

Table of Contents

State/Territory Name: Arkansas

State Plan Amendment (SPA) #: 13-12

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Dallas Regional Office
1301 Young Street, Suite 833
Dallas, Texas 75202



DIVISION OF MEDICAID & CHILDREN'S HEALTH - REGION VI

May 7, 2014

Our Reference: SPA-AR-13-12

Dr. Andrew Allison
State Medicaid Director
Arkansas Department of Health and Human Services
P.O. Box 1437
Little Rock, Arkansas 72203

Dear Dr. Allison:

We have reviewed the proposed amendment to your Medicaid State Plan submitted under Transmittal Number 13-12. With this amendment, Centers for Medicare and Medicaid Services (CMS) has waived the federal recovery audit contractor (RAC) audit contingency fee requirement in order in support of Arkansas Code Ann. § 20-77-125, which requires the Arkansas Department of Human Services Division of Medical Services (DMS) to ask CMS to implement a prohibition against contingency fees in Medicaid program integrity contracts. The State will develop a Request for Proposal (RFP) in order to secure a recovery audit contractor through the procurement process, and the RFP will include a fixed fee reimbursement methodology rather than the contingency fee methodology.

Transmittal Number 13-12 is approved with an effective date of July 1, 2013, as requested. A copy of the HCFA-179, Transmittal No. 13-12 dated September 5, 2013 is enclosed along with the approved plan pages.

If you have any questions, please contact Stacey Shuman at (214) 767-6479.

Sincerely,

A solid black rectangular box redacting the signature of Bill Brooks.

Bill Brooks
Associate Regional Administrator
Division of Medicaid and Children's Health

Enclosure

SECTION 4 – GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program

<u>Citation</u>	<u>X</u>	The State established a program under which it contracts 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.
Section 1902(a)(42)(B)(i) of the Social Security Act		

	<u>X</u>	The State/Medicaid agency contracts 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.
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Place a check mark to provide assurance of the following:

Section 1902(a)(42)(B)(ii)(I) of the Act	—	The State will make payments to the RAC(s) only from amounts recovered.
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	—	The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.
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State: Arkansas
 Date Received 9/5/13
 Date Approved: 5/7/14
 Date Effective: 7/1/13
 Transmittal Number: 13-12

On April 11, 2013, the Arkansas General Assembly enacted Act 1109 of 2013 (Act 1109 of 2013 is codified as Ark. Code Ann. 20-77-125) requires the Arkansas Department of Human Services, Division of Medical Services (“DMS”) to ask CMS to waive the federal RAC audit contingency fee requirement in order “to implement the requirements of this section.” Requirements include a prohibition against contingency fees in Medicaid program integrity contracts.

Section 1902 (a)(42)(B)(ii)(II)(aa) of the Act		The following payment methodology shall be used to determine State payments to Medicaid RACs for identification and recovery of overpayments (percentage has not been determined):
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—	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.
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—	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 submit for FFP up to the amount equivalent to that published rate.
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—	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.
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The State will develop a Request for Proposal in order to secure a recovery audit contractor through the procurement process. The RFP will include a fixed fee reimbursement methodology rather than the contingency fee methodology.

Revision: July 1, 2013

State Arkansas

SECTION 4 – GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program (continued)

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 the identification of underpayments (e.g., amount of flat fee, the percentage of the contingency fee): On April 11, 2013, the Arkansas General Assembly enacted Act 1109 of 2013 (Act 1109 of 2013 is codified as Ark. Code Ann. 20-77-125) requires the Arkansas Department of Human Services, Division of Medical Services (“DMS”) to ask CMS to waive the federal RAC audit contingency fee requirement in order “to implement the requirements of this section.” Requirements include a prohibition against contingency fees in Medicaid program integrity contracts.
Section 1902 (a)(42)(B)(ii)(III) of the Act	<u>X</u>	The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).
Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act	<u>X</u>	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.
Section 1902 (a)(42)(B)(ii)(IV)(bb) of the Act	<u>X</u>	The State assures that the recovered amounts will be subject to a State’s quarterly expenditure estimates and funding of the State’s share.
Section 1902 (a)(42)(B)(ii)(IV)(cc) of the Act	<u>X</u>	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.

State: Arkansas Date Received 9/5/13 Date Approved: 5/7/14 Date Effective: 7/1/13 Transmittal Number: 13-12
