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State/Territory Name: Pennsylvania

State Plan Amendment (SPA) #: 21-0010

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services 601 E. 12th St., Room 355 Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

June 1, 2021

Teresa D. Miller, Secretary Department of Human Services P.O. Box 2675 Harrisburg, PA 17105-2675

Re: Pennsylvania State Plan Amendment (SPA) 21-0010

Dear Secretary Miller:

We reviewed your proposed Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 21-0010. This amendment is a request for an exception from the Medicaid Recovery Audit Contractor (RAC) requirements.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations. Section 1902(a)(42)(B) of the Social Security Act requires state Medicaid agencies to have a RAC program, and 42 CFR 455.516 allows state Medicaid agencies to be excepted from the RAC requirements by submitting to CMS a written justification for CMS to review and approve through the SPA process. This letter is to inform you that Pennsylvania's Medicaid SPA TN 21-0010 is approved effective June 1, 2021 for a two-year period that expires on May 31, 2023.

If you have any questions, please contact Dan Belnap at 215-861-4273 or via email at Dan.Belnap@cms.hhs.gov.

Sincerely,

James G. Scott, Director Division of Program Operations

cc: Sally Kozak Eve Lickers Lacey Gates

Karen Fickes

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	TRANSMITTAL NUMBER 21-0010 3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY A	2. STATE Pennsylvania CT (MEDICAID)		
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE June 1, 2021			
5. TYPE OF PLAN MATERIAL (Check One)				
☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT				
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMEN	IDMENT (Separate transmittal for each ame	endment)		
6. FEDERAL STATUTE/REGULATION CITATION 42 CFR § 455.516	7. FEDERAL BUDGET IMPACT a. FFY 2019 – 2020 2021 \$0 b. FFY 2020 2021 2022 \$0			
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Section 4.5, pages 36a, 36b and 36c	9. PAGE NUMBER OF THE SUPERSED OR ATTACHMENT (If Applicable) Section 4.5, pages 36a, 36b and 36c	DED PLAN SECTION		
10. SUBJECT OF AMENDMENT The State is seeking an exception to continuing the Medicaid Recovery Audit Contractor (RAC) Program				
11. GOVERNOR'S REVIEW (Check One) GOVERNOR'S OFFICE REPORTED NO COMMENT COMMENTS OF GOVERNOR'S OFFICE ENCLOSED NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	OTHER, AS SPECIFIED Review and approval authority has been delegated to the Department	of Human Services		
	16. RETURN TO Commonwealth of Pennsylvania Department of Human Services			
Teresa D. Miller	Office of Medical Assistance Programs Bureau of Fee-for-Service Programs			
	P.O. Box 2675 Harrisburg, Pennsylvania 17105-2675			
15. DATE SUBMITTED March 31, 2021 April 6, 2021				
FOR REGIONAL OF	FICE USE ONLY			
17. DATE RECEIVED April 6, 2021	18. DATE APPROVED May 27, 2021			
PLAN APPROVED - ON	IE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL June 1, 2021	20. SIGNATURE OF REGIONAL OFFICIAL	ſ		
21. TYPED NAME James G. Scott	22. TITLE Director, Division of Program Operations	_		
23. REMARKS Pen and ink changes made with state's permission to boxes 7, 8, 9, and 15 (db)				

Revision: April 6, 2021

State: Pennsylvania

SECTION 4 - GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program		
Citation Section 1902(a)(42)(B)(i) of the Social Security Act	The State has established a program under which it will contract with one or more recovery audit contractors (RACs) for the purpose of identifying underpayments and overpayments of Medicaid claims under the State plan and under any waiver of the State plan.	
	X The State is seeking an exception to establishing the RAC Program for the following reasons:	
Section 1902(a)(42)(B)(ii)(I) of the Act	In accordance with 42 CFR Ch. IV § 455.516, a state may seek to be excepted from some or all Medicaid RAC contracting requirements.	
	Pennsylvania's Department of Human Services (DHS) established a RAC Program effective May 2011 through a contingency fee-based contract with CGI Federal, Inc. (CGI). CGI elected to terminate their contract in 2015. At that time, DHS transferred the remaining life of the contract to Health Management Systems, Inc. (HMS) effective September 2015. Pennsylvania's RAC contract with HMS expired on May 31, 2019.	
	DHS released a Request for Proposal (RFP) on November 1, 2018 to seek assistance in performing Retrospective Provider Reviews, including RAC requirements, for the Fee-for-Service and Managed Care (MC) delivery systems. No proposals were received.	
	HMS transferred remaining case files to DHS. DHS staff completed reviews of FFS short-stay inpatient hospital services, the scope of RAC reviews. The Department has continued these reviews with dates of service beyond those designated in the RAC review for FFS and MC delivery systems.	
	Pennsylvania's program integrity activities are executed in both the FFS	

responsibilities.

Additionally, through a Joint Operating Agreement originating in February 2017, the CMS NE-Unified Program Integrity Contractor (UPIC) routinely conducts audits of Pennsylvania's MA providers. Work includes various

and MC environments with strong oversight, coordination, and follow-up by the Bureau of Program Integrity. Additionally, DHS has a well-defined

oversight and monitoring process for the MCOs' program integrity

TN No. <u>21-0010</u> Supersedes TN <u>19-0011</u>

Approval Date: 5/27/21 Effective Date: June 1, 2021

Section 1902 (a)(42)(B)(ii)(II)(aa) of the Act	scenarios for data analyses and development of methodology for review of various provider types and scenarios. Considering the foregoing, CMS approved the PA DHS SPA request (SPA PA 19-001) on June 27, 2019, effective June 1, 2019. PI activities continue in the FFS and MC delivery systems. Therefore, DHS is requesting a second exception to having a Medicaid RAC, effective June 1, 2021 through May 31, 2023.
	The State/Medicaid agency has contracts of the type(s) listed in section 1902(a)(42)(B)(ii)(I) of the Act. All contracts meet the requirements of the statute. RACs are consistent with the statute.
	Place a check mark to provide assurance of the following:
	The State will make payments to the RAC(s) only from amounts recovered.
	The State will make payments to the RAC(s) on a contingent Basis for collecting overpayments.
Section 1902 (a)(42)(B)(ii)(II)(bb) of the Act	The following payment methodology shall be used to determine State payments to Medicaid RACs for identification and recovery of overpayments (e.g., the percentage of the contingency fee):
	The State attests that the contingency fee rate paid to the Medicaid RAC will not exceed the highest rate paid to Medicare RACs, as published in the Federal Register.
	The State attests that the contingency fee rate paid to the Medicaid RAC will exceed the highest rate paid to Medicare RACs, as published in the Federal Register. The State will only
Section 1902 (a)(42)(B)(ii)(III) of the Act	submit for FFP up to the amount equivalent to that published rate.
Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act	The contingency fee rate paid to the Medicaid RAC that will exceed the highest rate paid to Medicare RACs, as published in the Federal Register. The State will submit a justification for that rate and will submit for FFP for the full amount of the contingency fee.
Section 1902(a)(42)(B)(ii)(IV(bb) of the Act	The following payment methodology shall be used to determine State payments to Medicaid RACs for the identification of underpayments (e.g., amount of flat fee, the percentage of the contingency fee):
	The State has an adequate appeal process in place for entities

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Section 1902 (a)(42)(B)(ii)(IV)(cc) Of the Act	to appeal any adverse determination made by the Medicaid RAC(s).
	The State assures that the amounts expended by the State to carry out the program will be amounts expended as necessary for the proper and efficient administration of the State plan or a waiver of the plan.
	The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.
	Efforts of the Medicaid RAC(s) will be coordinated with other contractors or entities performing audits of entities receiving payments under the State plan or waiver in the State, and/or State and Federal law enforcement entities and the CMS Medicaid Integrity Program.

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