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## Table of Contents

**State/Territory Name:** Utah

**State Plan Amendment (SPA) #:** UT-16-0027

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  
1961 Stout Street, Room 08-148  
Denver, CO 80294



**Region VIII**

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November 8, 2016

Joseph K. Miner, M.D., MSPH, Executive Director  
Utah Department of Health  
P.O. Box 141000  
Salt Lake City, UT 84114-1000

RE: Utah #16-0027

Dear Dr. Miner:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number (TN) 16-0027. This State Plan Amendment reimburses recovery audit contractors on a flat-fee basis rather than a contingency basis for the work of identifying overpayments and underpayments in the Medicaid program.

Please be informed that this State Plan Amendment was approved today with an effective date of October 1, 2016. We are enclosing the CMS-179 and the amended plan page(s).

If you have any questions concerning this amendment, please contact Mandy Strom at (303) 844-7068.

Sincerely,



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

cc: Nathan Checketts, Acting Medicaid Director, UT  
Craig Devashrayee, UT

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: HEALTH CARE FINANCING ADMINISTRATION**

- |  |                   |
|--|-------------------|
| 1. TRANSMITTAL NUMBER:<br>16-0027-UT                                       | 2. STATE:<br>Utah |
| 3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) |                   |
| 4. PROPOSED EFFECTIVE DATE<br>October 1, 2016                              |                   |

TO: REGIONAL ADMINISTRATOR  
HEALTHCARE FINANCING ADMINISTRATION  
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:  
  
Subsection 1902(a)(42)(B) of the Social Security Act

7. FEDERAL BUDGET IMPACT:  
a. SFY 2017    \$0  
b. SFY 2018    \$0


8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  
  
Pages 36b and 36c of Section 4

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)  
  
Pages 36b and 36c of Section 4

10. SUBJECT OF AMENDMENT: Medicaid Recovery Audit Contractors

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:  
  
13. TYPED NAME: Joseph R. Miner, M.D.  
14. TITLE: Executive Director, Utah Department of Health  
15. DATE SUBMITTED: October 11, 2016


16. RETURN TO:  
  
Craig Devashrayee, Manager  
Technical Writing Unit  
Utah Department of Health  
PO Box 143102  
Salt Lake City, UT 84114-3102

17. DATE RECEIVED:  
  
October 11, 2016

18. DATE APPROVED:  
  
November 8, 2016

FOR REGIONAL USE ONLY

19. EFFECTIVE DATE OF APPROVED MATERIAL:  
  
October 1, 2016

20. SIGNATURE OF REGIONAL OFFICIAL:  


21. TYPED NAME:  
  
Trinia J. Hunt

22. TITLE:  
  
Acting ARA, DMCHO

PLAN APPROVED - ONE COPY ATTACHED

23. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
MEDICAL ASSISTANCE PROGRAM

State: UTAH

SECTION 4 - GENERAL PROGRAM ADMINISTRATION (Continued)

4.5 Medicaid Recovery Audit Contractor Program

<p><u>Citation</u></p> <p>Subsection 1902(a)(42)(B)(i) of the Social Security Act</p> <p>Subsection 1902(a)(42)(B)(ii)(I) of the Social Security Act</p> <p>Subsection 1902(a)(42)(B)(ii)(II)(aa) of the Social Security Act</p>	<p><u>X</u> 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>___ The State is seeking an exception to establishing such program for the following reasons:</p> <p>Utah is completing the procurement process for a new Recovery Audit Contractor (RAC). The statute requires that "under such contracts, payment shall be made to such a contractor only from amounts recovered." Due to Utah's recent change in statute that requires the State to use a flat fee instead of a contingency fee, initial flat-fee payments may not come directly from recoveries.</p> <p>The State, however, has a plan to ensure that over time, flat-fee payments will not be higher than related recoveries.</p> <p>Within a given fiscal year, the State will compare the absolute value of RAC identified over or under payments to the flat fees paid to the RAC in order to demonstrate that the State is in compliance with the intent of this particular statute. In the event, that flat fees for a given fiscal year are larger than the absolute value of cumulative adjustments, the State will not seek federal financial participation for this difference.</p> <p>Subsection 1902(a)(42)(B)(ii)(II)(aa) of the Social Security Act requires the State to make payments to the RAC on a contingent basis for collecting overpayments. The State requests an exception to this requirement due to a change in statute that prevents the State from paying on a contingency basis (See S.B. 61 of the 2015 General Session of the Utah Legislature).</p> <p>Regulation requires 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. The State also requests an exception this regulation, but is doing the following to comply with the intent of the law:</p> <p>Total yearly recoveries for the RAC (including the absolute value of underpayments) are expected to meet or exceed the target for the year. The target is based on the annual flat-fee amount being paid multiplied by 10. Every six months, formal monitoring of year-to-date RAC recoveries will take place where Medicaid will reserve the right after one year to renegotiate the annual flat fee if recoveries and adjustments are significantly higher or lower than expectations.</p>
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T.N. # 16-0027

Approval Date 11/08/16

Supersedes T.N. # 10-018

Effective Date 10-1-16

