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**State/Territory Name:** North Dakota

**State Plan Amendment (SPA) #:** ND-17-0012

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**

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October 17, 2017

Maggie Anderson, Medicaid Director  
Division of Medical Services  
North Dakota Department of Human Services  
600 East Boulevard Avenue, Dept. 325  
Bismarck, ND 58505-0250

RE: North Dakota #17-0012

Dear Ms. Anderson:

This revised approval package is being issued because the original pages, issued on September 21, 2017, contained incorrect superseding pages. This amendment allows an exemption from establishing a Recovery Audit Contractor. The approved exemption will expire on April 1, 2019.

Please be informed that this State Plan Amendment was approved September 20, 2017, with an effective date of April 1, 2017. We are enclosing the CMS-179 and the amended plan page(s).

If you have any questions concerning this amendment, please contact Kirstin Michel at (303) 844-7036.

Sincerely,



Trinia J. Hunt  
Acting Associate Regional Administrator  
Division for Medicaid & Children's Health Operations

cc: Melissa Rosales

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: <b>17-0012</b>	2. STATE <b>North Dakota</b>
<b>FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES</b>		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>April 1, 2017</b>	
5. TYPE OF PLAN MATERIAL (Check One): <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 (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: <b>42 CFR 455 and 1902(a)(42) of Act</b>		7. FEDERAL BUDGET IMPACT: a. FFY <u>2017</u> \$ <u>unknown</u> b. FFY <u>2018</u> \$ <u>unknown</u>	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: <b>Section 4.5b pages 36b and 36c</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): <b>Section 4.5b pages 36b and 36c</b>	
10. SUBJECT OF AMENDMENT: Amends the North Dakota State Plan to request an exemption for a Recovery Audit Contractor.			
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 <u>Maggie D. Anderson, Medical Services Director,</u> <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL <u>Department of Human Services</u>			
12. SIGNATURE (Redacted)		16. RETURN TO: <b>Maggie D. Anderson, Medical Services Director ND Department of Human Services 600 East Boulevard Avenue Dept 325 Bismarck ND 58505-0250</b>	
13. TYPED NAME: <b>Maggie D. Anderson</b>			
14. TITLE: <b>Medical Services Director</b>			
15. DATE SUBMITTED: <b>June 29, 2017</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: <b>June 29, 2017</b>		18. DATE APPROVED: <b>September 20, 2017</b>	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>April 1, 2017</b>		20. SIGNATURE OF REGIONAL OFFICIAL: (Redacted)	
21. TYPED NAME: <b>Richard C. Allen</b>		22. TITLE: <b>ARA, DMCHO</b>	
23. REMARKS:			

Revision: HCFA-PM-88-10 (BERC)  
December 2010

State: North Dakota

4.5b Medicaid Recovery Audit Contractor Program

Citation	
Section 1902(a)(42)(B)(i) of the Social Security Act	<p><input type="checkbox"/> 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.</p> <p><input checked="" type="checkbox"/> The State is seeking an exception to establishing such program for the following reasons: The State had a RAC vendor in place until March 31, 2017. That vendor quit actively auditing in May of 2016 and was providing technical assistance for RAC claims that were part of the state's formal appeals process. The State did see a large influx of RAC appeals and requested the auditing stop so the areas of concern brought up during the appeals could be addressed. The State issued an RFP for a new RAC vendor; however, as of the RFP deadline (June 28, 2017), no proposals were received.</p>
Section 1902(a)(42)(B)(ii)(I) of the Act	<p><input type="checkbox"/> 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.</p> <p>Place a check mark to provide assurance of the following:</p> <p><input type="checkbox"/> The State will make payments to the RAC(s) only from amounts recovered.</p> <p><input type="checkbox"/> The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.</p>
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):

TN No. 17-0012  
Supersedes  
TN No.: 12-010

Approval Date: 09/20/2017 Effective Date: April 1, 2017

Revision: HCFA-PM-88-10 (BERC)  
December 2010

State: North Dakota

4.5b Medicaid Recovery Audit Contractor Program – (continued)

	<p>_____ 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.</p> <p>_____ 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>_____ 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>
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<b>Citation</b>	
Section 1902(a)(42)(b)(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):
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.
Section 1902(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.