



COMMONWEALTH of VIRGINIA  
*Department of Medical Assistance Services*

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November 1, 2016

**MEMORANDUM**

**TO:** The Honorable Thomas K. Norment, Jr.  
Co-Chairman, Senate Finance Committee

The Honorable Emmett W. Hanger, Jr.  
Co-Chairman, Senate Finance Committee

The Honorable S. Chris Jones  
Chairman, House Appropriations Committee

**FROM:** Cynthia B. Jones   
Director, Virginia Department of Medical Assistance Services

**SUBJECT:** Report on the Cost Recovery Activities

The 2016 Appropriation Act, Item 306 P states:

*The Department of Medical Assistance Services shall have the authority to pay contingency fee contractors, engaged in cost recovery activities, from the recoveries that are generated by those activities. All recoveries from these contractors shall be deposited to a special fund. After payment of the contingency fee any prior year recoveries shall be transferred to the Virginia Health Care Fund. The Director, Department of Medical Assistance Services, shall report to the Chairmen of the House Appropriations and Senate Finance Committees the increase in recoveries associated with this program as well as the areas of audit targeted by contractors by November 1 each year.*

Should you have any questions or need additional information, please feel free to contact me at (804) 786-8099.

CBJ/

Enclosure

pc: The Honorable William A. Hazel, Jr., MD, Secretary of Health and Human Resources

# DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

ADMINISTERING MEDICAID AND THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM IN VIRGINIA



## Report to the General Assembly Contingency Fee-Based Recovery Audit Contractors (RACs) November 1, 2016

**DMAS' mission is to provide a system of high quality and cost effective health care services to qualifying Virginians and their families.**

The Medicaid program, signed into law by President Lyndon B. Johnson on July 30, 1965, celebrated its 50<sup>th</sup> year in 2015.

Medicaid is a joint federal and state program authorized under Title XIX of the Social Security Act that provides health and long-term care coverage for specific groups of Virginians with low incomes. In Virginia, Medicaid is administered by the Department of Medical Assistance Services (DMAS) and is jointly funded by Virginia and the federal government. Virginia's federal matching rate, known as the Federal Medical Assistance Percentage (FMAP) is generally 50%, so Virginia receives \$1 of federal matching funds for every \$1 Virginia spends on Medicaid.

Medicaid is primarily available to children in families with low-income, pregnant women, elderly, individuals with disabilities, and parents below strict income limits.

DMAS also administers Virginia's Children's Health Insurance Program (CHIP) known as FAMIS. FAMIS covers children and pregnant women in families earning too much to qualify for Medicaid but too little to afford private insurance.

All states must follow federal Medicaid/CHIP guidelines regarding who is covered, but set their own income and asset eligibility criteria. Virginia's eligibility criteria are among the strictest in the nation.



**2016 Appropriation Act, Item 306 P states:** *“The Department of Medical Assistance Services shall have the authority to pay contingency fee contractors, engaged in cost recovery activities, from the recoveries that are generated by those activities. All recoveries from these contractors shall be deposited to a special fund. After payment of the contingency fee any prior year recoveries shall be transferred to the Virginia Health Care Fund. The Director, Department of Medical Assistance Services, shall report to the Chairmen of the House Appropriations and Senate Finance Committees the increase in recoveries associated with this program as well as the areas of audit targeted by contractors by November 1 each year.”*

### **Background**

Recovery Audit Contractor (RAC) is a term used to describe auditing firms who review medical claims for over- and under-payments and are paid a contingency fee based on actual recoveries resulting from their audits. Section 6411 of the Patient Protection and Affordable Care Act, H.R. 3590 (PPACA), which expanded RAC program to Medicaid, required states to enter into a contract with a Medicaid RAC.

Under the Virginia RAC contract, the Department of Medical Assistance Services (DMAS) pays a contingency fee of 9.3% of the actual amounts recovered as a result of RAC audit activities. RAC recoveries are deposited into a special fund, out of which the contingency fee payments are made to the RAC.

### **Summary**

Virginia's RAC audits used data analysis to identify claims that violated medical billing guidelines based on information found in the claims data. The RAC examined claims from physicians, durable medical equipment providers, hospitals and other provider types. Their analysis found claims that were not billed in accordance with DMAS provider manuals, Medicaid guidelines, or industry standards. Overpayment letters were issued to providers to collect the improperly paid amounts identified through these analyses.

As of June 30, 2016, the Virginia RAC audited and completed four DMAS-approved audit proposals and received \$535,336.38 in payments from providers based on these audits. The contingency fees paid were \$49,786.28.

Effective October 2015, the Virginia RAC contractor, Health Management Systems (HMS), informed DMAS that they had made a business decision to no longer participate in the RAC program. The RAC contract will be re-procured in 2017.