

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



CENTERS for MEDICARE & MEDICAID SERVICES

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

February 16, 2011

Douglas A. Racine, Secretary
Agency of Human Services
103 South Main Street
Waterbury, Vermont 05671-0204

Dear Mr. Racine:

We are pleased to enclose a copy of approved State plan amendment (SPA) No. 11-005. This SPA is effective April 1, 2011 as requested.

This SPA transmitted a proposed amendment to your approved Title XIX State plan to indicate that you will establish a Medicaid Recovery Audit Contractor (RAC) program as required by Federal Medicaid law. Under §1902(a)(42)(B)(i) of the Social Security Act (the Act) as added by § 6411 of the Affordable Care Act, public law 111-148. States are required to establish programs to contract with one or more Medicaid RACs for the purpose of identifying underpayments and overpayments and recouping overpayments under the State plan and under any waiver of the State plan with respect to all services for which payment is made to any entity under such plan or waiver.

Please note that we approve this amendment as revised. Your staff added text to the plan pages to indicate that the Department of Vermont Health Access is in the process of amending an existing contract that will meet the requirements of §1902(a)(42)(B)(ii)(I) of the Act.

Should you have any questions or concerns, please contact Chong Tieng. He can be reached at (617) 565-9157.

Sincerely,

/s/

Richard R. McGreal
Associate Regional Administrator

Enclosure

cc: Susan Besio

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES		1. TRANSMITTAL NUMBER: 11 -- 005	2. STATE: VERMONT
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE(S) APRIL 1, 2011	
5. TYPE OF PLAN MATERIAL (CHECK ONE):			
<input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: SSA 1902(a)(42)(B)(i)		7. FEDERAL BUDGET IMPACT: a. FFY 2011 \$ TBD b. FFY 2012 \$ TBD	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: 36B & 36C		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) N/A	
10. SUBJECT OF AMENDMENT: RECOVERY AUDIT CONTRACTOR (RAC)			
11. GOVERNOR'S REVIEW (Check One):		<input checked="" type="checkbox"/> OTHER, AS SPECIFIED	
<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		SIGNATURE OF SECRETARY OF ADMINISTRATION	
12. SIGNATURE OF STATE AGENCY OFFICIAL:		16. RETURN TO:	
13. TYPED NAME: ROBERT HOFMANN		LINDSEY WELLS	
14. TITLE: SECRETARY, AGENCY FOR HUMAN SERVICES		DEPARTMENT OF VERMONT HEALTH ACCESS 312 HURRICANE LANE, SUITE 201 WILLISTON, VT 05495	
15. DATE SUBMITTED: 12/30/10			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: December 30, 2010		18. DATE APPROVED: February 16, 2011	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: April 1, 2011		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: Richard R. McGreal		22. TITLE Associate Regional Administrator Division of Medicaid and Children's Health Operations	
23. REMARKS			

New: December 31, 2010

State: Vermont

4.5b Medicaid Recovery Audit Contractor Program

Citation

Section 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.

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

Section 1902(a)(42)(B)(ii)(I)
of the Act

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.*

Place a check mark to provide assurance of the following:

The State will make payments to the RAC(s) only from amounts recovered.

The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.

Section 1902(a)(42)(B)(ii)(II)(aa)
of the Act

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):

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.

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.

* DVHA is currently in the process of amending an existing contract that will meet these requirements.

TN No. 11-005

Supersedes

TN No. None

Effective Date: 04/01/11

Approval Date: 02/16/11

State: Vermont

- Section 1902(a)(42)(B)(ii)(II)(bb) of the Act
- Section 1902(a)(42)(B)(ii)(III) of the Act
- Section 1902(a)(42)(B)(ii)(IV)(aa) of the Act
- Section 1902(a)(42)(B)(ii)(IV)(bb) of the Act
- Section 1902(a)(42)(B)(ii)(IV)(cc) of the Act
- 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.
- 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): Underpayments methodology will be a percentage of the contingency fee that will be established in contract.
- The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).
- 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.
- The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.
- 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. 11-005
 Supersedes
 TN No. None

Effective Date: 04/01/11Approval Date: 02/16/11