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### State/Territory Name: Montana

# State Plan Amendment (SPA) #: 19-0006

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   Approval LCDA P
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES Centers for Medicare & Medicaid Services 1961 Stout Street, Room 08-148 Denver, CO 80294

### **Denver Regional Operations Group**

April 29, 2019

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

Dear Ms. Matthews:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number MT-19-0006. This amendment revises Montana's RAC exception SPA to extend the time period for an additional two years.

Please be informed that this State Plan Amendment was approved today, with an effective date of April 1, 2019. We are enclosing the summary page and the amended plan page(s).

If you have any questions regarding this SPA please contact Barbara Prehmus at (303) 844-7472.

Sincerely,

Mary Marchioni Acting Deputy Director

cc: Sheila Hogan, Department Director Mary Eve Kulawik



		FORM APPROVED OMB NO. 0938-0193	
TRANSMITTAL AND NOTICE OF APPROVAL OF	1. TRANSMITTAL NUMBER:	2. STATE	
STATE PLAN MATERIAL	19-0006	Montana	
FOR: HEALTH CARE FINANCING ADMINISTRATION	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)		
TO: REGIONAL ADMINISTRATOR	4. PROPOSED EFFECTIVE DATE		
HEALTH CARE FINANCING ADMINISTRATION	04/01/2019		
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
5. TYPE OF PLAN MATERIAL (Check One):			
■ NEW STATE PLAN ■ AMENDMENT TO BE (	CONSIDERED AS NEW DI AN	AMENDMENT	
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;	7. FEDERAL BUDGET IMPACT:	umenument)	
If applicable, provide CFR citation:			
	N/A		
42 CFR 455.502	a. FFY19 (6 months): \$0		
	b. FFY20 (12 months): \$0		
	c. FFY21 (6 months): \$0		
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:	9. PAGE NUMBER OF THE SUPERS OR ATTACHMENT (If Applicable)		
Continue 4.5 of State Dian Madisaid Annual Frand Detection and	Continue 4.5 of Ototo Dian Madiavid Ann	n Freed Data stion and	
Section 4.5 of State Plan Medicaid Agency Fraud Detection and Investigation Program, Pages 1 and 2 of 2.	Section 4.5 of State Plan Medicaid Age Investigation Program, Pages 1 and 2 o		
investigation (rogram, rages rand 2 of 2.	investigation (Togrann, Tages Tand 2.0		
10. SUBJECT OF AMENDMENT:			
During the 2017 legislative session, Montana enacted MCA 53-6-1402, v			
lookback, excluding the current year, to a six-month data review within a			
Medicaid agency had no bids on the Recovery Audit Contract Request fo for 42 CFR 455.502.	or Proposals. The State is requesting a two	-year waiver from CMS	
101 42 CI IC 455.502.			
11. GOVERNOR'S REVIEW (Check One):			
GOVERNOR'S OFFICE REPORTED NO COMMENT	OTHER, AS SPEC		
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED	Single Agency Dire	ector Review	
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO:		
	Montana Department of Public Health a	nd Human Services	
	Marie Matthews		
13. TYPED NAME: Marie Matthews	Attn: Mary Eve Kulawik		
	PO Box 4210		
14. TITLE: State Medicaid Director	Helena MT 59620		
15. DATE SUBMITTED:	-		
3-27-19			
17. DATE RECEIVED:	18. DATE APPROVED:		
March 27, 2019	April 29, 2	019	
PLAN APPROVED – ONE		.017	
19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OF	FICIAL:	
April 1, 2019			
21. TYPED NAME:	22. TITLE?		
Mary Marchioni	Acting Deputy Direct	or, DROG	
23. REMARKS:			

#### State/Territory: Montana

#### Citation 4.5 Medicaid Recovery Audit Contractor Program

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.
	<u>X</u> The State is seeking an exception to establishing such program for the following reasons:
	X Montana is seeking an exception extension from the Medicaid recovery audit contract requirement. The State attempted a formal procurement for recovery audit services that would be in line with Section 1902 (a) (42) of SSA. However, the State did not receive any bids when solicited. Additionally, Senate Bill 82 - MCA 53-6-14, which went into effect July 1, 2017, places constraints on the Recovery Audit Contractor's (RAC) ability to perform large scale audits, therefore limiting the amount of potential income for their services. The State is requesting a two-year exception from the requirement for a (RAC).
Section 1902(a) (42)(B)(ii)(I) of the Act	The State/Medicaid agency will have contracts of the type(s) listed in section 1902(a)(42)(B)(ii)(I) of the Act in place. All contracts meet the requirements of the statute. RACs are 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) (42)(B)(ii)(II)(aa) of the Act	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):
	— 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 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.

TN 19-0006 Supersedes TN 17-0017

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

### Citation 4.5 Medicaid Recovery Audit Contractor Program

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 the identification of underpayments (e.g., amount of flat fee, the percentage of the contingency fee):
	Percentage of the contingency fee will be the payment methodology used to determine State payments to Medicaid RACs for identification and recovery of overpayments.
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).
Section 1902 (a)(42)(B)(ii) (IV)(aa) 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)(bb)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.
Section1902(a)(42)(B)(ii)(IV) (cc)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.