State/Territory: __Montana_____

Citation 42 CFR 455.12 AT- 78-90 48 FR 3742 52 FR 48817	4.5 Medicaid Agency Fraud Detection and Investigation Program The Medicaid agency has established and will maintain methods, criteria, and procedures that meet all requirements of 42 CFR 455.13 through 455.21 and 455.23 for prevention and control of program fraud and abuse.

Section
1902(a)(42)(B)(i)
of the Social
Security Act

X 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

__X__ The State is seeking an exception to establishing such program for the following reasons: __X__ Montana is seeking an exception to the January 1, 2012 implementation date described in the Final Rule. No later than July 1, 2012, Montana will have a RAC contract in place that will adhere to the attestations in the SPA

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

__X__ The State/Medicaid agency will have contracts of the type(s) listed in section 1902(a)(42)(B)(ii)(I) of the Act in place. All contracts meet the requirements of the statute. RACs are consistent with the statute.

Place a check mark to provide assurance of the following:

__X__ The State will make payments to the RAC(s) only from amounts recovered.
__X__ The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.

__X__ Montana is seeking an exception to the requirement that the entity must not review claims that are older than three years from the date of the claim as described in the Final rule. Montana Medicaid providers are allowed a 12 month timely filing period to submit a clean claim for payment per ARM 37.85.406(1). Providers are allowed to adjust claims within this 12 month time frame. Consequently, Montana requests that the three years be extended to four years to account for claims within this 12 month time frame. The first year's claims would be excluded from the entity's review.

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):

TN 12-005
Supersedes TN 11-008

Approval Date _3/15/12___ Effective Date 1/1/12

X 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.

_____ 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.

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

_X_Percentage of the contingency fee will be the payment methodology used to determine State payments to Medicaid RACs for identification and recovery of overpayments.

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

_X_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)(B)(ii)
(IV)(aa)
of the Act

_X__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

_X_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

_X_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.