

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
JFK Federal Building, Government Center
Room 2275
Boston, Massachusetts 02203



Division of Medicaid and Children's Health Operations / Boston Regional Office

February 23, 2011

JudyAnn Bigby, M.D., Secretary
Executive Office of Health and Human Services
One Ashburton Place, Room 1109
Boston, Massachusetts 02108

Dear Dr. Bigby:

We have reviewed Massachusetts' State Plan Amendment (SPA) No. 10-010, received in the Boston Regional Office on December 30, 2010. This amendment documents that Massachusetts has established a Medicaid Recovery Audit Contractor (RAC) program. Section 6411 of the Affordable Care Act amended section 1902(a)(42) of the Social Security Act to require States to establish programs to contract with RACs to audit payments to Medicaid providers.

Based on the information provided, we are pleased to inform you that Massachusetts SPA No. 10-010 is approved, effective December 31, 2010. Enclosed is a copy of the CMS-179 form, as well as the approved pages for incorporation in the Massachusetts Medicaid State Plan.

In the submittal of this SPA, you indicated that while the State has not yet entered into a RAC contract, it is in the process of soliciting proposals from prospective contractors and that it will file a new SPA once it has entered into a RAC contract. Therefore, the State is not currently able to attest 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. When the State does fully implement the RAC program, it will need to attest in the State Plan that the contingency fee rate paid to the RAC does not exceed this limit. This requirement is described in further detail in State Medicaid Director Letter No. 10-021, issued on October 1, 2010.

We also wish to remind you that on February 1, 2011, CMS issued an informational bulletin to States indicating that, "Out of consideration for State operational issues and to ensure States comply with the provisions of the Final Rule, we have determined that States will not be required to implement their RAC programs by the proposed implementation date of April 1, 2011. Instead, when the Final Rule is published, it will indicate the new implementation deadline." Therefore, Massachusetts SPA 10-010 will remain in effect until the State implements a RAC program in accordance with the forthcoming Final Rule.

Page 2 – JudyAnn Bigby, M.D., Secretary

Please inform the federally recognized tribes in Massachusetts of the changes brought forth by this SPA. If you have any questions, please contact Aaron Wesolowski of my staff. Aaron Wesolowski can be reached at (617) 565-1325 or by email at aaron.wesolowski@cms.hhs.gov.

Sincerely,

/s/

Richard R. McGreal
Associate Regional Administrator

Enclosures

cc: Terry Dougherty, Medicaid Director
Michael Coleman, State Plan Coordinator

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES		1. TRANSMITTAL NUMBER: 010-0010	2. STATE: MA
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE: 12/31/10	
5. TYPE OF PLAN MATERIAL. <i>(Check One):</i> <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS 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 Act		7. FEDERAL BUDGET IMPACT: a. FFY11 \$ 00.00 b. FFY12 \$ 00.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Section 4.5 pages 36, 36a		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT <i>(If Applicable)</i> Section 4.5, page 36	
10. SUBJECT OF AMENDMENT: Recovery Audit Contractors (RACs) for Medicaid			
11. GOVERNOR'S REVIEW <i>(Check One):</i> <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED. <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED Not required under <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL. 42 CFR 430.12(b)(2)(i)			
12. SIGNATURE OFFICIAL: <i>[Signature]</i>		16. RETURN TO: Michael P. Coleman State Plan Coordinator Executive Office of Health and Human Services Office of Medicaid One Ashburton Place, 11th Floor Boston, MA 02108	
13. FULL NAME: Secretary			
14. TITLE: Secretary			
15. DATE SUBMITTED: 12/30/10			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: December 30, 2010		18. DATE APPROVED: February 23, 2011	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: December 31, 2010		20. SIGNATURE: <i>[Signature]</i>	
21. TYPED NAME: Richard R. McGreal		22. TITLE: Associate Regional Administrator, Division of Medicaid & Children's Health Operations	
23. REMARKS:			

State Plan under Title XIX of the Social Security Act
State: Massachusetts
Section 4 General Program Administration

4.5 Medicaid Audit Recovery Program

Citation

Section 1902(a)(42)(B)(i)
of the Social Security Act

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.

The State is seeking an exception to establishing such program for the following reasons:

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

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.

While the State has not yet entered into a RAC contract, it is in the process of preparing a Request for Responses (RFR) to solicit proposals from prospective contractors.

Place a check mark to provide assurance of the following:

Section 1902 (a)(42)(B)(ii)(II)(aa) 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.

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):

Specific payment methodology and whether contingency fee rate will exceed highest rate paid to Medicare RACs is not yet determined as the State has not entered into a contract.

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.

State Plan under Title XIX of the Social Security Act
State: Massachusetts
Section 4 General Program Administration

4.5 Medicaid Audit Recovery Program

- 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 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):
Specific payment methodology is not yet determined as the State has not yet entered into a contract
- Section 1902 (a)(42)(B)(ii)(II)(bb) 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).
- Section 1902 (a)(42)(B)(ii)(III) of the Act
- 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)(aa) of the Act
- 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)(bb) of the Act
- 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.
- Section 1902 (a)(42)(B)(ii)(IV)(cc) Of the Act
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