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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 Medicaid 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,

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

Enclosure

EALTH CARE FINANCING ADMINISTRATION TRANSMITTAL AND NOTICE OF APPROVAL OF		OMB NO. 0938-0
	1. TRANSMITTAL NUMBER:	2. STATE
STATE PLAN MATERIAL	2012 012	ADVANCAC
FOR: HEALTH CARE FINANCING ADMINISTRATION	2013-012 ARKANSAS 3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
		AID)
TO: REGIONAL ADMINISTRATOR	4. PROPOSED EFFECTIVE DATE	
HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	July 1, 2013	
5. TYPE OF PLAN MATERIAL (Check One):		
	CONSIDERED AS NEW PLAN	AMENDMENT
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AME	NDMENT (Separate Transmittal for each	amendment)
5. FEDERAL STATUTE/REGULATION CITATION:	7. FEDERAL BUDGET IMPACT: a. FFY 2014 \$TBD	
45 CFR 455 (Section 6411 and PPACA) PL 111-148	b. FFY 2015 \$TBD	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:	9. PAGE NUMBER OF THE SUPERS OR ATTACHMENT (If Applicable):	
Section 4, Pages 36-1 and 36-2	Same, Approved 12-12-12, TN 12-15	
10. SUBJECT OF AMENDMENT: The Arkansas Title XIX State Plan has been amended to change the Reco	overy Audit Contract (RAC) contingency :	fee requirement to a fir
	OTHER, AS SPEC	IFIED:
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	DTHER, AS SPEC	IFIED:
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	16. RETURN TO: Division of Medical Services	IFIED:
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 12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO: Division of Medical Services PO Box 1437, Slot S295	IFIED:
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 12. SIGNATURE OF STATE AGENCY OFFICIAL: 13. TYPED NAME: Andrew Allison, PhD	16. RETURN TO: Division of Medical Services	IFIED:
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED ON REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	16. RETURN TO: Division of Medical Services PO Box 1437, Slot S295	IFIED:
 GOVERNOR'S REVIEW (Check One):	16. RETURN TO: Division of Medical Services PO Box 1437, Slot S295 Little Rock, AR 72203-1437	IFIED:
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11. GOVERNOR'S REVIEW (Check One):	16. RETURN TO: Division of Medical Services PO Box 1437, Slot S295 Little Rock, AR 72203-1437 Attention: Glenda Higgs FICE USE ONLY 18. DATE APPROVED:	IFIED:
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FORM HCFA-179 (07-92)

SECTION 4 – GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program

Citation	<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
Section 1902(a)(42)(B)(i) of the Social Security Act		underpayments and overpayments of Medicaid claims under the State plan and under any waiver of the State plan.
	<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.
		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.
		The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.
State: Arkansas Date Received 9/5/13 DateApproved: 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	payme	llowing payment methodology shall be used to determine State nts to Medicaid RACs for identification and recovery of yments (percentage has not been determined):
		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 submit for FFP up to the amount equivalent to that published rate.
		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.
		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.

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.
Section1902 (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 DateApproved: 5/7/14 Date Effective: 7/1/13 Transmittal Number: 13-12