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## State/Territory Name: Montana

# State Plan Amendment (SPA) #: MT-17-0017

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



### **REGION VIII - DENVER**

October 26, 2017

Marie Matthews, Medicaid & CHIP Director Montana Department of Public Health & Human Services P.O. Box 4210 Helena, MT 59604

Re: Montana #17-0017

Dear Ms. Matthews:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number (TN) 17-0017. This amendment allows an exemption from establishing a Recovery Audit Contractor. The approved exemption will expire on August 7, 2019.

Please be informed that this State Plan Amendment was approved October 25, 2017, with an effective date of August 7, 2017. We are enclosing the CMS-179 and the amended plan page(s).

If you have any questions concerning this amendment, please contact Barbara Prehmus at (303) 844-7472.

Sincerely,



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

cc: Sheila Hogan, Department Director Duane Preshinger Jo Thompson Mary Eve Kulawik

| DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>HEALTH CARE FINANCING ADMINISTRATION  |   | FORM APPROVED<br>OMB NO. 0938-0193 |  |
|--|---|------------------------------------|--|
| TRANSMITTAL AND NOTICE OF APPROVAL OF<br>STATE PLAN MATERIAL   | 1. TRANSMITTAL NUMBER:<br>17-0017   | 2. STATE<br>Montana                |  |
| FOR: HEALTH CARE FINANCING ADMINISTRATION  | 3. PROGRAM IDENTIFICATION: TITLE XIX OF THE<br>SOCIAL SECURITY ACT (MEDICAID)                               |                                    |  |
| TO: REGIONAL ADMINISTRATOR<br>HEALTH CARE FINANCING ADMINISTRATION<br>DEPARTMENT OF HEALTH AND HUMAN SERVICES  | 4. PROPOSED EFFECTIVE DATE<br>08/0 <b>3</b> /2017   |                                    |  |
| 5. TYPE OF PLAN MATERIAL (Check One):           Image: New State Plan         Image: Amendment to be Complete Blocks 6 thru 10 if this is an Amendment to be Complete Blocks 6 thru 10 if the Blocks 6 thru 10 i | CONSIDERED AS NEW PLAN  | AMENDMENT                          |  |
| 6. FEDERAL STATUTE/REGULATION CITATION:<br>If applicable, provide CFR citation:  | 7. FEDERAL BUDGET IMPACT:   |                                    |  |
| 42 CFR 455.502   | N/A   |                                    |  |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION<br>OR ATTACHMENT (If Applicable):                             |                                    |  |
| Section 4.5 of State Plan Medicaid Agency Fraud Detection and<br>Investigation Program, Pages 1 and 2 of 2.  | Section 4.5 of State Plan Medicaid Agency Fraud Detection and<br>Investigation Program, Pages 1 and 2 of 2. |                                    |  |
| 10. SUBJECT OF AMENDMENT:  |   |                                    |  |
| Montana attempted a formal procurement for recovery audit services per 42 CFR 455.502. The State did not receive any bids to the solicitation. Montana is requesting a waiver from CMS while re-procuring a Recovery Audit Contractor.   |   |                                    |  |
| 11. GOVERNOR'S REVIEW (Check One):<br>GOVERNOR'S OFFICE REPORTED NO COMMENT<br>COMMENTS OF GOVERNOR'S OFFICE ENCLOSED<br>NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL   | OTHER, AS SPECIFIED:<br>Single Agency Director Review   |                                    |  |
| 12. SIGNATURE OF STATE AGENCY OFFICIAL:  | 16. RETURN TO:<br>Montana Department of Public Health a<br>Marie Matthews                                   | nd Human Services                  |  |
| 13. TYPED NAME: Marie Matthews   | Attn: Mary Eve Kulawik<br>PO Box 4210<br>Helena MT 59620  |                                    |  |
| 14. TITLE: State Medicaid Director 15. DATE SUBMITTED:   |   |                                    |  |
| 8-7-17   |   |                                    |  |
| FOR REGIONAL OF 17. DATE RECEIVED:   | FICE USE ONLY<br>18. DATE APPROVED:   | a te                               |  |
| August 7, 2017<br>PLAN APPROVED – ON   | October 25  | , 2017                             |  |
| 19. EFFECTIVE DATE OF APPROVED MATERIAL:   | 20. SIGNATURE OF REGIONAL OFF   | FICIAL:                            |  |
| August 7, 2017<br>21. TYPED NAME:  | 22. TITLL.  |                                    |  |
| Richard C. Allen   | ARA, DMCHO  |                                    |  |
| 23. REMARKS:   |   |                                    |  |
|  |   |                                    |  |

#### State/Territory: <u>Montana</u>

#### Citation 4.5 Medicaid Recovery Audit Contractor Program

| Section 1902(a)<br>(42)(B)(i) of<br>the Social Security<br>Act | The State has established a program under which it will contract<br>with one or more recovery audit contractors (RACs) for the<br>purpose of identifying underpayments and overpayments of<br>Medicaid claims under the State plan and under any waiver of the<br>State plan.   |
|--|---|
|  | X The State is seeking an exception to establishing such program for the following reasons:   |
|  | X Montana is seeking an exception from the Medicaid recovery audit<br>contract requirement. The State attempted a formal procurement<br>for recovery audit services that would be in line with Section<br>1902 (a) (42) of SSA. However, the State did not receive any<br>bids when solicited in March 2017. Additionally, SB 82 - MCA<br>53-6-14 went into effect 07/01/2017. It places constraints on<br>the RAC's ability to perform large scale audits, therefore<br>limiting the amount of potential income for their services. The<br>State is requesting a time-limited exception from the<br>requirement for a recovery audit contractor. |
| Section 1902(a)<br>(42)(B)(ii)(I)<br>of the Act                | The State/Medicaid agency will have contracts of the type(s)<br>listed in section 1902(a)(42)(B)(ii)(I) of the Act in place. All<br>contracts meet the requirements of the statute. RACs are<br>consistent with the statute.  |
|  | Place a check mark 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.   |
| Section 1902(a)<br>(42)(B)(ii)(II)(aa)<br>of the Act           | The following payment methodology shall be used to determine State<br>payments to Medicaid RACs for identification and recovery of<br>overpayments (e.g., the percentage of the contingency fee):   |
|  | The State attests that the contingency fee rate paid to the<br>Medicaid RAC will not exceed the highest rate paid to Medicare<br>RACs, as published in the Federal Register.  |
|  | The State attests that the contingency fee rate paid to the<br>Medicaid RAC will exceed the highest rate paid to Medicare RACs,<br>as published in the Federal Register. The State will only submit<br>for FFP up to the amount equivalent to that published rate.  |
|  | The contingency fee rate paid to the Medicaid RAC that will<br>exceed the highest rate paid to Medicare RACs, as published in<br>the Federal Register. The State will submit a justification for<br>that rate and will submit for FFP for the full amount of the<br>contingency fee.  |

TN 17-0017 Supersedes TN 12-005 Approval Date 10/25/17 Effective Date 8/7/17

#### State/Territory: <u>Montana</u>

### Citation 4.5 Medicaid Recovery Audit Contractor Program

| Section 1902 (a)(42)(B)(ii)<br>(II)(bb) of the Act | The following payment methodology shall be used to<br>determine State payments to Medicaid RACs for the<br>identification of underpayments (e.g., amount of flat<br>fee, the percentage of the contingency fee):   |
|--|--|
|  | Percentage of the contingency fee will be the payment<br>methodology used to determine State payments to<br>Medicaid RACs for identification and recovery of<br>overpayments.  |
| Section 1902 (a)(42)(B)(ii)<br>(III) of the Act    | The State has an adequate appeal process in place for<br>entities to appeal any adverse determination made by<br>the Medicaid RAC(s).  |
| Section 1902 (a)(42)(B)(ii)<br>(IV)(aa) of the Act | The State assures that the amounts expended by the<br>State to carry out the program will be amounts expended<br>as necessary for the proper and efficient<br>administration of the State plan or a waiver of the<br>plan.   |
| Section<br>1902(a)(42)(B)(ii)(IV)(bb)of<br>the Act | The State assures that the recovered amounts will be<br>subject to a State's quarterly expenditure estimates<br>and funding of the State's share.  |
| Section1902(a)(42)(B)(ii)(IV)<br>(cc)of the Act    | Efforts of the Medicaid RAC(s) will be coordinated with<br>other contractors or entities performing audits of<br>entities receiving payments under the State plan or<br>waiver in the State, and/or State and Federal law<br>enforcement entities and the CMS Medicaid Integrity<br>Program. |