

Department of Health & Human Services
Centers for Medicare & Medicaid Services
26 Federal Plaza, Room 37-100 North
New York, NY 10278



March 8, 2011

Jason A Helgerson
State Medicaid Director
Deputy Commissioner
New York State Department of Health
Corning Tower Empire State Plaza
Albany, New York 12237

Dear Commissioner Helgerson:

We have completed our review of the New York State Plan Amendment (SPA) submittal 10-43, "Medicaid Recovery Audit Contractor Program (Section 4-General Program Administration)" and find it acceptable for incorporation into the Medicaid State Plan with an effective date of April 1, 2011. Enclosed please find copies of the approved pages for State Plan Amendment 10-43 and a signed HCFA-179 Form.

Please note that as agreed we have replaced the originally submitted SPA page 36-2 with the revised page that New Jersey transmitted to our office via e-mail on February 17, 2011.

If you have any questions or which to discuss this further, please contact Dominique Mathurin at 212-616-2422.

Sincerely,

/s/

Michael Melendez, LMSW
Acting Associate Regional Administrator
Division of Medicaid and Children's Health

Enclosures: SPA #10-43
HCFA-179 Form

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 10-43	2. STATE New York
FOR: HEALTH CARE FINANCING ADMINISTRATION		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE April 1, 2011	
5. TYPE OF PLAN MATERIAL (Check One): <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 (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: Section 1902(a)(42) of the Social Security Act		7. FEDERAL BUDGET IMPACT: a. FFY 04/01/11-09/30/11 S0 b. FFY 10/01/11-09/30/12 S0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Pages 36-1, 36-2, 36-3 ** SEE REMARKS		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):	
10. SUBJECT OF AMENDMENT: Recovery Audit Contractors (RACs) (FMAP = 56.88% based on effective date)			
11. GOVERNOR'S REVIEW (Check One): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input 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: <i>Donna Frescatore</i>		16. RETURN TO: New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237	
13. TYPED NAME: Donna Frescatore			
14. TITLE: Medicaid Director & Deputy Commissioner Department of Health			
15. DATE SUBMITTED: December 22, 2010			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: MAR 08 2011	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: APR 01 2011		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: Michael Melendez		22. TITLE: Acting Associate Regional Administrator Division of Medicaid and State Operations	
23. REMARKS: Originally submitted SPA page (page 36-2) has been replaced with revised page via State email of February 17, 2011.			

New:

State: NEW YORK

OFFICIAL

PROPOSED SECTION 4 - GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program

<p><u>Citation</u></p> <p>Section 1902(a)(42)(B)(i) of the Social Security 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> <p><input type="checkbox"/> The State is seeking an exception to establishing such program for the following reasons:</p>
<p>Section 1902(a)(42)(B)(ii)(I) of the Act</p>	<p><input checked="" type="checkbox"/> The State/Medicaid agency has contracts of the type(s) listed in section 1902(a)(42)(B)(ii)(I) of the Act. All contracts 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 checked="" 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 a contingent basis for collecting overpayments.</p>

TN #10-43

Approval Date MAR 08 2011

Supersedes TN New

Effective Date APR 01 2011

New:

State: NEW YORK

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PROPOSED SECTION 4 - GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program

<p>Section 1902 (a)(42)(B)(ii)(II)(a) of the Act</p>	<p>The following payment methodology shall be used to determine State payments to Medicaid RACs for recovered overpayments (e.g., the percentage of the contingency fee):</p> <p><input checked="" type="checkbox"/> The State attests that the contingency fee rate paid to the Medicaid RAC will not exceed the highest rate paid to Medicare RACs, as published in the Federal Register.</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 contingency fee rate paid to the Medicaid RAC that will exceed the highest rate paid to Medicare RACs, as published in the Federal Register. The State will submit a justification for that rate and will submit for FFP for the full amount of the contingency fee.</p>
<p>Section 1902 (a)(42)(B)(ii)(II)(bb) of the Act</p>	<p><input checked="" 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>Contingency Fee – 5.25%</p>

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PROPOSED SECTION 4 - GENERAL PROGRAM ADMINISTRATION**4.5 Medicaid Recovery Audit Contractor Program**

Section 1902 (a)(42)(B)(ii)(III) of the Act	<u> X </u> The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RACs.
Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act	<u> X </u> 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)(bb) of the Act	<u> X </u> 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	<u> X </u> 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.

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