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State/Territory Name: Nebraska

State Plan Amendment (SPA) #: 17-0019

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 East 12th Street, Suite 0355
Kansas City, MO 64106



Division of Medicaid and Children's Health Operations

December 18, 2017

Thomas "Rocky" Thompson, Acting Medicaid Director
Department of Health & Human Services
Division of Medicaid and Long-Term Care
301 Centennial Mall South, 5th Floor
PO Box 95026
Lincoln, NE 68509-5026

Dear Mr. Thompson:

The Centers for Medicare & Medicaid Services (CMS), Kansas City Regional Office, has completed its review of Nebraska State Plan Amendment (SPA) Transmittal Number #17-0019. This amendment, submitted November 15, 2017, seeking an exception to the Medicaid Recovery Audit Contractor (RAC) Program in accordance with 42 CFR 455.516.

CMS is granting the state an exception in accordance with 42 CFR 455.516 until December 1, 2019. At this time, it is not permissible to grant an exception to this policy indefinitely or beyond two (2) years.

Nebraska SPA 17-0019 was approved on December 15, 2017, with the state's requested effective date of December 1, 2017. Enclosed is a copy of the CMS 179 form, as well as, the approved pages for incorporation into the Nebraska State plan.

If you have any questions regarding this state plan amendment, please contact Barbara Cotterman at Barbara.Cotterman@cms.hhs.gov or 816-426-5925.

12/18/2017

Associate Regional Administrator
for Medicaid and Children's Health Operations

Sign

Enclosure

cc: Michael Michalski – NE DHHS
DHHS Nebraska
Rosalind Sipe

2. STATE

4. PROPOSED EFFECTIVE DATE
~~November 30, 2017~~ December 1, 2017*

FORM HCFA-179 (07-92)

Revision: (Draft)
State/Territory: Nebraska

4.5b Medicaid Recovery Audit Contractor Program

Citation

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

_____ 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:

Nebraska implemented Heritage Health effective January 1, 2017. Heritage Health combines physical health, behavioral health and pharmacy programs into a single managed care system. A dental benefits manager for dental services was effective October 1, 2017. Neb Rev Stat 68-974(3)(a) excludes Managed Care claims from the scope of the Recovery Audit Contractor. This leaves very few claims for review or recovery from the fee for service program.

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

_____ 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.

Place a check mark to provide assurance of the following:

_____ The State will make payments to the RAC(s) only from amounts recovered.

_____ The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.

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):

_____ 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.

TN No NE 17-0019

Supersedes
TN No. 13-21

Approval Date December 15, 2017

Effective Date December 1, 2017

Revisions: (Draft)

State/Territory: Nebraska

(4.5b Continued)

	_____	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	_____	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): Flat fee to be negotiated
Section 1902 (a)(42)(B)(ii)(III) of the Act	_____	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	_____	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	_____	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	_____	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.

TN No NE 17-0019

Supersedes

Approval Date December 15, 2017Effective Date December 1, 2017TN No. NE 12-03