam" provision that allows people who are not affiliated with the government to file actions on behalf of the government (informally called "whistleblowing").

- **Food and Drug Administration (FDA)** – is an agency of the United States Department of Health and Human Services, one of the United States federal executive departments. The FDA is responsible for protecting and promoting public health through the regulation and supervision of food safety, tobacco products, dietary supplements, prescription and over-the counter pharmaceutical drugs (medications), vaccines, biopharmaceuticals, blood transfusions, medical devices, electromagnetic radiation emitting devices (ERED), and veterinary products. The FDA also enforces other laws, notably Section 361 of the Public Health Service Act and associated regulations, many of which are not directly related to food or drugs.

- **Health Care Fraud Prevention and Enforcement Action Team (HEAT)** – was created in 2009 to prevent fraud, waste and abuse in the Medicare and Medicaid programs, and to crack down on the fraud perpetrators. Since 2009, the Departments of Justice and HHS have enhanced their coordination through HEAT and have increased the number of Medicare Fraud Strike Force teams to nine cities all of which have teams of investigators and prosecutors from the Justice Department, the FBI, and the HHS Office of Inspector General.

- **Health Insurance Portability and Accountability Act (HIPAA)** – Title I of HIPAA protects health insurance coverage for workers and their families when they change or lose their jobs. Title II of HIPAA, known as the Administrative Simplification (AS) provisions, requires the establishment of national standards for electronic health care transactions and national identifiers for providers, health insurance plans, and employers.

- **Medicaid** – is the United States health program for certain people and families with low incomes and resources. It is a means-tested program that is jointly funded by the state and federal governments, and is managed by the states.

- **Medicare** – is a national social insurance program, administered by the U.S. federal government since 1965 that guarantees access to health insurance for Americans ages 65 and older and younger people with disabilities as well as people with end stage renal disease. As a social insurance program, Medicare spreads the financial risk associated with illness across society to protect everyone, and thus has a somewhat different social role from private insurers, which must manage their risk portfolio to guarantee their own solvency.

- **Office of Inspector General (OIG)** – is a statutorily created independent entity whose mission is to detect and deter waste, fraud, abuse, and misconduct in DOJ programs and personnel, and to promote economy and efficiency in those programs.

- **Qui Tam** – Part of the False Claims statute, first passed in 1863, includes an ancient legal device called a "qui tam" provision (from a Latin phrase meaning "he who brings a case on behalf of our lord the King, as well as for himself"). This provision allows a private person, known as a "relator" (whistleblower), to bring a lawsuit on behalf of the United States, where the private person has information that the named defendant has knowingly submitted or caused the submission of false or fraudulent claims to the United States. This includes claims made to governmental programs such as Medicare and Medicaid. The relator need not have been personally harmed by the defendant's conduct. A successful whistleblower is entitled to 15 to 30 percent of the total amount of monies the government recovers as a result of the lawsuit.

- **RACTrac** – The American Hospital Association's AHA) RACTrac survey collects data from hospitals on a quarterly basis to assess the impact the Medicare Recovery Audit Contractor (RAC) program has on hospitals nationwide.

- **Recovery Audit Contractors (RACs)** – As part of the efforts to fight fraud, waste and abuse in the Medicare program, the Tax Relief and Health Care Act of 2006, required a national Recovery Audit Contractor (RAC) program to be in place by January 1, 2010. The goal of the recovery audit program is to identify improper payments made on claims for services provided to Medicare beneficiaries. Improper payments may be overpayments or underpayments.

- **Stark Actions** – actually three separate provisions, governs physician self-referral for Medicare and Medicaid patients. The law is named for United States Congressman Pete Stark, who sponsored the initial bill.

- **Zone Program Integrity Contractors (ZPICs)** – is an entity established by the Centers for Medicare & Medicaid Services (CMS) to combat fraud, waste, and abuse in the Medicare program. As a result of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, which established 7 zones throughout the United States for the purpose of processing Medicare claims, CMS created ZPICs to more effectively protect the Medicare program.

Contact us

Kelly Webster
(312) 476 6211
kelly.webster@beazley.com

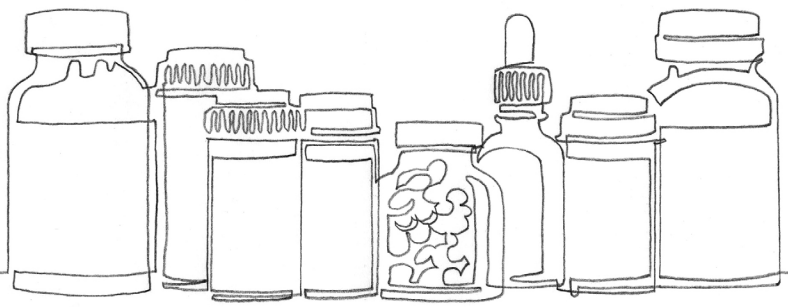
Carolyn Conners
(312) 476 6207
carolyn.conners@beazley.com

Greg Staron
(646) 378 4004
greg.staron@beazley.com

Ed Fedak
(770) 351 1707
edward.fedak@beazley.com

Stavan Israel
(312) 476 6227
stavan.israel@beazley.com

Scott Adams
(312)-476-6271
scott.adams@beazley.com



The descriptions contained in this communication are for preliminary informational purposes only and coverages are available in the US only on a surplus lines basis through licensed surplus lines brokers underwritten by Beazley syndicates at Lloyd's. The exact coverage afforded by the products described herein is subject to and governed by the terms and conditions of each policy issued and all applicable laws. The publication and delivery of the information contained herein is not intended as a solicitation for the purchase of insurance on any US risk. Beazley USA Services, Inc. is licensed and regulated by insurance regulatory authorities in the respective states of the US and transacts business in the State of California as Beazley Insurance Services (License#: 0G55497).