



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Region IX

Division of Medicaid & Children's Health Operations
90 Seventh Street, Suite 5-300 (5W)
San Francisco, CA 94103-6706

DEC 22 2011

Toby Douglas, Director
California Department of Health Care Services
P.O. Box 997413, MS 000
Sacramento, CA 95899

Dear Mr. Douglas:

Enclosed is an approved copy of California State Plan Amendment (SPA) Number 11-032, which approves an exception to delay Section 6411 of the Affordable Care Act, which requires the State to implement the Recovery Audit Contractor (RAC) program by January 1, 2012. The RAC contract should be in place no later than June 1, 2012. The SPA is effective October 17, 2011.

Enclosed are approved SPA pages Section 4.5 page 36 and 36a that should be incorporated into your approved State Plan.

If you have any questions, please contact Carolyn Kenline at (415) 744-3591 or at carolyn.kenline@cms.hhs.gov.

Sincerely,

Gloria Nagle, Ph.D., M.P.A.
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

Enclosure

cc: Joy Kraybill, Centers for Medicare and Medicaid Services
Bruce Lim, California Department of Health Care Services
Kathryn Waje, California Department of Health Care Services

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: 11-032	2. STATE CA
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
FOR: HEALTH CARE FINANCING ADMINISTRATION		4. PROPOSED EFFECTIVE DATE 10/17/2011
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		

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 AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION: Section 1902 (a) (42) (B) (i) of the Social Security Act	7. FEDERAL BUDGET IMPACT: a. FFY 2012 \$0 b. FFY 2013 \$0
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Section 4.5, page 36, 36a	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Section 4.5, page 36, 36a

10. SUBJECT OF AMENDMENT:

Recovery Audit Contractor: Exception for an implementation delay

11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED The Governor's Office does not
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL wish to review the State Plan Amendment.

12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO:
13. TYPED NAME: Toby Douglas	Department of Health Care Services Attn: State Plan Coordinator 1501 Capitol Avenue, Suite 71.3.26 P.O. Box 997417 Sacramento, CA 95899-7417
14. TITLE: Director	
15. DATE SUBMITTED: 10/25/11	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: October 27, 2011	18. DATE APPROVED: DEC 22 2011
PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: October 17, 2011	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME: Gloria Nagle	22. TITLE: Associate Regional Administrator
23. REMARKS: Pen and ink change to box 7 approved via December 5 email.	

Proposed Section 4 - GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program

The Medicaid agency has established and will maintain methods, criteria, and procedures that meet all requirements of 42 CFR 455.13 through 455.21 and 455.23 for prevention and control of program fraud and abuse.

Citation	
Section 1902(a)(42)(B)(i) of the Social Security Act	<p><input checked="" type="checkbox"/> 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.</p> <p><input checked="" type="checkbox"/> The State is seeking an exception to establishing such program for the following reasons:</p> <p>The release of the Final Rule and additional provisions within created a need to amend the Scope of Work (SOW) and the Request for Proposal (RFP). The changes delayed the release date of the RFP. In order to adhere to California's policies and procedures for procurement additional time is needed. California is seeking an exception to the January 1, 2012 implementation date described in the Final Rule. No later than June 1, 2012, California will have a RAC contract in place that will adhere to the attestations in this SPA.</p>
Section 1902(a)(42)(B)(ii)(I) of the Act	<p><input checked="" type="checkbox"/> The State/Medicaid agency will have contracts of the type(s) listed in section 1902(a)(42)(B)(ii)(I) of the Act. All contracts will meet the requirements of the statute. RACs are consistent with the statute.</p> <p>Place a check mark to provide assurance of the following:</p> <p><input checked="" type="checkbox"/> The State will make payments to the RAC(s) only from amounts recovered.</p> <p><input checked="" type="checkbox"/> The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.</p>
Section 1902 (a)(42)(B)(ii)(II)(aa) of the Act	<p>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):</p> <p>The percentage of the contingency fee.</p>

TN No. 11-032
Supersede
TN No. : 10-019

Approval Date: DEC 22 2011 Effective Date: October 17, 2011

Proposed Section 4 - GENERAL PROGRAM ADMINISTRATION

	<input checked="" type="checkbox"/> The State attests that if the contingency fee rate paid to the Medicaid RAC will exceed the highest rate paid to the Medicare RACs, as published in the Federal Register, the State will only submit for FFP up to the amount equivalent to that published rate.
<p>Section 1902 (a)(42)(B)(ii)(II)(bb) of the Act</p>	<input checked="" type="checkbox"/> 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 percentage of the contingency fee: <input type="checkbox"/> The State will submit a justification seeking to pay the Medicaid RAC(s) a contingency fee higher than the highest contingency fee rate paid to Medicare RACs as published in the Federal Register.
<p>Section 1902 (a)(42)(B)(ii)(III) of the Act</p>	<input checked="" type="checkbox"/> The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).
<p>Section 1902 (a)(42)(ii)(IV)(aa) of the Act</p>	<input checked="" type="checkbox"/> 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.
<p>Section 1902 (a)(42)(B)(ii)(IV)(bb) of the Act</p>	<input checked="" type="checkbox"/> The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.
<p>Section 1902 (a)(42)(B)(ii)(IV)(cc) of the Act</p>	<input checked="" type="checkbox"/> 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.