



COMMONWEALTH of VIRGINIA  
*Department of Medical Assistance Services*

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December 12, 2018

**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:** Jennifer S. Lee, MD *JL*  
Director, Virginia Department of Medical Assistance Services

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

The 2018 Appropriation Act, Item 303 O 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.

JSL/

Enclosure

pc: The Honorable Daniel Carey, MD, Secretary of Health and Human Resources

# Annual Report: Contingency Fee-Based Recovery Audit Contractors (RACs) – FY 2018

A Report to the General Assembly

November 1, 2018

## Report Mandate:

*The 2018 Appropriation Act, Item 303 O 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, (PPACA), expanded the RAC program to Medicaid, and required states to enter into a contract with a Medicaid RAC. Virginia’s 2010 Appropriation Act (Item 297 VVVV) and all subsequent appropriations authorized the Virginia Department of Medical Assistance Services (DMAS) to employ RAC auditors and pay them a contingency fee based on the recoveries generated by their audit activities

## Actions Taken To Date

Nationally the Medicaid RAC program has had limited success. RAC contractors in Virginia and other states have a narrow volume of overpayment opportunities that can be identified through data analysis without intensive medical record review. Because the contingency fee on the RAC contract cannot exceed 12 percent of collected overpayments, audits that require medical record review are generally cost-prohibitive for vendors. Recently 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. A successful RAC project will require novel approaches to detect and recover improper payments. The Centers for Medicare and Medicaid Services (CMS) granted DMAS an exception to the federal requirement to maintain a RAC while DMAS procures another vendor for these activities. DMAS will be issuing a Request for Information (RFI) at the end of 2018 to gain industry knowledge that will inform the RAC vendor procurement process.

## About DMAS and Medicaid

**DMAS’ mission is to ensure Virginia’s Medicaid enrollees receive high quality and cost effective health care.**

Medicaid plays a critical role in the lives of over a million Virginians, providing health care for those most in need. Medicaid enrollees include children, pregnant women, parents and care takers, older adults and individuals with disabilities. Virginians must meet income thresholds and other eligibility criteria before qualifying to receive Medicaid benefits.

Medicaid covers primary health care services, inpatient and outpatient services that support individuals in need of behavioral health support including addiction and recovery treatment. Medicaid is also covers long term supports and services, making it possible for thousands of Virginians to remain in their homes or to access residential and nursing home care.

Quick Medicaid facts:

- Covers 1 in 8 Virginians
- Covers 1 in 3 births and 33% of children
- Supports 2 in 3 nursing facility residents

Virginia Medicaid and Children’s Health Insurance Program (CHIP) are administered by the Department of Medical Assistance Services (DMAS) and is jointly funded by Virginia and the federal government under the Title XIX and Title XXI of the Social Security Act. Virginia generally receives \$1 of federal matching funds for every \$1 Virginia spends on Medicaid.