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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 <u>Barbara.Cotterman@cms.hhs.gov</u> 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

DEPARTMENT OF HEALTH AND HUMAN SERVICES HEALTH CARE FINANCING ADMINISTRATION		FORM APPROVED OMB NO. 0938-0193	
TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: NE 17-0019	2. STATE Nebraska	
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 November 30, 2017 December 1, 2017*		
5. TYPE OF PLAN MATERIAL (Check One):	CONSIDERED AS NEW PLAN		
		AMENDMENT	
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AME 6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 455.12	7. FEDERAL BUDGET IMPACT: a. FFY 2018 \$0	.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Section 4 * _Part I* pages 36, 36a , 36b, 36c	b. FFY 2019 \$0.00 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Section 4 * Part_l pages 36, 36a, 36b, 36c		
11. GOVERNOR'S REVIEW (Check One): GOVERNOR'S OFFICE REPORTED NO COMMENT COMMENTS OF GOVERNOR'S OFFICE ENCLOSED NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	OTHER, AS SPE Governor has wai		
12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO:		
 13. TYPED NAME: Thomas "Rocky" Thompson 14. TITLE: Interim Director, Division of Medicaid and Long-Term Care 15. DATE SUBMITTED: 	Nancy Keller Division of Medicaid & Long-Term Care Nebraska Department of Health & Human Services 301 Centennial Mall South Lincoln, NE 68509		
November 15, 2017			
FOR REGIONAL OF	FICE USE ONLY		
17. DATE RECEIVED: November 15, 2017	18. DATE APPROVED: December 1.	5, 2017	
PLAN APPROVED – ON			
19. EFFECTIVE DATE OF APPROVED MATERIAL: December 1, 2017		FICIAL: signed by James G. Scott -S 017.12.18 16:30:21 -06'00'	
21. TYPED NAME: James G. Scott	22. TITLE:		
23. REMARKS:			

* Pen and Ink changes per email from state dated 12.14.17.

Revision: (Draft) State/Territory: Nebraska

Citation

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

4.5b Medicaid Recovery Audit Contractor Program

_____ 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 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 NoNE17-0019SupersedesApproval DateDecember 15, 2017Effective DateDecember 1, 2017TN No.13-21

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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 _____ The following payment methodology shall be used to (a)(42)(B)(ii)(II)(bb) 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) _____ The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).
- Section 1902 _____ 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 _____ 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 _____ 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, 2017

 Effective Date
 December 1, 2017

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