

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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<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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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. <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)(B)(ii)(III) 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. <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).
Section 1902(a)(42)(ii)(IV)(aa) of the Act	<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.

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<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>