

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

January 20, 2022

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) 21-0067, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on December 23, 2021. This SPA will add a new Recovery Audit Contractor (RAC) effective February 1, 2022, which is the same date as when the state's previously-approved RAC exception expires.

The effective date of this SPA is 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, 36a, 36b and 36c

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

Sincerely,

A black rectangular box redacting the signature of James G. Scott.

Digitally signed by James G.
Scott -5
Date: 2022.01.20 14:57:12 -06'00'

James G. Scott, Director
Division of Program Operations

Enclosure

cc: Erika Sperbeck, Department of Health Care Services (DHCS)
Bruce Lim, DHCS
Bob Sands, DHCS
Saralyn Ang-Olson, DHCS
Aaron Toyama, 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

2 1 — 0 0 6 7

2. STATE

CA

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

February 1, 2022

5. FEDERAL STATUTE/REGULATION CITATION
Section 1902(a)(42)(B)(i) of the Social Security Act 42 CFR Part 455, Subpart C

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2022 \$ 0
b. FFY 2023 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Section 4.5, Pages 36-36a^{36c}

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Section 4.5, pages 36-36c

9. SUBJECT OF AMENDMENT

Recovery Audit Contractor (RAC): Removal of exemption from establishing RAC in order to establish a new RAC.

10. 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:

11. SIGNATURE OF STATE AGENCY OFFICIAL

12. TYPED NAME
Jacey Cooper

13. TITLE
State Medicaid Director

14. DATE SUBMITTED
December 23, 2021

15. RETURN TO

Department of Health Care Services
Attn: Director's Office
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

FOR CMS USE ONLY

16. DATE RECEIVED
December 23, 2021

17. DATE APPROVED
January 20, 2022

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
February 1, 2022

19. SIGNATURE OF APPROVING OFFICIAL
Digitally signed by James G. Scott -S
Date: 2022.01.20 14:57:48 -06'00'

20. TYPED NAME OF APPROVING OFFICIAL
James G. Scott

21. TITLE OF APPROVING OFFICIAL
Director, Division of Program Operations

22. REMARKS

For Box 10 "Other, As Specified," please note: The Governor's Office does not wish to review the State Plan Amendment.
Box 7: CMS made pen and ink change to add additional submitted pages per email with CA dated 1/19/22. Box 9: CMS added pen and ink clarification to SPA description per email with CA dated 1/19/22.

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>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><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> <ul style="list-style-type: none">• The State received an exemption approval from CMS for SPA 20-0017 on April 21, 2020, which will expire on February 1, 2022. The State has entered into a contract to reinstate RAC activities in accordance with Federal regulations. Therefore, RAC activities will resume on February 1, 2022. <p><input type="checkbox"/> The State is seeking an exception extension to establishing such program for the following reasons:</p> <p><input checked="" 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 checked="" type="checkbox"/> The State will make payments to the RAC(s) on contingent basis for collecting overpayments</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><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>
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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)(bb) of the Act	<input checked="" type="checkbox"/> The following payment methodology shall be used to determine State payments to Medicaid RACs for the identification of underpayments/overpayments (e.g. amount of flat fee, the percentage of the contingency fee):
Section 1902(a)(42)(B)(ii)(III) of the Act	<p>The percentage of the contingency fee. 12.5% for overpayments and 10.5% for underpayments.</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.
Section 1902(a)(42)(B)(ii)(IV)(aa) 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)(bb) 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)(cc) 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.

Revision: 36b
State/Territory California

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

RESERVED FOR FUTURE USE

TN No.: 21-0067
Supersedes
TN No.: 20-0017

Approval Date: 1/20/2022

Effective Date: 2/1/2022

Revision: 36c
State/Territory California

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

RESERVED FOR FUTURE USE

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Approval Date: 1/20/2022

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