



Jennifer Kent
DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
GOVERNOR

SEP 16 2016

Ms. Henrietta Sam-Louie
Associate Regional IX Administrator
Division of Medicaid and Children's Health Operations
Centers for Medicare & Medicaid Services
San Francisco Regional Office
90 Seventh Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707

STATE PLAN AMENDMENT (SPA) 16-043

Dear Ms. Henrietta Sam-Louie,

The Department of Health Care Services (DHCS) is submitting the enclosed State Plan Amendment (SPA) 16-043 for the Recovery Audit Contractor (RAC) program for your review and approval.

DHCS secured a RAC in 2013 in accordance with Section 1902(a)(42)(B)(i) of the Social Security Act, and the agreement is set to expire on January 31, 2017. The RAC has recovered zero dollars since its execution and DHCS' program integrity efforts make the RAC ineffective in California. Therefore, DHCS is requesting an exception from renewing the RAC.

No tribal consultation was required for SPA 16-043.

SPA 16-043 will be effective January 1, 2017.

If you have any questions about the enclosed SPA, please contact Mark Mimnaugh, R.N., M.P.A., Chief, Medical Review Branch, at (916) 440-7549 or by email at Mark.Mimnaugh@dhcs.ca.gov.

Sincerely,

ORIGINAL SIGNED

Chief Deputy Director
Health Care Programs
State Medicaid Director

Enclosures

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
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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	7. FEDERAL BUDGET IMPACT a. FFY ²⁰¹⁷ \$ 0 b. FFY ²⁰¹⁸ \$ 0
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Section 4.5, pages 36, 36a	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>) Section 4.5, pages 36, 36a, 36b, 36c
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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

ORIGINAL SIGNED	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
14. TITLE Chief Deputy Director	
15. DATE SUBMITTED SEP 16 2016	

FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED	18. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL	20. SIGNATURE OF REGIONAL OFFICIAL
21. TYPED NAME	22. TITLE

23. REMARKS

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 efforts in place before the RAC which continue 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
Supersede
TN No.: 11-032

Approval Date: _____

Effective Date: January 1, 2017

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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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><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>Section 1902(a)(42)(B)(ii)(II)(bb) of the Act</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: _____

Effective Date: January 1, 2017

Supersede

TN No.: 11-032

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: _____

Effective Date: January 1, 2017

Supersede

TN No.: 11-032

SPA Impact Form

State/Title/Plan Number: 16-043

Federal Fiscal Impact: \$0

Number of People Affected by Enhanced Coverage, Benefits or Retained Eligibility: 0

Number of Potential Newly Eligible People: None

or

Eligibility Simplification: Yes/No – Not Applicable – See comments below

Number of People Losing Medicaid Eligibility: Not Applicable – See comments below

Reduces Benefits: Yes/No – Not Applicable – See comments below

Provider Payment Increase: Yes/No – Not Applicable – See comments below

Delivery System Innovation: Yes/No – Not Applicable – See comments below
(Examples: adding new provider types to provide a covered service, managed care delivery systems or other similar type plans.)

Comments/Remarks:

The RAC involves identification of provider overpayments and underpayments and recoupment of overpayments of provider claims paid under the Medi-Cal program pursuant to Title XIX of the Social Security Act. The beneficiaries are not subject to the RAC review. The RAC is paid through a contingency fee, based upon recovered overpayments.

DHCS Contact:

Mark Mimnaugh, R.N., M.P.A
Chief, Medical Review Branch
MS 2303
P.O. Box 997413
Sacramento, CA 95899 - 7413

Date: August 29, 2016