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State/Territory Name: Colorado

State Plan Amendment (SPA) #: CO-16-0003

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 1, 2016

Susan E. Birch, MBA, BSN, RN, Executive Director
Department of Health Care Policy & Financing
303 East 17th Avenue, 7th Floor
Denver, CO 80203

RE: Colorado #16-0003

Dear Ms. Birch:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number (TN) 16-0003. This Amendment would resume the Colorado Department of Health Care Policy and Financing's (State's) program compliance of the Recovery Audit Contract (RAC), as set forth under Section 1902(a)(42) of the Social Security Act. The State is currently exempt from this program while in procurement status. The submitted Amendment includes four exemptions previously approved by the Centers for Medicare and Medicaid Services and were in the request for proposals, under which the RAC contractor is being procured.

Please be informed that this State Plan Amendment was approved today with an effective date of June 28, 2016. 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.

Sincerely,



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

cc: Gretchen Hammer John Bartholomew
Pat Connally Amanda Forsythe

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES		1. TRANSMITTAL NUMBER: <u>1 6 -- 0 0 0 3</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 June 28, 2016	
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_2016 _____ \$_0_____ b. FFY_2017 _____ \$_0_____	
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, 15-0008	
10. SUBJECT OF AMENDMENT Implementation of Medicaid Recovery Audit Contract Program			
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 Governor's letter dated 01 September 2011 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIG		16. RETURN TO	
13. TYPIST	John Bartholomew	Colorado Department of Health Care Policy and Financing 1570 Grant Street Denver, CO 80203-1818 Attn: Barbara Prehmus	
14. TITLE	Deputy Executive Director		
15. DATE SUBMITTED	<i>Originally submitted 6/7/16</i> 7/7/2016 [Resubmission]		
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED	June 7, 2016	18. DATE APPROVED	September 1, 2016
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL	June 28, 2016	20. 	
21. TYPED NAME	Richard C. Allen	22. 	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>Section 1902(a)(42)(B)(ii)(I) of the Act</p>	<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 type="checkbox"/> The State is seeking an exception to establishing such program for the following reasons:</p> <p><input checked="" type="checkbox"/> 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><input checked="" type="checkbox"/> The State will make payments to the RAC(s) only from amounts recovered.</p> <p>As approved under TN CO-15-0008, the State includes the following exceptions:</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 shall direct the RAC 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 State shall 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 directly to the Department within the applicable limits for timely submission of claims in order to recoup identified underpayments.
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No. 16-0003
Supersedes No. 15-0008

Approval Date: 9/1/2016
Effective Date: 6/28/2016

Section 1902 (a)(42)(B)(ii)(II)(aa)
of the Act

- 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 shall increase the maximum rate to 18 percent (18%), which is the current maximum percentage allowable under State law.

The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.

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):

The State shall pay the RAC a contingency fee of up to a maximum of 18 percent (18%) for overpayments to conform with the maximum allowable under State law, and as approved under TN CO 15-0008, which formed the basis for Colorado's competitive procurement process for the contract.

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.

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 underpayments:

The State shall allow the RAC to identify underpayments but will not pay the RAC for doing so. State law does not authorize a contingency payment for recovery of underpayments nor does it authorize a non-contingent payment methodology. Providers will need to submit a claim for previously underpaid services directly to the Department within the applicable limits for timely submission of claims in order to recoup identified underpayments.

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.

Section 1902 (a)(42)(B)(ii)(III)
of the Act

The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).

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<p>Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act</p>	<p><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.</p>
<p>Section 1902 (a)(42)(B)(ii)(IV)(bb) of the Act</p>	<p><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.</p>
<p>Section 1902 (a)(42)(B)(ii)(IV)(cc) of the Act</p>	<p><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.</p>

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