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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

TN: UT-16-0027 **Approval Date:** 11/08/2016 **Effective Date** 10/01/2016

DEPARTMENT OF HEALTH & HUMAN SERVICES Centers for Medicare & Medicaid Services 1961 Stout Street, Room 08-148 Denver, CO 80294



Region VIII

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES HEALTHCARE FINANCING ADMINISTRATION	FORM APPROVED OMB NO. 0938-0193
TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: 2. STATE: Utah
FOR: HEALTH CARE FINANCING ADMINISTRATION	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIA SECURITY ACT (MEDICAID)
TO: REGIONAL ADMINISTRATOR HEALTHCARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES 5. TYPE OF PLAN MATERIAL (Check One)	4. PROPOSED EFFECTIVE DATE October 1, 2016
<u> </u>	O BE CONSIDERED AS NEW PLAN AMENDMENT AN AMENDMENT (Separate Transmittal for each amendment)
6. FEDERAL STATUTE/REGULATION CITATION:	7. FEDERAL BUDGET IMPACT: a. SFY <u>2017</u> \$ <u>0</u>
Subsection 1902(a)(42)(B) of the Social Security Act	b. SFY <u>2018</u> \$ <u>0</u>
PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Pages 36b and 36c of Section 4	PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)
 10. SUBJECT OF AMENDMENT: Medicaid Recovery Audit Control 11. GOVERNOR'S REVIEW (Check One): GOVERNOR'S OFFICE REPORTED NO COMMENT 	actors OTHER, AS SPECIFIED:
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTA	AL .
12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO:
13. TYPED NAME, OCSOPITA, WINCI, W.D.	Craig Devashrayee, Manager Technical Writing Unit Utah Department of Heath
14. TITLE: Executive Director, Utah Department of Health	PO Box 143102 Salt Lake City, UT 84114-3102
15. DATE SUBMITTED: October 11, 2016	
16. 17. DATE RECEIVED	18 DATE APPROVED:
October 11, 2016 FOR REGION,	November 8, 2016 AL USE ONLY
19. EFFECTIVE DATE OF APPROVED MATERIAL.	20. SIGNATURE OF REGIONAL OFFICIAL:
October 1, 2016 21. TYPED NAME:	22. TITLE
Trinia J. Hunt PLAN APPROVED — ON	Acting ARA, DMCHO JE COPY ATTACHED
23 REMARKS	

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		
<u>Citation</u>		
Subsection 1902(a)(42)(B)(i) of the Social Security Act	X_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.	
	The State is seeking an exception to establishing such program for the following reasons:	
Subsection 1902(a)(42)(B)(ii)(I) of the Social Security Act	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.	
	The State, however, has a plan to ensure that over time, flat-fee payments will not be higher than related recoveries.	
	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.	
Subsection1902(a)(42)(B)(ii)(II)(aa) of the Social Security Act	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).	
	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:	
	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.	

Approval Date <u>11/08/16</u>

Effective Date _____10-1-16

16-0027

Supersedes T.N. # ____10-018

T.N. # ___

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

SECTION 4 - GENERAL PROGRAM ADMINISTRATION (Continued)

State: UTAH

Subsection1902(a)(42)(B)(ii)(II)(bb) of the Act	X 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):	
	Payments to Utah's Medicaid RAC for identification and recovery of underpayments will be part of a monthly flat fee. This monthly flat fee will serve as payment for identification and recovery of overpayments as well.	
Subsection1902(a)(42)(B)(ii)(III) of the Act	X_The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).	
Subsection1902(a)(42)(B)(ii)(IV) (aa) of the Act	X 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.	
Subsection1902(a)(42)(B)(ii)(IV)(bb) of the Act	X_The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.	
Subsection1902(a)(42)(B)(ii)(IV)(c c) of the Act	X_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.	