

## **Table of Contents**

**State/Territory Name: New Jersey**

**State Plan Amendment (SPA) #: 20-0002**

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 East 12th Street, Suite 355

Kansas City, Missouri 64106-2898



Medicaid and CHIP Operations Group

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May 22, 2020

Jennifer Langer Jacobs  
State Medicaid Director  
NJ Department of Human Services  
Division of Medical Assistance and Health Services  
P.O. Box 712  
Trenton, NJ 08625-0712

RE: SPA #20-0002

Dear Ms. Jacobs:

This is to notify you that New Jersey's State Plan Amendment (SPA) #20-0002, "Exception to Medicaid Recovery Audit Contractor Program Requirements," has been approved as of May 18, 2020, for a two-year time period, for adoption into the State Medicaid Plan, with an effective date of January 1, 2020, and an expiration date of December 31, 2022.

If you have any questions or wish to discuss this SPA further, please contact Michael Cutler of this office. Mr. Cutler may be reached at (212) 616-2421.

Sincerely,



Ruth A. Hughes, Acting Director  
Division of Program Operations

Enclosures

cc: Nicole McKnight  
Mike Cutler  
Yolanda Morris

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

**FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

**TO: REGIONAL ADMINISTRATOR  
CENTERS FOR MEDICARE & MEDICAID SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

1. TRANSMITTAL NUMBER:  
20-0002 MA

2. STATE  
New Jersey

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE  
SOCIAL SECURITY ACT (MEDICAID)

4. PROPOSED EFFECTIVE DATE  
January 1, 2020

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:

Social Security Act 1902(a)(42)(B)(i)

7. FEDERAL BUDGET IMPACT:

a. FFY 2020 \$0  
b. FFY 2021 \$0

8. PAGE NUMBER OF THE PLAN SECTION OR  
ATTACHMENT:

Section 4.5 pages 1 and 2  
Section 4.5 page 3

9. PAGE NUMBER OF THE SUPERSEDED PLAN  
SECTION OR ATTACHMENT (*If Applicable*):

Same  
New

10. SUBJECT OF AMENDMENT:

State Plan Amendment requesting an exception from the Recovery Audit Contractor (RAC) program requirements.

11. GOVERNOR'S REVIEW (*Check One*):

- GOVERNOR'S OFFICE REPORTED NO COMMENT  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:  
Not required, pursuant to 7.4 of the Plan

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME: Carole Johnson

14. TITLE: Commissioner,  
Department of Human Services

15. DATE SUBMITTED:  
3/31/20

16. RETURN TO:

Jennifer Langer Jacobs, Assistant Commissioner  
Division of Medical Assistance and Health  
Services  
P.O. Box 712, Mail Code #26  
Trenton, NJ 08625-0712

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED: 03/31/2020

18. DATE APPROVED: 05/18/2020

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL:  
01/01/2020

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME: Ruth A. Hughes

22. TITLE: Acting Director  
Division of Program Operations

23. REMARKS:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
STATE OF NEW JERSEY

4.5 Medicaid Recovery Audit Contractor Program

<p><u>Citation</u></p> <p>Section 1902(a)(42)(B)(i) of the Social Security Act</p> <p>Section 1902(a)(42)(B)(ii)(I) of the Act</p> <p>Section 1902 (a)(42)(B)(ii)(II)(aa) of the Act</p>	<p>NA The State established a program under which it contracts 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>X The State is seeking an exception to utilizing such program until January 1, 2022 for the following reasons:</p> <ol style="list-style-type: none"> <li>1. 42 CFR 455.506(a)(1) provides that states may exclude Medicaid managed care claims from review by Medicaid RACs. As of December 2019, 93.5% of all Medicaid/NJ FamilyCare beneficiaries participate in managed care.</li> <li>2. Two of the larger RAC projects previously performed as RAC projects were removed from the RAC purview and delegated to two other RFPs: (a) the State’s TPL vendor, managed by MFD, assumed responsibility for seeking recoveries based on Long Term Care patient liability and credit balance claims; and (b) DMAHS’ hospital audit vendor assumed responsibility to perform utilization reviews for inpatient hospital claims.</li> <li>3. Additionally, the MFD has robust Audit, Investigation and Data Mining Units that seek recoveries based on fraud, waste or abuse in both the Fee-for-service and Medicaid Managed Care areas. From these efforts, MFD recovered more than \$23 million during SFY 2019 and the first half of FY2020.</li> </ol> <p>NA 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>NA The State will make payments to the RAC(s) only from amounts recovered.</p> <p>NA The State will make payments to the RAC(s) on a contingent Basis for collecting overpayments.</p>
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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
STATE OF NEW JERSEY

4.5 Medicaid Recovery Audit Contractor Program

<p>Section 1902 (a)(42)(B)(ii)(II)(bb) of the Act</p>	<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): (rate has not yet been determined)</p>
<p>Section 1902 (a)(42)(B)(ii)(III) of the Act</p>	<p>NA 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>Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act</p>	<p>NA 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>Section 1902(a)(42)(B)(ii)(IV)(bb) of the Act</p>	<p>NA 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>
<p>Section 1902(a)(42)(B)(ii)(IV)(cc) Of the Act</p>	<p>NA 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): Contingency based on underpayments identified.</p>
<p>Section 1902 (a)(42)(B)(ii)(IV)(cc) Of the Act</p>	<p>NA The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).</p>
<p>Section 1902 (a)(42)(B)(ii)(IV)(cc) Of the Act</p>	<p>NA 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.</p>
<p>Section 1902 (a)(42)(B)(ii)(IV)(cc) Of the Act</p>	<p>NA The State assures that the recovered amounts will be subject a State's quarterly expenditure estimates and funding of the State's share.</p>

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
STATE OF NEW JERSEY

4.5 Medicaid Recovery Audit Contractor Program

	NA 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.