

## **Table of Contents**

**State/Territory Name: Pennsylvania**

**State Plan Amendment (SPA) #: PA-19-0011**

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  
Center for Medicaid and CHIP Services  
801 Market Street, Suite 9400  
Philadelphia, Pennsylvania 19107



**Regional Operations Group**

SWIFT #060520194040

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July 2, 2019

Teresa Miller  
Secretary  
Pennsylvania Department of Human Services  
625 Forster Street  
Room 333, Health & Welfare Building  
Harrisburg, Pennsylvania 17120

Dear Secretary Miller:

The Centers for Medicare & Medicaid Services (CMS) has completed its review of Pennsylvania's State Plan Amendment (SPA) Transmittal Number 19-0011, "Exception to Continuing the Medicaid Recovery Audit Contractor (RAC) Program." The Pennsylvania Department of Human Services (DHS) requested this exception because, despite publishing a request for proposal for a new contractor, the State was unable to find willing offerors for the succeeding contract period which would have commenced on June 1, 2019. The SPA submission was approved based on the State's representations in the approved SPA pages that Pennsylvania's program integrity activities are executed in both the Fee for Service and Managed Care environments with strong oversight, coordination, and follow-up by DHS' Bureau of Program Integrity.

This SPA was approved on June 27, 2019 with an effective date of June 1, 2019. SPA PA-19-0011 has an expiration date of two years from the effective date or June 1, 2021. Enclosed are:

1. The CMS Summary Page (CMS-179 form); and
2. The approved State Plan pages for PA-19-0011.

If you have any questions concerning this SPA, please contact Mary McKeon at 215-861-4181.

Sincerely,  
/s/

✓  
Acting Deputy Director  
Eastern Regional Operations Group

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER 19-0011	2. STATE Pennsylvania
3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
4. PROPOSED EFFECTIVE DATE June 1, 2019	

TO: REGIONAL ADMINISTRATOR  
CENTERS FOR MEDICARE & MEDICAID SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

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 42 CFR § 455.516	7. FEDERAL BUDGET IMPACT a. FFY 2019 \$0.00 b. FFY 2020 \$0.00
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT 36a, 36b and 36c	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) 36a, 36b and 36c

10. SUBJECT OF AMENDMENT

The State is seeking an exception to continuing the Medicaid Recovery Audit Contractor (RAC) Program

11. GOVERNOR'S REVIEW (Check One)

- GOVERNOR'S OFFICE REPORTED NO COMMENT       OTHER, AS SPECIFIED  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED      Review and approval authority  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL      has been delegated to the Department of Human Services

12. SIGNATURE OF STATE AGENCY OFFICIAL /s/	16. RETURN TO Commonwealth of Pennsylvania Department of Human Services Office of Medical Assistance Programs Bureau of Policy, Analysis and Planning P.O. Box 2675 Harrisburg, Pennsylvania 17105-2675
13. TYPED NAME Teresa D. Miller	
14. TITLE Secretary of Human Services	
15. DATE SUBMITTED MAY 30 2019	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED June 3, 2019	18. DATE APPROVED June 27, 2019
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL June 1, 2019	20. SIGNATURE OF REGIONAL OFFICIAL /s/
21. TYPED NAME Sabrina Tillman-Boyd	22. TITLE Acting Deputy Director

23. REMARKS

State: Commonwealth of Pennsylvania

4.5.1 Medicaid Recovery Audit Contractor Program

<p><u>Citation</u></p> <p>Section 1902(a)(42)(B)(i) of the Social Security Act</p> <p>Section 1902(a)(42)(B)(II)(I) of the Act</p> <p>Section 1902(a)(42)(B)(ii)(II)(aa) of the Act</p>	<p>_____ 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><u>  X  </u> The State is seeking an exception to establishing such program for the following reasons:</p> <p>In accordance with 42 CFR § 455.516, a state may seek to be excepted from some or all Medicaid RAC contracting requirements.</p> <p>Pennsylvania’s Department of Human Services (DHS) established a RAC Program effective June 1, 2011 through a contingency fee-based contract with CGI Federal, Inc. (CGI). This four-year contract included the option for two, two-year extensions, both of which were exercised.</p> <p>Effective September 2015, DHS transferred the remaining term of the contract to Health Management Systems, Inc. (HMS). Pennsylvania’s current contingency fee-based RAC contract will expire on May 31, 2019.</p> <p>DHS publicly released a Request for Proposals (RFP) on November 1, 2018 to seek assistance in performing Retrospective Provider Reviews, including RAC reviews, for the FFS and Managed Care delivery systems, consistent with the requirements set forth in 42 CFR Part 455 Subpart F – Medicaid Recovery Audit Contractors Program.</p> <p>Proposals were due on December 17, 2018. No proposals were received.</p> <p>DHS continues to manage the existing contract and is currently working with HMS to transfer the files, medical records, and data back to DHS staff to continue fee-for-service reviews of short-stay inpatient hospital services, which is the current scope of the RAC.</p> <p>Pennsylvania’s program integrity activities are executed in both the FFS (14%) and Managed Care environments (86%) with strong oversight, coordination, and follow-up by DHS’s Bureau of Program Integrity (BPI). Additionally, DHS has a well-defined</p>
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TN 19-0011  
Supersedes  
TN 15-0018

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State: Commonwealth of Pennsylvania

4.5.1 Medicaid Recovery Audit Contractor Program

	<p>oversight and monitoring process for the MCOs' program integrity responsibilities.</p> <p>Additionally, through a Joint Operating Agreement originating in February 2017, the CMS NE-Unified Program Integrity Contractor (UPIC) routinely conducts audits of Pennsylvania's MA providers. Work has expanded to include various scenarios for data analyses and development of methodology for review of various provider types and scenarios. DHS will consider Credit Balance Reviews as an additional initiative for the UPIC.</p> <p>Despite the fact that DHS put out an RFP, we were unable to find willing offerors to contract in the upcoming RAC program contract period. The existing contract expires on May 31, 2019 and the current vendor has no interest in continuing or extending its duties as a RAC in the upcoming contract period. Therefore, Pennsylvania will be without a RAC and is requesting an exemption from having a RAC in place.</p> <p><u>      </u> The State/Medicaid agency has contracts of the types(s) listed in section 1902(a)(42)(B)(ii)(I) of the Act. All contracts meet the requirements of the statute. RAC's are consistent with the statute.</p> <p>Place a check mark to provide assurance of the following:</p> <p><u>      </u> The State will make payments to the RAC(s) only from amounts recovered.</p> <p><u>      </u> The State will make payments to the RAC(s) on a contingent basis for collecting payments.</p> <p>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):</p> <p><u>      </u> 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><u>      </u> 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>
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4.5.1 Medicaid Recovery Audit Contractor Program

<p>Section 1902(a)(42)(B)(ii)(II)(bb) of the Act</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>
<p>Section 1902(a)(42)(B)(ii)(II) of the Act</p>	<p>_____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):</p>
<p>Section 1902(a)(42)(B)(II)(IV)(aa) of the act</p>	<p>_____The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).</p>
<p>Section 1902(a)(42)(B)(II)(LV)(bb) of the Act</p>	<p>_____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.</p>
<p>Section 1902(a)(42)(B)(ii)(IV)(cc) of the Act</p>	<p>_____The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.</p>
	<p>_____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.</p>