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**State/Territory Name: Minnesota**

**State Plan Amendment (SPA) #: 19-0009**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Pages

**DEPARTMENT OF HEALTH & HUMAN SERVICES**  
Centers for Medicare & Medicaid Services  
601 East 12th Street, Suite 355  
Kansas City, Missouri 64106-2898



Medicaid and CHIP Operations Group

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May 22, 2020

Matt Anderson, Medicaid Director  
Minnesota Department of Human Services  
540 Cedar Street  
P.O. Box 64983  
St. Paul, MN 55164-0983

Dear Mr. Anderson:

Enclosed for your records is an approved copy of the following State Plan Amendment:

Transmittal #19-0009      -- Reinstates the Recovery Audit Contractor (RAC) program.  
--Effective Date: September 1, 2019  
--Approval Date: May 19, 2020

If you have any additional questions, please have a member of your staff contact Sandra Porter at (312) 353-8310 or via e-mail at [Sandra.Porter@cms.hhs.gov](mailto:Sandra.Porter@cms.hhs.gov).

Sincerely,

Ruth A. Hughes, Acting Director  
Division of Program Operations

Enclosures

cc: Ann Berg, DHS

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTER FOR MEDICARE &amp; MEDICAID SERVICES</b>	1. TRANSMITTAL NUMBER:  TN 19-09	2. STATE  Minnesota
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	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)
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TO: REGIONAL ADMINISTRATOR CENTER FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE September 1, 2019
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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: 42 C.F.R § 455.516	7. FEDERAL BUDGET IMPACT: a. FFY 19: \$0  b. FFY 20: \$0
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  Pre-print Section 4.5, pages 36(b) and (c)	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ): Same
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10. SUBJECT OF AMENDMENT:


Recovery Audit Contractor

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

12. SIGNATURE OF STATE AGENCY OFFICIAL:  	16. RETURN TO: Ann Berg Minnesota Department of Human Services 540 Cedar Street, PO Box 64983 St. Paul, MN 55164-0983
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13. TYPED NAME: Ann Berg	
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14. TITLE: Deputy Medicaid Director	
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15. DATE SUBMITTED: 9/23/2019	
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**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED: September 23, 2019	18. DATE APPROVED: May 19, 2020
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PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: September 1, 2019	20. SIGNATURE OF REGIONAL OFFICIAL:
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21. TYPED NAME: Ruth A. Hughes	22. TITLE: Acting Director, Division of Program Operations
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23. REMARKS:

State Minnesota

**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>42 C.F.R § 455.516</p> <p>42 CFR 455.508(b)</p> <p>42 CFR 455.508(f)</p> <p>42 CFR 455.510</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 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> <p><u>Pursuant to 42 C.F.R. § 455.516, the Department seeks an exception to 42 C.F.R. § 455.502(b), which requires contracting with a RAC. The Department's RAC contract expired on December 31, 2017, and the Department has been unable to procure a new vendor. The Department published a request for proposals in August, 2016 and then again in November, 2017. We received no proposals in response to the two separate requests. The lack of responses is likely due to the high utilization of managed care in Minnesota (approximately 80%), which reduces the potential revenue for contractors. The Department requests an exception to the RAC requirements for a period of two years, through December 31, 2019.</u></p> <p><u>During this time, the Department will utilize its unified program integrity contractor and medical necessity review contractor to identify and audit aberrant claims. This work is in addition to the ongoing monitoring performed by the Surveillance and Integrity Review Section (SIRS) investigation teams. Minnesota requests an exception to the requirement that the RAC must hire a minimum of 1.0 FTE medical director in good standing with the state licensing authorities. Minnesota's RAC will employ a .5 FTE medical director to support Minnesota's RAC work. The medical director is a physician licensed in good standing in several states, and will seek licensure in Minnesota.</u></p> <p><u>Minnesota requests an exception to the current three year claims look back period. Minnesota seeks to examine claims for up to five years from the date of the claim in accordance with current State post-payment review and recovery practices.</u></p> <p><input 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 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 collection overpayments and identifying underpayments.</p>
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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):

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.

1. No contingency fee will be paid to a RAC contractor for recoveries from providers who self-disclose.
2. No contingency fee will be paid when no recovery is made for an identified overpayment.

The State attests that 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.

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.

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):

A negotiated percentage of the contingency fee, but no more than the highest rate paid to Medicare RACs.

The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).

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.

The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.

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.

Section 1902  
(a)(42)(B)(ii)(II)(bb)  
of the Act

Section 1902  
(a)(42)(B)(ii)(III)  
of the Act

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

Section  
1902(a)(42)(B)(ii)(IV)(bb) of  
the Act

Section 1902  
(a)(42)(B)(ii)(IV)(cc) Of the  
Act