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State/Territory Name: Kentucky

State Plan Amendment (SPA)#: 24-0011

This file contains the following documents in the order listed

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES Centers for Medicare & Medicaid Services 601 East12th Street, Suite 0300 Kansas City, Missouri 64106-2898



Medicaid and CHIP Operations Group

August 29, 2024

Ms. Lisa Lee Commissioner, Department for Medicaid Services Commonwealth of Kentucky Cabinet for Health and Human Services 275 East Main Street, 6 West A Frankfort, KY 40601

RE: State Plan Amendment (SPA) Transmittal Number 24-0011

Dear Commissioner Lee:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 24-0011. This amendment proposes to request an extension of the state's approved exception to establishing a recovery audit contractor.

We conducted our review of your submittal according to statutory requirements in Section 1902(a)(42)(B)(i) of the Social Security Act. This letter is to inform you that KY Medicaid SPA 24-0011 was approved on September 29, 2024, with an effective date from July 1, 2024 through June 30, 2026.

Enclosed are copies of Form CMS-179 and approved SPA pages to be incorporated into the Kentucky State Plan.

If you have any questions regarding this State Plan Amendment, please have a member of your staff contact Keri Toback at 312 353 1754 or by email at keri.toback@cms.hhs.gov.

Sincerely,

Digitally signed by James
G. Scott -S
Date: 2024.08.29 18:16:14
-05'00'

James G. Scott, Director Division of Program Operations

Enclosures

cc: Erin Bickers, KY DMS

CENTERS FOR MEDICALD SERVICES	3
TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER 2. STATE 2 4 — 0 0 1 1
	3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT XIX XXI
TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE July 1,2024
5. FFDEPAL STATUTE/REGULATION CITATION Section 1902(a)(42)(B)(i) of the Social Security Act	6. FFDEPAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY 2024 \$ (9) b. FFY 2025 \$ (9)
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Page 36.a Page 36.a1	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Page 36.a Page 36.a1
9. SUBJECT OF AMENDMENT The purpose of this SPA is to request an extention of our approved CMS approvied KY SPA 22-001, which approved an extentsion three	
10. GOVERNOR'S PEVIEW (Check One) GOVERNOR'S OFFICE REPORTED NO COMMENT COMMENTS OF GOVERNOR'S OFFICE ENCLOSED NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	OTHER, ASSPECIFIED:
	5. RET⊔RN TO isa Lee
9.5	75 E, Main St, 6 W-A
12. TYPED NAME Lisa D. Lee	rankfort, KY 40601
13. TITLE	
Commissioner	
14. DATE SUBMITTED 7/22/2024	
FOR CMS US	SF ONLY
16. DATE RECEIVED	7. DATE APPROVED
07/22/2024	08/29/2024
PLAN APPROVED - ON	
Mark of the second of the seco	9. SIGNATURE OF APPROVING OFFICIAL Digitally signed by James G. Scott -S
07/01/2024	Date: 2024.08.29 18:16:46 -05'00'
20. TYPED NAME OF APPROVING OFFICIAL 2	21. TITLE OF APPROVING OFFICIAL
James G. Scott	Director, Division of Program Operations
22. PEMARKS	

SECTION 4 – GENERAL PROGRAM ADMINISTRATION

4.5.1 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:

On 8/16/19, the Commonwealth of Kentucky was informed by our current RAC, Optum that they will not be interested in contracting with the Commonwealth after the contract ends in 3/31/20. Optum has been our sole respondent to our last two (2) RFP postings RFP 758 1700000001 (current contractual agreement effective 4/4/17)) and RFP 758 1000000342 (prior contractual agreement effective 10/4/10).

After consulting with CMS and observing the trends in other states (and our experience with lack of responses in the bidding process), the Commonwealth did not believe it was practical to put out a proposal at that time. The Commonwealth also believed that by utilizing alternative resources that provider recovery will be more successful than utilizing a Recovery Audit Contractor that in our experience struggled with the implementation of MCO recovery. We believed our alternative resources would align with federal guidelines and program initiatives to detect and protect the State Medicaid Program from fraud and abuse by providers and recipients as applicable.

TN No. 24-011 Supersedes TN No.: 22-001

Approved Date: <u>08/29/2024</u> Effective Date: <u>07/01/2024</u>

SECTION 4 – GENERAL PROGRAM ADMINISTRATION

4.5.1 Medicaid Recovery Audit Contractor Program (EXCEPTIONS)

Our Alternative Resources are as follows:

The Commonwealth intends to continue the utilization of the Joint Operating Agreement with the CMS Unified Program Integrity Contractor (UPIC), CoventBridge Group, to include audits of the providers that the Kentucky RAC previously conducted. We have expanded our Managed Care Organizations (MCO) audits with CoventBridge Group to include data driven analytics (algorithms) to identify overpayments (and underpayments as applicable). We had begun this process, but implementation was slowed due to COVID-19. The Commonwealth is also researching the possibility of contracting with a state university to identify possible overpayments (and underpayments if applicable) on both MCO encounters (and the actual claims if necessary) and Fee for Service (FFS) claims. Commonwealth would first like to explore the effectiveness of our UPIC before implementing next steps and contracting with another entity. Additionally, we also have added resources to our Audits and Compliance Branch in the Division of Program Integrity that may lead to additional identification of overpayments and possible referrals to the UPIC on providers that require an intensive medical record review.

TN No. <u>24-011</u> **Supersedes**Approved Date: <u>08/29/2024</u>

Effective Date: 07/01/2024

TN No.: 22-001