

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



CENTERS for MEDICARE & MEDICAID SERVICES

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

March 8, 2011

Mary C. Mayhew, Commissioner
Department of Health and Human Services
11 State House Station
Commissioner's Office
Augusta, Maine 04333-0011

Dear Ms. Mayhew:

We are pleased to enclose a copy of approved State plan amendment (SPA) No. 10-020. This SPA is effective January 1, 2011 as requested.

This SPA transmitted a proposed amendment to your Department's approved Title XIX State plan to indicate that you will establish a Medicaid Recovery Audit Contractor (RAC) program as required by Federal Medicaid law. Under §1902(a)(42)(B)(i) of the Social Security Act as added by §6411 of the Affordable Care Act, public law 111-148, States are required to establish programs to contract with one or more Medicaid RACs for the purpose of identifying underpayments and overpayments and recouping overpayments under the State plan and under any waiver of the State plan with respect to all services for which payment is made to any entity under such plan or waiver.

In the cover letter transmitting this SPA, you indicated that while the State has not yet entered into a RAC contract, it is preparing a request for proposal to seek bids for a Medicaid RAC and expects to enter into a contract before April 1, 2011. The State currently is not 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 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, we 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.

Page 2 - Mary C. Mayhew, Commissioner

Therefore, Maine's SPA 10-020 will remain in effect until the State implements a RAC program in accordance with the forthcoming Final Rule.

Please inform the Federally recognized tribes in Maine of the changes brought forth by this SPA. If there are questions, please contact Chong Tieng at (617) 565-9157.

Sincerely,

/s/

**Richard R. McGreal
Associate Regional Administrator**

Enclosure

cc: Stefanie Nadeau, Acting Director, Office of MaineCare Services

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION	1. TRANSMITTAL NUMBER: 10-020	2. STATE: MAINE
	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(S) 1/1/11	
5. TYPE OF PLAN MATERIAL (CHECK ONE): <input type="checkbox"/> NEW STATE PLAN <input checked="" type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)		
6. FEDERAL STATUTE/REGULATION CITATION: SECTION 6411 OF THE AFFORDABLE CARE ACT, P.L. 111-148.	7. FEDERAL BUDGET IMPACT: Cost Neutral	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: New SECTION 4.5	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):	
SUBJECT OF AMENDMENT: RECOVERY AUDIT CONTRACTOR PROGRAM		
11. GOVERNOR'S REVIEW (Check One): <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 COMMISSIONER, DEPT. OF HUMAN SERVICES <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		
12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO:	
13. TYPED NAME: BRENDA HARVEY	ANTHONY MARPLE	
14. TITLE: Commissioner, Maine Department of Health and Human Services	Director, MaineCare Services #11 State House Station	
15. DATE SUBMITTED: December 20, 2010	442 CIVIC CENTER DRIVE Augusta, ME 04333-0011	
FOR REGIONAL OFFICE USE ONLY		
17. DATE RECEIVED: December 20, 2011	18. DATE APPROVED: March 8, 2011	
PLAN APPROVED - ONE COPY ATTACHED		
19. EFFECTIVE DATE OF APPROVED MATERIAL: January 1, 2011	20. SIGNATURE OF REGIONAL ADMINISTRATOR:	
21. TYPED NAME: Richard R. McGreal	22. TITLE: Associate Regional Administrator Division of Medicaid and Children's Health Operations	

23. REMARKS
Box 15 was revised to reflect the actual date the SPA was submitted.

<p>Section 1902(a)(42)(B)(ii)(II)(bb) of the Act</p>	<p><input type="checkbox"/> 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.</p> <p><input type="checkbox"/> 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.</p> <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):</p> <p>A percentage of the contingency fee.</p>
<p>Section 1902(a)(42)(B)(ii)(III) of the Act</p>	<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>
<p>Section 1902(a)(42)(B)(ii)(IV)(aa) of the Act</p>	<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>
<p>Section 1902(a)(42)(B)(ii)(IV)(bb) of the Act</p>	<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>
<p>Section 1902(a)(42)(B)(ii)(IV)(cc) of the Act</p>	<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.</p>