

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

February 28, 2011

Nicholas A. Toumpas
Commissioner
Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301

Dear Mr. Toumpas:

We have reviewed New Hampshire's State Plan Amendment (SPA) No. 10-012, received in the Boston Regional Office on December 21, 2010. This amendment documents that New Hampshire has established a Medicaid Recovery Audit Contractor (RAC) program. Section 6411 of the Affordable Care Act amended section 1902(a)(42) of the Social Security Act to require States to establish programs to contract with RACs to audit payments to Medicaid providers.

Based on the information provided, we are pleased to inform you that New Hampshire SPA 10-012 is approved, effective December 21, 2010. Enclosed is a copy of the CMS-179 form, as well as the approved pages for incorporation in the New Hampshire Medicaid State Plan.

In the submittal of this SPA, you indicated that while the State has not yet entered into a RAC contract, the vendor has been selected, but the offer has not yet been made, nor has the payment methodology for underpayments been finalized. When the State does fully implement the RAC program, it will need to attest in the State Plan. This requirement is described in further 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, CMS 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 – Nicholas A. Toumpas, Commissioner

Therefore, New Hampshire SPA 10-012 will remain in effect until the State implements a RAC program in accordance with the forthcoming Final Rule.

If you have any questions, please contact Angel L. Miller of my staff. Angel Miller can be reached at (617) 565-1324 or by email at Angel.Miller@cms.hhs.gov.

Sincerely,

/s/

Richard R. McGreal
Associate Regional Administrator

Enclosures

cc: Kathleen Dunn, Medicaid Director
Dawn Landry, State Plan Coordinator
Diane Peterson

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

1. TRANSMITTAL NUMBER:
10-012

2. STATE
NH

FOR: HEALTH CARE FINANCING ADMINISTRATION

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
December 21, 2010

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:
a. FFY 2011 not known
FFY 2012 not known

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
Section 4.5.1, pages 36a, 36b, and 36c

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):
None

10. SUBJECT OF AMENDMENT:
Medicaid Recovery Audit Contractors

11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT

OTHER, AS SPECIFIED: comments, if any,
will follow

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL

16. RETURN TO:

13. TYPED NAME: Dawn Landry

Dawn Landry
Division of Family Assistance/Brown Building
Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301

14. TITLE: Commissioner

15. DATE SUBMITTED:

12/21/10

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:
December 21, 2010

18. DATE APPROVED:
February 15, 2011

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:
December 21, 2010

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME:
Richard R. McGreal

Associate Regional Administrator,
Division of Medicaid and Children's Health Operations

23. REMARKS:

Revision:

State/Territory: New Hampshire.4.5.1 Medicaid Recovery Audit Contractor Program

<u>Citation</u>	<u>RAC Program</u>
Section 1902(a)(42)(B)(i) of the Social Security Act	<p><input checked="" 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 type="checkbox"/> The State is seeking an exception to establishing such program for the following reasons:</p>
Section 1902(a)(42)(B)(ii)(I) of the Social Security 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>*Note: Contract arrangements are still in process. The vendor has been selected, but the offer has not yet been made.</p> <p>Place a check mark to provide assurance of the following:</p> <p><input checked="" type="checkbox"/> The State will make payments to the RAC(s) only from amounts recovered.</p> <p><input checked="" type="checkbox"/> The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.</p>

TN No: 10-012
 Supersedes
 TN No: N/A

Approval Date 02/15/11Effective Date: 12/21/10

Revision:

State/Territory: New Hampshire4.5.1 (cont.) Medicaid Recovery Audit Contractor Program

<u>Citation</u>	<u>RAC Program</u>
Section 1902(a)(42)(B)(ii)(II)(aa) of the Social Security Act	<p>The following payment methodology shall be used to determine State payments to Medicaid RAC's for identification and recovery of overpayments (e.g., the percentage of the contingency fee):</p> <p><input checked="" type="checkbox"/> The State attests that the contingency fee paid to the Medicaid RAC will not exceed the highest rate paid to Medicaid RAC's, as published in the Federal Register.</p> <p><input type="checkbox"/> The State attests that the contingency fee paid to the Medicaid RAC will exceed the highest rate paid to Medicare RAC's, as published in the Federal Register. The State will only submit FFP up to the amount equivalent to that published rate.</p> <p><input type="checkbox"/> The contingency fee rate paid to the Medicaid RAC will exceed the highest rate paid to Medicare RAC's, 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>
Section 1902(a)(42)(B)(ii)(II)(bb) of the Social Security Act	<p>* The following payment methodology shall be used to determine State payments to Medicaid RAC's for the identification of underpayments (e.g., amount of flat fee, the percentage of the contingency fee):</p> <p>*Note: Contract arrangements are still in process. The vendor has been selected, but the offer has not yet been made, nor has the payment methodology for underpayments been finalized.</p>

TN No: 10-012

Supersedes

TN No: N/AApproval Date 02/15/11Effective Date: 12/21/10

Revision:

State/Territory: New Hampshire4.5.1 (cont.) Medicaid Recovery Audit Contractor Program

<u>Citation</u>	<u>RAC Program</u>
Section 1902(a)(42)(B)(ii)(III) of the Social Security Act	<u>X</u> 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 Social Security Act	<u>X</u> 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 Social Security Act	<u>X</u> 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 Social Security Act	<u>X</u> 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.

TN No: 10-012

Supersedes

TN No: N/AApproval Date 02/15/11Effective Date: 12/21/10