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# Backlash Against RACs May Be Near Tipping Point, Congressional Aide Says

By James Swann | July 02, 2014 06:37PM ET

## **AHLA Panel Discusses RACs, Exchanges**

Takeaway: A tipping point may have been reached against the RAC program this past year, a Senate staffer says.

Additional Information: A GAO report on program integrity contractors is expected by mid-July.

July 2 (BNA) -- A tipping point may have been reached against the Recovery Audit Contractor (RAC) program this past year, with negative reactions exceeding any positive outcomes, a congressional aide said July 1 during the American Health Lawyers Association's Annual Meeting in New York.

While Congress has been supportive of the RAC program, and the money it has brought back to the Medicare Trust Fund, a tipping point has been reached because of very effective grass roots efforts against RACs by the provider community, Kim Brandt, chief oversight counsel on the minority staff of the Senate Finance Committee, said during a session.

Brandt said that the House has been much more sensitive to outcries from providers over RAC audits, while the Senate hasn't been as responsive.

## **GAO Report**

The issue of all program integrity audits, including RAC audits, will receive more attention from Congress by mid-July, when the Government Accountability Office is expected to release a comprehensive report on program integrity contractors, Brandt said.

She said the report was requested by 12 House and Senate members.

Brandt said the Centers for Medicare & Medicaid Services and the Office of Medicare Hearings and Appeals also are expected to release a number of methods they can use to fix the Medicare appeals backlog. She said Congress would examine the success of the fixes.

## **Appeals Backlog Problem**

In January, the HHS Office of Medicare Hearings and Appeals suspended RAC claims appeals to the administrative law judge level for two years due to a backlog of 375,000 pending appeals (11 DER A-1, 1/16/14).

## **Health Marketplaces**

Brandt was joined in the AHLA session by Vicki Robinson, senior adviser for health care reform at the Health and Human Services Office of Inspector General, who spoke about the OIG's oversight work into the Affordable Care Act's health insurance marketplaces.

Robinson is chief of the OIG's Industry Guidance Branch.

Robinson said the marketplaces represent "an absolute new frontier," and said the OIG would be examining payment, eligibility, contractor and security issues.

An OIG report released July 1 said the marketplaces were unable to resolve applicants' inconsistencies in data in areas such as citizenship and income when they first opened last fall.

Brandt said the Senate Finance Committee would be looking into similar insurance marketplace issues and that the minority staff has partnered with Sen. Charles Grassley (R-Iowa) to review some of the state insurance exchanges that haven't been working well, such as Maryland and Oregon.

As for fixing the sustainable growth rate (SGR) formula for payment of doctors under Medicare, Brandt said there's a chance a bill might move forward after the November elections.

She said the recent Medicare Payment Advisory Commission report, released June 13 (115 DER A-12, 6/16/14), has a lot of good information that could help inform an SGR bill, and she said the report will generate a lot of debate in Congress.

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