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**State/Territory Name: Maine**

**State Plan Amendment (SPA) #:16-009**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Pages

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**

July 28, 2016

Mary Mayhew, Commissioner  
Department of Health and Human Services  
11 State House Station  
221 State Street  
Augusta, Maine 04333-0011

RE: Maine ME 16-009

Dear Commissioner Mayhew:

We are now ready to approve State Plan Amendment (SPA) No. ME 16-009; attached you will find an approved copy of the SPA. As requested, this SPA is effective June 1, 2016.

The purpose of this SPA is to amend the State's approved Title XIX State Plan to provide additional time for the state to contract with a Recovery Audit Contractor. This SPA is estimated to be cost neutral.

If you have any questions regarding this SPA, please contact Aimee Campbell-O'Connor, Maine State Lead, at 617/565-1642, or at [Aimee.Campbell-O'Connor@cms.hhs.gov](mailto:Aimee.Campbell-O'Connor@cms.hhs.gov).

Sincerely,

/s/

Richard R. McGreal  
Associate Regional Administrator

cc: Stefanie Nadeau, Director, Office of Maine Care Services  
Sam Senft, Director, Policy, Children's and Waiver Services

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>	1. TRANSMITTAL NUMBER: 16-009	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): 6/1/2016
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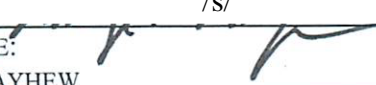
5. TYPE OF PLAN MATERIAL (CHECK ONE):  
 NEW STATE PLAN       AMENDMENT TO BE CONSIDERED AS NEW PLAN       AMENDMENT  
 COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:  SECTION 1902(A)(42)(B) OF THE SOCIAL SECURITY ACT	7. FEDERAL BUDGET IMPACT: SAVINGS IN FFY 15 OF \$0 FFY 16 OF \$0
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  ATTACHMENT 4.5 OF PAGE 36(B) AND 36(C)	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): ATTACHMENT 4.5 OF PAGE 36(B) AND 36(C)
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SUBJECT OF AMENDMENT: MEDICAID RECOVERY AUDIT CONTRACTOR PROGRAM

11. GOVERNOR'S REVIEW (Check One):  
 GOVERNOR'S OFFICE REPORTED NO COMMENT       OTHER, AS SPECIFIED  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED      COMMISSIONER, DEPT. OF HEALTH AND HUMAN SERVICES  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL:  /s/ 	16. RETURN TO:  STEFANIE NADEAU  Director, MaineCare Services #11 State House Station 242 STATE STREET Augusta, ME 04333-0011
13. TYPED NAME: MARY C. MAYHEW	
14. TITLE: COMMISSIONER, DEPARTMENT OF HEALTH AND HUMAN SERVICES	
5. DATE SUBMITTED: 6/3/16	

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED: 6/3/16	18. DATE APPROVED: 7-28-16
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: 6/1/16	20. SIGNATURE OF REGIONAL OFFICIAL:  /s/ 
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21. TYPED NAME: Richard McGreal	22. TITLE: Associate Regional Administrator
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23. REMARKS

Revision:

State:           Maine          

#### 4.5 Medicaid Recovery Audit Contractor 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 a program for the following reasons: no later than June 1, 2017, Maine will have a RAC contract in place that will adhere to the attestations in this SPA.

In spring 2015, the State published an RFP seeking a RAC contractor. Only one bid was received, but the vendor did not meet the minimum qualifications. As such, Maine was left without a suitable RAC contractor.

The State of Maine is requesting an exemption to the 3 (three) year look back period defined in 42 CFR 455.508(f) – Eligibility Requirement for Medicaid RACs. The State seeks a 5 (five) year look back period for its retrospective reviews in order to be consistent with Maine policy.

The State Recovery Audit Contractors (RACs) have been encountering problems when looking at more recent claims that providers have not had a chance to adjust or void.

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

- The State/Medicaid agency has contracts of the type(s) listed in section 1902(a)(42)(B)(ii)(l) of the act. All contracts meet the requirements of the State. RACs are consistent with the statute.

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

Place a check to provide assurance of the following:

- 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.

36(c)

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):

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

  - 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.
  - The contingency fee rate paid to that 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.
  
- Section 1902 (a)(42)(B)(ii)(III) of the Act

  - 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):  
  
A percentage of the contingency fee
  
- Section 1902 (a)(42)(B)(ii)(IV)(aa) 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)(IV)(bb) 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)(cc) 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.
  - Efforts of the Medicaid RAC(s) will be coordinated with other contractors or entities performing audits of entities receiving payments under that State plan or waiver in the State, and/or State and federal law enforcement entities and the CMS Medicaid Integrity Program.