

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: 10-11	2. STATE: South Dakota
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	4. PROPOSED EFFECTIVE DATE: October 1, 2010	
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: 1902(a)(42)(B)(i) of the Act (Section 6411 of the Affordable Care Act)	7. FEDERAL BUDGET IMPACT: a. FY 2011 \$ 0 b. FY 2012 \$ 0
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Section 4 5b, new Pages 36b and 36c.	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Section 4 5b, new Pages 36b and 36c.
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10. SUBJECT OF AMENDMENT:

This State Plan Amendment complies with statutory requirement that the State implement a recovery audit contractors (RACs) program or request exemption. South Dakota is requesting exemption.

11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 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: DEBORAH K. BOWMAN	DEPARTMENT OF SOCIAL SERVICES DIVISION OF MEDICAL SERVICES 700 GOVERNORS DRIVE PIERRE, SD 57501-2291
14. TITLE: Department Secretary	
15. DATE SUBMITTED:	

FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED: 11/9/10	18. DATE APPROVED: 2/7/11

PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: 10/1/10	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME: Richard C. Allen	22. TITLE: ARA, DMCHO

23. REMARKS:

FORM CMS-179 (07-92)

State: South Dakota

Citation 4.5b

Medicaid Recovery Audit Contractor ProgramSection 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.

X The State is seeking an exception to establishing such program for the following reasons:

1. The State maintains a very low rate of errors in Medicaid payments, as evidenced by the most recent PERM review; and
2. The State's estimate of the potential amount of payment errors to be recovered is low based in part on relatively low Medicaid enrollment and associated expenditures such that there would not be enough revenue generated to fund an adequate enough contingency fee to attract sufficient bidding attention from vendors. In its fiscal year 2010 the State had total Medicaid expenditures of \$729,744,861 and 98,817 average enrollees per month.

This state plan amendment (SPA) will be in effect until May 31, 2013. Prior to that time, the State will analyze the 2011 PERM results, and most timely Medicaid enrollment and associated Medicaid expenditures and, based on that analysis, submit to CMS either

1. A new request for an exception; or
2. A SPA establishing the State's RAC program.

_____ 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.

TN No: 10-11
Supersedes
TN No: NEW

Approval Date: 2/7/11

Effective Date: 10/01/10

State: South Dakota

Citation 4.5b

Medicaid Recovery Audit Contractor Program, continued

Place a check mark to provide assurance of the following:

Section 1902(a)(42)
(B)(ii)(I) of the Act The State will make payments to the RAC(s) only from amounts recovered.Section 1902(a)(42)
(B)(ii)(II)(aa) of the Act The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.

The following payment methodology shall be used to determine State payments to Medicaid RACs for recovered overpayments (e.g., the percentage of the contingency fee):

Section 1902(a)(42)
(B)(ii)(II)(bb) of the Act The State attests that if 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 following payment methodology shall be used to determine State payments to Medicaid RACs for underpayments: The State will submit a justification seeking to pay the Medicaid RAC(s) a contingency fee higher than the highest contingency fee rate paid to Medicare RACs as published in the *Federal Register*.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.TN No: 10-11
Supersedes
TN No: NEWApproval Date: 2/7/11Effective Date: 10/01/10