

Revision:

36

State/Territory California

**Proposed Section 4 – GENERAL PROGRAM ADMINISTRATION**

**4.5 Medicaid Recovery Audit Contractor (RAC) Program**

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| <p><u>Citation</u></p> <p>Section 1902(a)(42)(B)(i)<br/>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"><li>• 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.</li><li>• 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"><li>○ Random Claim Review</li><li>○ Individual Provider – Claim Analysis Report</li><li>○ Surveillance Utilization Review System</li><li>○ Medi-Cal Program Integrity Data Analytics</li><li>○ Medi-Cal Payment Error Study</li><li>○ Federal Medicaid Integrity Contractor</li><li>○ Pre-Check Reviews</li></ul></li></ul> |
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Revision:

36a

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| <p>Section 1902 (a)(42)(B)(ii)(I) of the Act</p> | <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• Payment Error Rate Measurement program has shown that California’s Medicaid Program error rate has been far less than the national average.</li> </ul> <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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| <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>Section 1902(a)(42)(B)(ii)(III) of the Act</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><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>   |

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36c

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| <p>Section<br/>1902(a)(42)(B)(ii)(IV)(bb) of<br/>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<br/>1902(a)(42)(B)(ii)(IV)(cc) of<br/>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> |

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