

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

April 23, 2020

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

Dear Ms. Cooper:

Enclosed is an approved copy of California State Plan Amendment (SPA) 20-0017. This SPA was submitted to my office on March 13, 2020 to request a two-year extension of the previously-approved exception to renew the Recovery Audit Contractor (RAC) under Section 1902(a)(42)(B)(i) of the Social Security Act once the original exception expired on February 1, 2020. CMS is granting this two-year extension to the original exception request based on the documentation provided by the Department that it has active program integrity contractors performing work similar to a RAC.

This SPA was approved by CMS on April 21, 2020 and the effective date of this SPA is February 1, 2020 through February 1, 2022 as requested. 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 at 415-744-3598 or via email at Cheryl.Young@cms.hhs.gov.

Sincerely,





Digitally signed by
James G. Scott -S
Date: 2020.04.23
17:49:08 -05'00'

James G. Scott, Director
Division of Program Operations

Enclosure

cc: Erika Sperbeck, Department of Health Care Services (DHCS)
Mateo Hernandez, DHCS
Nova Montgomery, DHCS
Bruce Lim, DHCS
Bob Sands, DHCS
Angeli Lee, DHCS
Amanda Font, DHCS

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES		1. TRANSMITTAL NUMBER <u>2 0 - 0 0 17</u>	2. STATE California
		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 February 1, 2020 through February 1, 2021 2022	
5. TYPE OF PLAN MATERIAL (<i>Check One</i>)			
<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 (<i>Separate transmittal for each amendment</i>)			
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 2020 _____ \$ 0 b. FFY 2021 _____ \$ 0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Section 4.5, pages 36-36c		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>) Section 4.5, pages 36-36c	
10. SUBJECT OF AMENDMENT Recovery Audit Contractor: Exception from Establishing RAC			
11. GOVERNOR'S REVIEW (<i>Check One</i>)			
<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED <input 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 		16. RETURN TO Department of Health Care Services Attn: Director's Office P.O. Box 997413, MS 0000 Sacramento, CA 95899-7413	
13. TYPED NAME Jacey Cooper			
14. TITLE State Medicaid Director			
15. DATE SUBMITTED March 13, 2020			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED March 13, 2020		18. DATE APPROVED April 21, 2020	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL February 1, 2020		20. SIGNATURE OF REGIONAL OFFICIAL  Digitally signed by James G. Scott -S Date: 2020.04.23 17:49:49 -05'00'	
21. TYPED NAME James G. Scott		22. TITLE Director, Division of Program Operations	
23. REMARKS			

For Box 11 "Other, As Specified," Please note: The Governor's Office does not wish to review the State Plan Amendment.

Box 4: Pen and ink change made by CMS per DHCS email dated 3/26/20.

Proposed Section 4 – GENERAL PROGRAM ADMINISTRATION
4.5 Medicaid Recovery Audit Contractor (RAC) Program

The Medicaid agency has established and will maintain methods, criteria, and procedures that meet all requirements of 42 CFR 455.13 through 455.23 for prevention and control of program fraud and abuse.

<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 extension to establishing such program for the following reasons:</p> <ul style="list-style-type: none">• California contracted with a RAC from April 22, 2013 through January 31, 2017. The RAC recouped zero dollars during the term of the agreement, and failed to identify any overpayments or underpayments mostly due to California's robust internal program integrity efforts. The Centers for Medicare and Medicaid Services (CMS) granted California an exception from RAC requirements effective January 1, 2017, which expired February 1, 2020.• California continues to have a robust program integrity process. For Fiscal Year (FY) 2018-19, California recovered \$279,033,294 and completed 8,016 audits and investigations, which triggered further review or an investigation, to determine if fraud, waste, abuse, excessive services or billing errors occurred. In addition, California's total return on investment for FY 2018-19 was \$528,599,897, which included recoveries, cost changes, cost savings, and cost avoidance.• 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">○ Provider Education Letters○ Provider Audits and Investigations○ Audits For Recovery○ Preliminary Criminal Investigations○ Enhanced Data Analytics○ Traditional Surveillance Utilization Review System○ Federal Universal Program Integrity Contractor○ Random Claim Review, now known as, Rotating Provider Review○ Sanctions and Utilization Controls○ Pre-Check Reviews○ Federal Payment Error Rate Measurement
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Proposed Section 4 – GENERAL PROGRAM ADMINISTRATION
4.5 Medicaid Recovery Audit Contractor (RAC) Program

<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. 82 percent of Medi-Cal beneficiaries are enrolled in Managed Care, compared to 18 percent who receive their care through FFS. As California’s internal integrity program is sufficient to cover the 18 percent of FFS, we do not anticipate that a RAC will be needed for recovery purposes.• RAC recoveries in other states mostly result from audits of payments to inpatient hospitals. However, Medi-Cal inpatient claims would not be subject to RAC review because California utilizes the Diagnosis Related Group Inpatient payment methodology based on cost. In addition, California’s Financial Audits Branch within our Audits and Investigations Division is solely dedicated to review inpatient claims in partnership with the Medical Review Branch and Clinical Assurance Division. Both these factors reduce the probability for a RAC to identify overpayments or underpayments for inpatient claims.• CMS’ recent 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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Proposed Section 4 – GENERAL PROGRAM ADMINISTRATION
4.5 Medicaid Recovery Audit Contractor (RAC) Program

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)
Section 1902(a)(42)(B)(ii)(II)(bb) of the Act	<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.
Section 1902(a)(42)(B)(ii)(III) of the Act	<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): The percentage of the contingency fee.
Section 1902(a)(42)(ii)IV(aa) of the Act	<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.
Section 1902(a)(42)(ii)IV(aa) of the Act	<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). <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.

Proposed Section 4 – GENERAL PROGRAM ADMINISTRATION
4.5 Medicaid Recovery Audit Contractor (RAC) Program

<p>Section 1902(a)(42)(B)(ii)(IV)(b) b) of the Act</p>	<p><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.</p>
<p>Section 1902(a)(42)(B)(ii)(IV)(c) c) of the Act</p>	<p><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.</p>