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**State/Territory Name: Rhode Island**

**State Plan Amendment (SPA) #:17-009**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) 179
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
JFK Federal Building, Government Center  
Room 2275  
Boston, Massachusetts 02203



**Division of Medicaid and Children's Health Operations / Boston Regional Office**

November 29, 2017

Eric Beane, Secretary  
Executive Office of Health and Human Services  
State of Rhode Island and Providence Plantations  
74 West Road  
Cranston, RI 02920

Dear Secretary Beane:

Rhode Island SPA 17-009, Recovery Audit Contractor (RAC), is hereby approved with an effective date of July 1, 2017. This State Plan amendment provides a temporary waiver of certain RAC requirements imposed by Section 1902(a)(42) of the Social Security Act effective 7/1/2017-6/30/2020.

In advance of the expiration of this waiver, the state will need to submit an amendment to the state plan to achieve the Medicaid program's compliance with the Recovery Audit Contract requirements.

If you have any questions regarding this matter you may contact Lynn DelVecchio (401) 384-0454 or by e-mail at [Lynn.DelVecchio@cms.hhs.gov](mailto:Lynn.DelVecchio@cms.hhs.gov)

Sincerely,

Richard R. McGreal  
Associate Regional Administrator

Cc: Patrick Tigue, Medicaid Director  
Melody Lawrence, Interdepartmental Project Manager

MDS-30

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

1. TRANSMITTAL NUMBER:  
17-009

2. STATE  
RI

**FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES**

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

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

4. PROPOSED EFFECTIVE DATE  
July 1, 2017

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:  
FFY 17: \$ 0  
FFY 18: \$ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Page 36b, 36c, 36d

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (*If Applicable*):

N/A

10. SUBJECT OF AMENDMENT:

Exemption from the Recovery Audit Contractor Program

11. GOVERNOR'S REVIEW (*Check One*):

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

XX  OTHER, AS SPECIFIED:  
See Attached Letter

12. SIGNATURE OF STATE AGENCY OFFICIAL:

[Redacted Signature]

16. RETURN TO:

13. TYPED NAME: Eric Beane

EOHHS  
74 West Rd, Bldg. 74  
Cranston, RI 02920

14. TITLE: Secretary

15. DATE SUBMITTED: September 8, 2017

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED: September 8, 2017

18. DATE APPROVED: November 28, 2017

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL: 7/1/17-6/30/2020

20. SIGNATURE OF REGIONAL OFFICIAL:  
/s/

21. TYPED NAME: Richard R. McOreal

22. TITLE: Associate Regional Administrator, Division of Medicaid  
& Children's Health, Boston Regional Office

23. REMARKS:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory:                     Rhode Island                    

4.5b Medicaid Recovery Audit Contractor Program

<p>Citation Section 1902(a)(42)(B)(i) of the Social Security Act</p>	<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:</p> <ul style="list-style-type: none"> <li>• Rhode Island had in place a contingency fee based RAC contract from April 2012 through April 2015. The State tried to exercise the two (2) option years at the end of the original term and the Contractor refused, on the premise that the return on investment, net of the contingency fee, for the three (3) year original term did not justify continuing with the program;</li> <li>• According to recovery audit firms contacted by EOHHS, it is not cost-beneficial for auditing firms to submit bids due to the small number of enrollees and claims in our non-managed care programs;</li> <li>• EOHHS has strong and effective controls that minimize the risk of improper payments. These include a robust pre- and post - payment automated review mechanisms and numerous additional audit controls to prevent and detect improper payments, implemented in collaboration with the agency's fiscal agent. Additionally, EOHHS has contractual relationships with a Pharmacy Benefit Manager, to ensure that through robust claims processing controls, concurrent and retrospective review of claims, and referrals to Program Integrity as needed, our beneficiaries receive medically necessary medications in the most cost-effective manner.</li> <li>• EOHHS Program Integrity staff works closely with the Medicaid Fraud Control Unit (MFCU) on areas of focus that are aligned with the agency's strategic plan.</li> <li>• Several federal and state agencies conduct periodic reviews of the Medicaid eligibility systems, the claims processing function, and the Program Integrity unit, including:             <ul style="list-style-type: none"> <li>- A focused review by CMS on Program Integrity in June 2016. Results from this comprehensive review of the managed care programs communicated that the state demonstrated strong MCO program oversight and strong commitment by the state to program integrity.</li> </ul> </li> </ul>
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TN No: 17-009

Supersedes

TN No: NEW

Approval Date: 11/28/2017

Effective Date:                     

7/1/17-6/30/2020

	<ul style="list-style-type: none"> <li>- CMS Payment Error Rate Measurement (PERM) project involves review of more than 2,000 RI Medicaid FFS and Managed Care Claims for data processing accuracy and medical necessity.</li> <li>- Single State Audit is conducted annually by the Rhode Island Auditor General; completing an in-depth audit of Medicaid provider enrollment, program, and claims controls. The auditors annually conduct comprehensive reviews of the design and effectiveness of EOHHS' internal controls, sample a wide range of claims, and make recommendations for improved compliance with state and federal guidelines.</li> <li>- In 2016 Rhode Island went live with pre and post payment modelling software that looks at FFS claims and managed care encounters for trends that may warrant further investigation by the PI unit.</li> <li>- On June 1, 2016 EOHHS went live with a state-sponsored electronic visit verification system for all Home Health and Home Care agencies.</li> </ul>
<p>Section 1902(a)(42)(B)(ii)(I) of the Act</p>	<p>___ 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>___ The State will make payments to the RAC(s) only from amounts recovered.</p> <p>___ The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.</p>
<p>Section 1902 (a)(42)(B)(ii)(II)(aa) of the Act</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>___ 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>

Section 1902 (a)(42)(B)(ii)(II)(bb) of the Act	<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): The state will pay a contingency fee rate at the same percentage as for overpayments</p>
Section 1902 (a)(42)(B)(ii)(III) of the Act	<p>___ The State has an adequate appeals process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).</p>
Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act	<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>
Section 1902 (a)(42)(B)(ii)(IV)(bb) of the Act	<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>
Section 1902 (a)(42)(B)(ii)(IV)(cc) of the Act	<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>

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