

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
San Francisco Regional Office
90 Seventh Street, Suite 5-300 (5W)
San Francisco, CA 94103-6706



DIVISION OF MEDICAID & CHILDREN'S HEALTH OPERATIONS

August 31, 2017

Mari Cantwell
Chief Deputy Director, Health Care Programs
California Department of Health Care Services
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

Dear Ms. Cantwell:

Enclosed is an approved copy of California State Plan Amendment (SPA) 16-043. This SPA was submitted to my office on September 16, 2016 to request an exception from renewing the Recovery Audit Contractor (RAC) under Section 1902(a)(42)(B)(i) of the Social Security Act once the agreement expires on January 1, 2017. CMS is granting this exception request based on the documentation provided by the Department that it has active program integrity contractors performing work similar to RAC.

The effective date of this SPA starts on January 1, 2017 and ends on February 1, 2020. Enclosed are the following approved SPA pages that should be incorporated into your approved State Plan:

- Section 4.5, pages 36 and 36a – 36c

If you have any questions, please contact Cheryl Young by phone at (415) 744-3598 or by email at Cheryl.Young@cms.hhs.gov.

Sincerely,

/s/

Henrietta Sam-Louie
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

Enclosure

cc: Mark Mimnaugh, California Department of Health Care Services (DHCS)
Rakesh Heer, DHCS
Kathryn Hulse, DHCS
Nova Montgomery, DHCS

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

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER

1 6 — 0 4 3

2. STATE

CA

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

January 1, 2017

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

Section 1902 (a) (42) (B) (i) of the Social Security Act
42 CFR Part 455, Subpart C

7. FEDERAL BUDGET IMPACT

a. FFY 2017 \$ 0
b. FFY 2018 \$ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Section 4.5, pages 36, 36a, 36b, 36c

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Section 4.5, pages 36, 36a, ~~36b, 36c~~

10. SUBJECT OF AMENDMENT

Recovery Audit Contractor: Exception from establishing RAC

11. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT

OTHER, AS SPECIFIED

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

16. RETURN TO

Department of Health Care Services
ATTN: State Plan Coordinator
1501 Capitol Avenue, MS 4506
P.O. Box 997417
Sacramento, CA 95899-7417

Chief Deputy Director

15. DATE SUBMITTED

SEP 16 2016

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED

August 16, 2016

18. DATE APPROVED

August 31, 2017

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL

January 1, 2017

20. SIGNATURE OF REGIONAL OFFICIAL

/s/

21. TYPED NAME

Henrietta Sam-Louie

22. TITLE Associate Regional Administrator, Division of Medicaid and Children's Health Operations

23. REMARKS

Box 6: Pen & ink change to add regulatory citation made per California Response to Request for Additional Information dated 6/30/17.
Box 8: Page numbers added by CMS on 8/11/17 based on the original SPA submission and approved by CA via email dated 8/11/17.
Box 9: CMS deleted pages 36b and 36c on 8/11/17 since these are new pages with nothing to supersede. Approved by CA via email dated 8/11/17.

Revision:

36

State/Territory California

Proposed Section 4 – GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor (RAC) Program

<p><u>Citation</u></p> <p>Section 1902(a)(42)(B)(i) of the Social Security Act</p>	<p><input 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 checked="" type="checkbox"/> The State is seeking an exception to establishing such program for the following reasons:</p> <ul style="list-style-type: none">• California secured a RAC in 2013 and the RAC agreement is set to expire on January 31, 2017. RAC has recouped zero dollars since the execution of the agreement and failed to identify any overpayments or underpayments.• California had robust program integrity in place before the RAC which continues today. Due to California's program integrity activities in place, the RAC is not effective in California. California has the following program integrity initiatives in place to combat fraud, waste and abuse in the Medi-Cal program:<ul style="list-style-type: none">○ Random Claim Review○ Individual Provider – Claim Analysis Report○ Surveillance Utilization Review System○ Medi-Cal Program Integrity Data Analytics○ Medi-Cal Payment Error Study○ Federal Medicaid Integrity Contractor○ Pre-Check Reviews
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TN No.: 16-043 Approval Date: 8/31/17 Effective Date: 1/1/2017 to 2/1/2020
Supersedes
TN No.: 11-032

Revision:

36a

State/Territory California

Proposed Section 4 – GENERAL PROGRAM ADMINISTRATION

<p>Section 1902 (a)(42)(B)(ii)(I) of the Act</p>	<ul style="list-style-type: none"> • The RAC is restricted to auditing Fee-For-Service (FFS) providers. California is 77% managed care as compared to 23% for FFS. Therefore, California does not project any large recoveries in the future for the RAC. • Medi-Cal inpatient claims are not under RAC review as California utilizes a per diem inpatient payment methodology based on cost. RAC recoveries in other states mostly result from audits of payments to inpatient hospitals. California’s Financial Audits Branch within Audits and Investigations is solely dedicated to review Inpatient claims and reduces the probability to minimal for RAC identifying any overpayments or underpayments for inpatient claims. • Payment Error Rate Measurement program has shown that California’s Medicaid Program error rate has been far less than the national average. <p><input type="checkbox"/> The State/Medicaid agency will have contracts of the type(s) listed in section 1902(a)(42)(B)(ii)(I) of the Act. All contracts will 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 type="checkbox"/> The State will make payments to the RAC(s) only from amounts recovered.</p> <p><input type="checkbox"/> The State will make payments to the RAC(s) on contingent basis for collecting overpayments</p>
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TN No.: 16-043
Supersedes
TN No.: 11-032

Approval Date: 8/31/17 Effective Date: 1/1/2017 to 2/1/2020

Revision:

36b

State/Territory California

Proposed Section 4 – GENERAL PROGRAM ADMINISTRATION

<p>Section 1902(a)(42)(B)(ii)(II)(aa) 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)</p>
<p>Section 1902(a)(42)(B)(ii)(II)(bb) of the Act</p>	<p><input type="checkbox"/> The State attests that if 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 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):</p> <p>The percentage of the contingency fee.</p> <p><input type="checkbox"/> The State will submit a justification seeking to pay the Medicaid RAC(s) a contingency fee higher than the highest contingency fee rate paid to Medicare RACs as published in the Federal Register.</p>
<p>Section 1902(a)(42)(B)(ii)(III) of the Act</p>	<p><input type="checkbox"/> 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)(ii)(IV)(aa) of the Act</p>	<p><input 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.</p>

TN No.: 16-043 Approval Date: 8/31/17 Effective Date: 1/1/2017 to 2/1/2020

Supersedes

TN No.: None

Revision:

36c

State/Territory California

Proposed Section 4 – GENERAL PROGRAM ADMINISTRATION

Section 1902(a)(42)(B)(ii)(IV)(bb) of the Act	<input 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 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.: 16-043 Approval Date: 8/31/17 Effective Date: 1/1/2017 to 2/1/2020

Supersedes

TN No.: None