ECONOMICS AND HEALTH POLICY

RAC Reform Meeting with GAO
On Monday, September 17th, the ACR and Radiology Business Management Association (RBMA) met with the Government Accountability Office (GAO) regarding Recovery Audit Contractors (RACs) and recommended that the RAC audit processes be reformed. The ACR and RBMA presented data to the GAO to establish the primary RAC issues, which include: administrative burdens placed on radiology practices; lack of coordination between RACs, Medicare Administrative Contractors (MACs), and the Centers for Medicare and Medicaid Services (CMS); the flawed and invalid RAC methodology; and misinterpretation of the Medicare physician payment rules. It was recommended that process reform include: more oversight of RAC auditors; transparency, public notice of and comment period for proposed RAC audit issues; increased time for practices to respond to RAC audits (from 15 to 30 days); a mechanism or department within CMS where providers can convey their concerns about RAC auditors; and implementation of a penalty or monetary fee for those RAC auditors that are identified as having invalid audits. Examples of flawed RAC audits identified over the last year were presented, which included Place of Service (POS) (Facility vs. Non-Facility), MRIs for pacemakers, Sustainable Growth Rate, updates National Correct Coding Initiative, add-on codes, and refunds already mailed.

In a letter dated June 26th, Congressional leaders from the U.S. House of Representatives and Senate requested that the GAO conduct a study on coordination of audit initiatives under the Medicare program. This GAO meeting was in response to comments submitted by the ACR and RBMA on August 9th outlining specific examples of inappropriate RAC audits, emphasizing the administrative burdens placed on practices, and providing recommendations for RAC reform. To learn more about RACs please refer to the CMS presentation titled Recovery Audit Contractors and Medicare, The Who, What, When, Where, How and Why.

CMS RAC Alert
According to a recent AMA alert, CMS approved Recovery Auditor (RAC) Connolly to conduct audits of coding for E&M services (i.e., CPT code 99215) in physician offices. Connolly is the RAC auditor for Medicare Region C including AL, AR, CO, FL, GA, LA, MS, NM, NC, OK, SC, TN, TX, VA, WV, Puerto Rico and the U.S. Virgin Islands. CMS has not yet announced how many states under Region C will be under audit review. CMS has stated E&M RAC reviews will likely be approved in other Medicare regions in the near future. The AMA has submitted comments to CMS strongly objecting to these RAC audits and recommending CMS rescind approval of RAC E&M reviews. For more information, please refer to the AMA letter.

Important links:

CMS Overview

**MedPAC Meeting**

On October 4th, ACR staff attended the Medicare Payment Advisory Commission meeting on Geographic Adjustment of Payments for the Work of Physicians and Other Health Professionals and Addressing Medicare Payment Differences Across Settings: Ambulatory Care Services.

MedPAC responded to the Middle Class Tax Relief and Job Creation Act of 2012, directing the Commission to consider whether payments for the work effort of physicians and other health professionals should be geographically adjusted. The Chairman’s draft recommendation stated “Medicare payments for work under the physician fee schedule and other health professionals should reflect geographical differences in the market fees paid to physicians...because of uncertainty in the data, Congress should adjust payments by the current ¼ GPCI while the Secretary creates an adjuster to replace it.” In their preliminary findings, MedPAC reported: there is evidence of need for geographic adjustment of payments for professional work; the work GPCI is flawed in concept and implementation; there is no evidence that GPCI affects access; access is better addressed through other targeted policies (e.g., HPSA bonus, primary care bonus); and there is no evidence to support a change in current law.

In evaluating Medicare payment differences across settings for ambulatory services, MedPAC considered policy options to eliminate or reduce payment differences. In the MedPAC brief, they state “Medicare payments are higher for most services if they are provided in a hospital outpatient department (OPD) or provider-based entity than if they are provided in a freestanding physician practice or professional office. Consequently, as more physicians become employed by hospitals, more services will be provided in OPDs or provider-based entities, which will result in higher Medicare program spending and beneficiary cost sharing”.

For more detailed information, please refer to [www.medpac.gov](http://www.medpac.gov). To access the October 4th MedPAC briefs, click here and click here.

**LEGISLATIVE**

**ACR Joins AMA Letter to Congress Outlining SGR Reform Principles**

On October 17th, ACR joined more than 100 other state and national medical specialty societies on an [AMA sponsored letter](http://www.ama-assn.org) to the Senate Finance Committee regarding the Sustainable Growth Rate (SGR) formula. In addition to urging this key Senate committee that has jurisdiction over Medicare reimbursement issues to repeal the flawed formula, the AMA letter outlined a set of principles and core elements that lawmakers should adhere to when crafting a new physician payment system.

First and foremost, the letter cites that repeal of the SGR is necessary so organized medicine can continue to improve and enhance ongoing efforts towards greater coordinated care in health care. Congress’s inability to reach a consensus on how to repeal and replace the current formula for reimbursing physicians that treat Medicare patients creates annual budgetary uncertainties for all physicians, regardless of specialty or region of the country. Such budgetary uncertainty prevents many physicians from either pursuing or continuing innovative policies such as patient-centered medical homes, Accountable Care Organizations, bundled payments, and shared savings models. In addition, the letter states that Medicare payment updates within the new reimbursement system should reflect the costs of providing services, as well as efforts and progress related to quality improvement and managing costs. The AMA also calls on Senate Finance Committee members to create a new payment model that reflects the diversity of physician practices and provides opportunities for doctors to choose payment models that work for their specific patients, practice, specialty, and region. The letter also cites the importance of providing exemptions and alternative pathways for physicians in practice situations in which making or recovering investments needed to
pursue innovative care models constitutes a significant hardship. Although it doesn’t outline a specific amount of time, the letter stresses the importance of a transition period consisting of successive years of stable payment updates that provide budget stability and an ample opportunity to test different innovative care models.

Absent Congressional intervention, all physicians face a 27 percent cut on January 1, 2013 as a result of the SGR formula. Although numerous hearings have been held in the House and Senate to discuss a new reimbursement system, the exorbitant cost of delaying past cuts previously mandated by the SGR formula will most likely prevent Congress from passing a permanent repeal of this policy. Since the cost of a permanent repeal is estimated at approximately $300 billion over 10 years, it is expected that Congress will, once again, be forced to pass a short-term delay of the SGR cuts. How long Congress delays the cut will largely depend on the results of the November elections.

As Election Enters Final Stretch, Rumors Begin to Engulf “Lame Duck” Congress
While the media and electorate will pay more attention to President Barack Obama and Governor Mitt Romney’s performances in three separate debates planned throughout the month of October, ACR’s Government Relations Office is diligently working behind the scenes gathering intelligence on the likelihood of lawmakers passing meaningful legislation in the final weeks of the 112th Congress. With the 2012 Presidential campaign entering its final stages, Members of Congress are more frequently engaging in verbal sparring matches outlining how Democrats and Republicans may potentially address the “fiscal cliff,” tax reform, and entitlement spending. Regardless of who ultimately controls the White House, it appears that political gridlock will still largely characterize the legislative branch, thus lowering the odds of any comprehensive reforms taking place during the lame duck session. To date, ACR anticipates a variety of short-term legislative deals to address all outstanding issues.

While campaigning in Upstate New York in early October, House Speaker John Boehner (R-OH) expressed that the possibility of Congress achieving any major legislative compromise is unlikely. Boehner believes it’s unwise for Congress to try and reach a comprehensive deal during the lame duck session because he feels that a collection of recently defeated and soon-to-be-retired elected officials should not have the ultimate say over such pressing issues as the fiscal cliff, tax reform, and entitlement spending.

Yet, Senator Charles Schumer (D-NY), the third highest ranking member in the Senate Democratic leadership and Chairman of the Senate Democratic Policy and Communications Center, recently expressed some optimism towards enacting comprehensive tax reform during the lame duck session. During an October 9th speech to the National Press Club, Senator Schumer indicated that any meaningful tax code changes must be used to shrink the federal deficit, rather than lowering overall rates as preferred by many Congressional Republicans. By expressing nuanced support for addressing the federal deficit through tax reform, Democrats might be willing to achieve some sort of compromise after the Election.

The “Group of 8,” or an informal, bipartisan collection of mostly rank-and-file Senators, is also expressing a serious commitment to passing meaningful legislation during the lame duck session. While this group, comprised of Senators Richard Durbin (D-IL, Senate Majority Whip), Saxby Chambliss (R-GA), Mark Warner (D-VA), Mike Crapo (R-ID), Kent Conrad (D-ND), Tom Coburn, MD (R-OK), Michael Bennet (D-CO), and Lamar Alexander (R-TN), hasn’t produced an actual piece of legislation, there is cautious optimism that the ongoing internal negotiations will produce something substantive.

Whether or not opposing political parties in both chambers of Congress can compromise on an overarching bill will have a dramatic impact on many of ACR’s pending legislative priorities, including stopping the 25% multiple procedure payment reduction to the professional component and closing the in-office ancillary services exemption for advanced diagnostic imaging services. Broader consensus on the fiscal cliff, tax reform, and entitlement spending that translates into a large,
omnibus piece of legislation increases the odds that ACR’s priorities may ultimately be included in this anticipated package.

RADIOLOGY ADVOCACY NETWORK (RAN)

RAN has been working on increasing its presence in more states over the last month; it’s our goal to reach 50% of the country by next AMCLC. Marketing will be one of the pivotal keys to increasing awareness of RAN within ACR membership. Some marketing has begun by using the following venues: Chapter Executive Update, Chapter Portal, ACR Bulletin, and presenting at chapter meetings. Be on the lookout for an article in the Bulletin entitled GR Round-Up, in the November/December issue that will highlight RAN’s various accomplishments as of late. The RAN will also host a meeting at RSNA to further discuss strategy and continuity; if you are interested in attending please contact Melody Ballesteros at mballesteros@acr.org.

The ACR has launched an aggressive grassroots campaign to generate broad Congressional support for H.R. 3269/S. 2347, the Diagnostic Imaging Services Access Protection Act. Although our effort to collect cosponsors in the House of Representatives has been extremely successful, we are now narrowing our focus on the Senate. Introduced by Senators Ben Cardin (D-MD) and David Vitter (R-LA), S. 2347 currently has 17 bipartisan cosponsors, including several members of the Senate Finance Committee, which is the committee of jurisdiction for Medicare payment issues. For the complete list of current co-sponsors please click here.

In an anticipation of a hectic lame duck session the ACR is asking its members to get ahead of the insanity by contacting their Senators to request their co-sponsorship of S. 2347. A call-to-action was emailed to all ACR members on Wednesday, October 17th asking them to contact their Senators using our grassroots site. Our current action alert can be viewed here by using your ACR password. If you are having any problems accessing the site or contacting your Senators please contact us at govrelations@acr.org.

RADPAC

RADPAC 2012 Statistics

Contributions raised in 2012 as of 10/5/2012:

Hard money contributions: $935,508.17 ($1,011,985 as of same date in 2011)
Soft money contributions: $61,691.77 ($36,167 as of same date in 2011)
Total contributions: $997,199.94 ($1,048,152 as of same date in 2011)

Total number of contributors in 2012 as of 10/5/2012:

Hard money contributors: 2,199 (2,370 as of same date in 2011)
- Goal for 2012: 3,000 hard money contributors

In 2012, RADPAC has contributed $1,082,500 to federal candidates and has attended 449 fundraising events (in 2011 at this point RADPAC had contributed $808,000 to federal candidates and attended 338 events).

$10 Million Milestone
RADPAC has raised over $9 million since its inception in 1999. RADPAC is close to reaching the $10 million milestone. Since 1999, RADPAC has contributed over $8 million to federal candidates.
**J.T. Rutherford Interns on the Hill**

RADPAC and Government Relations recently hosted two J.T. Rutherford Interns, Drs. Derrick Siebert from Minnesota and Deepa Sheth from Illinois. To see more pictures of their experience or to preview pictures of past fundraising events Click Here.

**2012 Races to Watch**

With less than 30 days until the election RADPAC has posted a listing of the states that have “early voting”. Click the link below to see if your state has early voting and when it begins.


Click on the link below to read the October blog posting which provides and inside analysis on the upcoming election.


In addition, don’t forget to check out the Voter Guide section to view the House and Senate Races in 2012, the dates for each state’s primary and the listing of candidates who have received RADPAC contributions. RADPAC will update this information periodically so that it remains current through the general elections in November, 2012.

Other Useful Links:

State by state comparison:

Outstanding Group Listing:
http://www.radpac.org/~media/Radpac/Radpac%20Documents/Outstanding%20Group%20Practice%20Hard%20Money%20Contributors%20for%202012%20CONTACT.pdf
Access Board Advisory Committee on Medical Diagnostic Equipment
The U.S. Access Board’s Medical Diagnostic Equipment Accessibility Standards Advisory Committee held its first meeting September 27 and 28 in Washington, D.C., and will convene its next meeting on October 29 and 30th. Five additional two-day, face-to-face meetings are scheduled between now and early May 2013. The committee was chartered to advance the Board's development of accessibility standards for medical diagnostic equipment, which were released in draft form for public comment earlier this year (ACR’s comments can be accessed online).

The Committee’s work is being divided into multiple subcommittees, including three subcommittees of particular interest to radiology – one on tables for equipment with bores, another on mammography, and a third on other radiological equipment (sterotactic biopsy). ACR is seeking representation on each of the radiology subcommittees, and has been actively seeking additional clinician input into the committee’s processes.

ACR's 2012 Imaging Informatics Summit
On October 11, the American College of Radiology’s (ACR) IT and Informatics Committee hosted the second annual “Imaging Informatics Summit” in Washington, D.C. Radiologists, HIT thought leaders, industry, and federal government representatives participated in the event.

Dr. Jacob Reider (Acting CMO, Office of the National Coordinator for HIT) delivered the keynote presentation on the U.S. Department of Health and Human Services’ general approach to the Medicare/Medicaid EHR Incentive Program and the certification of EHR technology used in that program, as well as the role of imaging and radiologists. Dr. Keith Dreyer (Chair, ACR ITIC) discussed the program’s regulatory requirements and changes made in the September 2012 final rules. Dr. Alberto Goldszal (Robert Wood Johnson Medical School/UMDNJ) explored his practical meaningful use experiences in 2011 and 2012. ACR Government Relations staff provided a brief update about interests and activities specific to the program.

The summit also featured a variety of other pertinent HIT policy topics, including mHealth and mobile medical devices/applications, ACR Appropriateness Criteria-guided clinical decision support, and HIT-enabled radiation dose monitoring. Select recordings from the event will soon be available to view online.

House and Senate Republicans Criticize Meaningful Use
On October 4 and October 17, Republican leaders from key healthcare-related committees in the House and Senate submitted letters to the Secretary of Health and Human Services (HHS) criticizing the Medicare/Medicaid EHR Incentive Program ("meaningful use"). The letters indicated strong concerns about inaccurate HIT-enabled billing practices, a potential rise in diagnostic testing as the result of HIT proliferation, and lack of "interoperability standards."
ONC HIT Policy Committee
On October 3, the HHS Office of the National Coordinator for HIT (ONC) HIT Policy Committee convened its monthly business meeting. Of note, Dr. Farzad Mostashari (National Coordinator for HIT) addressed the national media’s concerns about HIT-enabled fraudulent billing behaviors by asking advisory committee members to develop recommendations for how ONC's EHR certification requirements could potentially curb questionable billing practices.

NRC Advisory Committee on Medical Uses of Isotopes
On September 20-21, the U.S. Nuclear Regulatory Commission’s (NRC) Advisory Committee on the Medical Uses of Isotopes (ACMUI) convened its regular fall business meeting. The committee discussed a variety of issues, including licensing of Radium-223 dichloride, NRC’s I-131 patient release data collection activities, the future expanded Part 35 rulemaking, permanent implant brachytherapy, potential changes to the "abnormal occurrence" definition, and occupational dose limits.

Patient-Centered Outcomes Research Institute
On September 24, the Patient-Centered Outcomes Research Institute (PCORI) Board of Directors convened its regularly scheduled business meeting. Of note, the PCORI Board approved staff recommendations to create expert advisory panels to inform PCORI's research funding prioritization process. According to the plan, the first expert advisory panel will be created in early 2013 with several more panels to follow.

FDA Radiological Devices Panel Meeting
The Radiological Devices Panel of the Medical Devices Advisory Committee will meet on October 24th to consider and make recommendations on a premarket approval application supplement to expand the indications for use of the Selenia Dimensions 3D System with C-View Software Module, sponsored by Hologic, Inc. The Selenia Dimensions 3D System is currently approved for breast cancer screening and diagnosis. The screening exam can consist of field digital mammography (FFDM) alone or the combination of FFDM with digital breast tomosynthesis (DBT). The new C-View Software Module can generate synthetic 2D images from the DBT data. Hologic requests to expand the indications for use to allow a combination of DBT with synthetic 2D images as another option for breast cancer screening.

STATE
State Government Relations Committee holds conference calls throughout the year. Participation in the role of a guest allows state chapter leaders to present an issue or a legislative question from their state to the committee members and to get feedback from colleagues. Next conference call for the State GR committee will be scheduled for October-November. If you have a legislative or regulatory issue and would like to get committee’s input, please contact Eugenia Brandt at ebrandt@acr.org or by calling 703-715-4398.

2013 Schedule of State Legislative Sessions**
**Legislatures in all 50 states will meet in 2013.

2013 Gubernatorial elections: New Jersey and Virginia
Current governors by state, party, terms in office.
Governor signing deadlines.
Legislative elections are expected to be held for the New Jersey General Assembly and the Virginia House of Delegates.

2013 Filed and Pre-filed Bills: Alabama, Florida, Kentucky, Montana, Nevada, New Hampshire, Virginia (new web site after 10/10 w. streaming video)

National Conference of State Legislatures (NCSL) & The Thicket
National Governor’s Association (NGA)
National Association of Insurance Commissioners (NAIC)
Health Insurance Exchanges state-by-state

DENSE

Since 2009, a vocal, patient-driven, grassroots movement has systematically pursued state legislation requiring radiologists to provide written breast density information to patients as part of their mammogram results. The scope and provisions of the legislation has varied by state.

Connecticut was the first state to adopt a version of this “DENSE” legislation. Their statute, adopted in 2009, also mandates insurance coverage of ultrasound screening for women with dense breasts. Connecticut then amended its law in 2011 to require insurance coverage of MRI screening for these patients. A breast density disclosure bill, otherwise known as “Henda’s law,” was signed by the Governor in Texas and took effect September 1st, 2011.

During the 2012 legislative session, DENSE bill activity was taking place in the following states: Arkansas, California, Florida, Kansas, Maine, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Utah, and Virginia. In 2012 four states have signed DENSE laws: California, New York, Virginia, and Utah. With Connecticut and Texas, the total number of states with DENSE laws is six.

New York’s DENSE bill SB 6769 was signed by Governor Cuomo in July 2012. California’s DENSE bill SB1538 was chaptered on September 22nd.

Virginia’s House and Senate passed HB 83 on February 16, and Virginia Governor Bob McDonnell signed VA HB 83 into law on March 1, 2012. The law went into effect on July 1. The Virginia Department of Health has charged the state Board of Health with developing guidelines for the new law. The Division of Radiological Health is working on developing a Frequently Asked Questions document for patients, and held an open meeting in Richmond on Friday, June 15th. The Virginia Radiological Society was represented at this meeting.

Utah’s governor signed DENSE bill in March of 2012; however, the law in Utah specifies that disclosure language about shortcomings of mammography and additional screening options “may” be included in mammography results sent to a patient with dense breast tissue.

DENSE advocates have already noted on their web site that they are working on bills in Florida, Michigan, Ohio, and Delaware; however, the number of states with DENSE bill activity will likely increase closer to the start of the legislative session 2013.

The ACR position on reporting breast density may be reviewed here. For nearly 20 years, the ACR BI-RADS® (Breast Imaging Reporting and Data System) lexicon has encouraged radiologists to include breast parenchymal density information in the mammography report. The ACR would support an FDA mandate that information on breast parenchymal density be included in the mammography report.
The Society of Breast Imaging’s letter to NMQAAC may be reviewed here.

ACR’s Sample Mammography Lay Report Letters have been updated to include optional language for providers to inform the patient if the mammogram shows dense breast tissue. Additionally, the ACR and SBI are in the process of finalizing a brochure for patients describing the significance of breast density and outlining facts about mammography exams.

**CURE funding—Pennsylvania**

Since 2001, ACRIN and RTOG groups in ACR’s Philadelphia office have been using grant funding from the Commonwealth Universal Research Enhancement (CURE) program to conduct clinical trials and investigations on radiology-specific issues. Money for the CURE program originates from the state’s tobacco fund. For two consecutive years, resources for CURE were jeopardized by the Pennsylvania Governor’s budget proposals to reallocate the funds in the 2012-2013 budgets. A coalition of stakeholders, including large universities and other non-profits, launched an extensive educational effort on importance of protecting cancer research funding. Although the PA Senate has restored the allocation of tobacco/CURE money for cancer research to the budget, the coalition encouraged its members to contact their state representative and request the retention of the cancer funding money. Through “CURE advocacy letters”, the ACR’s Philadelphia office has reached out to PA Representatives in Philadelphia County, Bucks County, Montgomery County, Delaware County, and Chester County, as well as to House Majority Leader Mike Turzai’s office.

**Radiologist Assistant**

During the 2012 legislative session many states have expressed interest in addressing RA licensure: Indiana, Georgia (combined RT/RA licensure bill), Louisiana, South Carolina, Massachusetts (where RAs are currently exempt from the RT scope of practice restrictions), Delaware, Pennsylvania, and Nebraska. If your state chapter has included RA bills in its legislative agenda for 2013 session, please let Eugenia know by e-mailing ebrandt@acr.org.

**U.S. Supreme court and Federal Health Law**

On June 29th, the U.S. Supreme Court upheld most provisions of the Patient Protection and Affordable Care Act (PPACA), but rejected the portion of the law that authorized the government to penalize states that do not accept the expanded eligibility provision for Medicaid. PPACA expands Medicaid eligibility to most people who are not disabled with incomes at or below 138 percent of the federal poverty level. The court held that the Medicaid expansion established in the act is Constitutional provided that the expansion is a state option (a voluntary provision as opposed to a mandatory provision). The court will not permit HHS to penalize states by withholding all Medicaid funding for choosing not to participate in the expansion.

**LEGISLATIVE BILL TRACKING**

To commence January 2013