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State/Territory Name: Colorado

State Plan Amendment (SPA) #: CO-15-0008

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
1961 Stout Street, Room 08-148
Denver, CO 80294



Region VIII

September 30, 2015

Susan E. Birch, MBA, BSN, RN, Executive Director
Department of Health Care Policy & Financing
1570 Grant Street
Denver, CO 80203-1818

RE: Colorado #15-0008

Dear Ms. Birch:

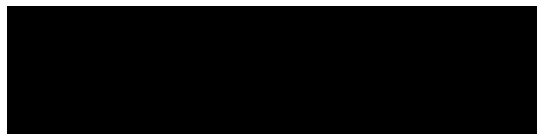
We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number (TN) 15-0030. This Recovery Audit Contractor (RAC) SPA modifies Section 4.5 to waive certain requirements from Section 1902(a)(42) of the Social Security Act..

Please be informed that this State Plan Amendment was approved today with an effective date of July 1, 2015. We are enclosing the CMS-179 and the amended plan page(s).

If you have any questions concerning this amendment, please contact Curtis Volesky at (303) 844-7033.

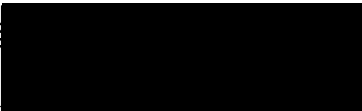

Colorado will be in procurement status effective July 1, 2014 through June 30th, 2016. Please inform us if a bid is received, and a formal contract has been executed before the end date.

Sincerely,



Richard C. Allen
Associate Regional Administrator
Division for Medicaid & Children's Health Operations

cc: Gretchen Hammer John Bartholomew
Tess Ellis Barb Prehmus
Pat Connally Amanda Forsythe

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES		1. TRANSMITTAL NUMBER: <u>1 5 - 0 0 0 8</u>	2. STATE: COLORADO
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE July 1, 2015	
5. TYPE OF PLAN MATERIAL (<i>Check One</i>): NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS A NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (<i>Separate transmittal for each amendment</i>)			
6. FEDERAL STATUTE/REGULATION CITATION Section 1902(a)(42)(B)(i) of the Social Security Act		7. FEDERAL BUDGET IMPACT a. FFY <u>2014</u> \$ <u>0</u> b. FFY <u>2014</u> \$ <u>0</u>	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Section 4.5		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>) Section 4.5, 14-033	
10. SUBJECT OF AMENDMENT Medicaid Recovery Audit Contract Program Exceptions			
11. GOVERNOR'S REVIEW (<i>Check One</i>) GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED COMMENTS OF GOVERNOR'S OFFICE ENCLOSED NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL Governor's letter dated 15 January, 2015			
12. SIGNATURE OFFICIAL 		16. RETURN TO Colorado Department of Health Care Policy and Financing 1570 Grant Street Denver, CO 80203-1818 Attn: Barbara Prehmus	
13. TYPED NAME John Bartholomew			
14. TITLE Deputy Executive Director			
15. DATE SUBMITTED 4/23/2015			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED 4/23/15		18. DATE APPROVED 9/30/15	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL 7/1/15		20. SIGNATURE OFFICIAL 	
21. TYPED NAME Richard C. Allen		22. TITLE ARA, DMCHO	
23. REMARKS			

Revision:

State Colorado

PROPOSED SECTION 4 - GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program

<p><u>Citation</u></p> <p>Section 1902(a)(42)(B)(i) of the Social Security Act</p>	<p>_____ 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><u> X </u> The State is seeking an exception to establishing such program for the following reasons:</p> <p>The State has sought an extension to an existing exception from Medicaid recovery audit contract requirements. The original extension was to allow the State to pursue a formal, competitive re-procurement of a new contract for recovery audit services that would be in line with Section 1902(a)(42) of the Social Security Act. However, the State did not receive any bids when it asked for solicitations in early 2014. The State is exempt from July 1, 2014 through December 31, 2015 to cover the lapse until a RAC is re-procured and a formal contract has been executed. During this time, the State will consult with CMS and seek other interim solutions of conducting post-payment compliance reviews and audits on Medicaid providers.</p> <p>The State is seeking additional exceptions while it is in the process of re-procuring a RAC during the approved exemption period:</p> <ul style="list-style-type: none">• an exception to the requirement that the RAC must hire a minimum of 1.0 FTE medical director in good standing with the State licensing authorities. The State shall require the RAC to hire a .10 FTE medical director who is a physician licensed in good standing in any state in the U.S.• an exception to the current three year claims look back period. The State seeks to examine claims for up to seven years from the paid date of the claim.• an exception to the underpayment identification requirement. State law does not authorize a contingency payment for recovery of underpayments nor does it authorize a non-contingent payment methodology. The procurement will allow the RAC to identify underpayments but will not pay the RAC for doing so. Providers will need to submit a claim for previously underpaid services
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No. 15-0008
Supersedes
No. 14-033

Approval Date: 9/30/15 Effective Date: 7/1/2015

<p>Section 1902(a)(42)(B)(ii)(I) of the Act</p>	<p>directly to the Department within the applicable limits for timely submission of claims in order to recoup identified underpayments.</p> <ul style="list-style-type: none"> • an exception to the requirement that the contingency fee for overpayments may not exceed that of the highest Medicare RAC, as specified by CMS in the Federal Register. The State is requesting a waiver to increase the maximum rate to 18 percent (18%), which is the current maximum percentage allowable under State law. <p>_____ 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.</p> <p>Place a check mark to provide assurance of the following:</p> <p>_____ The State will make payments to the RAC(s) only from amounts recovered.</p> <p>_____ The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.</p> <p>The following payment methodology shall be used to determine State payments to Medicaid RACs for recovered overpayments (e.g., the percentage of the contingency fee):</p>
<p>Section 1902 (a)(42)(B)(ii)(II)(aa) of the Act</p>	<p>_____ The State attests that if 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.</p>
<p>Section 1902 (a)(42)(B)(ii)(II)(bb) of the Act</p>	<p>_____ The following payment methodology shall be used to determine State payments to Medicaid RACs for underpayments:</p> <p>_____ 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>

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<p>Section 1902 (a)(42)(B)(ii)(III) of the Act</p>	<p>_____ The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).</p>
<p>Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act</p>	<p>_____ 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>
<p>Section 1902 (a)(42)(B)(ii)(IV)(bb) of the Act</p>	<p>_____ 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>
<p>Section 1902 (a)(42)(B)(ii)(IV)(cc) of the Act</p>	<p>_____ 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.</p>

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