

Table of Contents

State Name: West Virginia

State Plan Amendment (SPA) #: 10-08

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
150 S. Independence Mall West
Suite 216, The Public Ledger Building
Philadelphia, Pennsylvania 19106-3499



Region III/Division of Medicaid and Children's Health Operations

SWIFT #011420114026

MAR 28 2011

Ms. Nancy V. Atkins
Commissioner
Bureau for Medical Services
Department of Health and Human Resources
350 Capitol Street, Room 251
Charleston, West Virginia 25301-3706

Dear Ms Atkins:

We are pleased to inform you of the approval of West Virginia State Plan Amendment (SPA) 10-08, which allows the State to establish programs to contract with one or more Medicaid Recovery Audit Contractors (RACs) in accordance with Section 6411 of the Affordable Care Act. The Medicaid RAC will identify overpayments and underpayments and recoup overpayments under the State Plan and under any waiver of the State Plan. Enclosed is a copy of the approved SPA and signed CMS-179. The effective date is December 1, 2010.

If you have any questions, please contact Donna Fischer of my staff at (215) 861-4221.

Sincerely,

/S/

Ted Gallagher
Associate Regional Administrator

Enclosures

cc: Bonnie Harris, CMS/CPI

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: 1 0 - 0 8	2. STATE: West Virginia
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
4. PROPOSED EFFECTIVE DATE December 1, 2010			
5. TYPE OF PLAN MATERIAL (Check One)			
<input checked="" type="checkbox"/> NEW STATE PLAN <input checked="" type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: <i>42 CFR 454</i> 42 CFR 454.101-454.104		7. FEDERAL BUDGET IMPACT: a. FFY 2011 \$ 975,108.05 b. FFY 2012 \$ 3,996,544.97	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.5, pages 1-3		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable). Attachment 4.5, pages 1-3	
10. SUBJECT OF AMENDMENT: This state plan amendment establishes a program under which the Bureau for Medical Services 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.			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input checked="" type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: <i>/S/</i>		16. RETURN TO: Bureau for Medical Services 350 Capitol Street Room 251 Charleston West Virginia 25301	
13. TYPED NAME: Nancy V. Atkins, RN, MSN, NP-BC			
14. TITLE: Commissioner			
15. DATE SUBMITTED: 1-4-11			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED JANUARY 4, 2011		18. DATE APPROVED MAR 28 2011	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: DECEMBER 1, 2010		20. SIGNATURE OF REGIONAL OFFICIAL: /S/	
21. TYPED NAME: TED GALLAGHER		22. TITLE ASSOCIATE REGIONAL ADMINISTRATOR, DMCH	
23. REMARKS:			

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: West Virginia

Attachment 4.5

Page 1

PROPOSED SECTION 4 – GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program

Citation	
Section 1902(a)(42)(B)(i) of the Social Security Act	<p><input checked="" 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 type="checkbox"/> The State is seeking an exception to establishing such program for the following reasons:</p>
Section 1902(a)(42)(B)(ii)(I) of the Act	<p><input checked="" type="checkbox"/> 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><input checked="" type="checkbox"/> The State will make payments to the RAC(s) only from amounts recovered.</p> <p><input checked="" type="checkbox"/> The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.</p>
Section 1902(a)(42)(B)(ii)(II)(aa) of the act	<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><input checked="" type="checkbox"/> 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><input type="checkbox"/> 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><input type="checkbox"/> 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>

TN No: 10-08 Approval Date: March 28, 2011 Effective Date: DECEMBER 1, 2010
 Supersedes: New

PROPOSED SECTION 4 -- GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program

<u>Citation</u>	
Section 1902(a)(42)(B)(ii)(II)(bb) of the Act	<input checked="" type="checkbox"/> The following payment methodology shall be used to determine State payments to Medicaid RAC's for the identification of underpayments (e.g., amount of flat fee, the percentage of the contingency fee): The State will pay a contingency fee to the RAC. The contingency fee shall be no more than the highest Medicare RAC in effect at the time of payment.
Section 1902(a)(42)(B)(ii)(III) of the Act	<input checked="" type="checkbox"/> 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	<input checked="" type="checkbox"/> 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	<input checked="" type="checkbox"/> 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	<input checked="" type="checkbox"/> 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: 10-08Approval Date: March 28, 2011Effective Date: DECEMBER 1, 2010Supersedes: New

...