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**State/Territory Name: NE**

**State Plan Amendment (SPA) #: 19-0013**

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 12<sup>th</sup> Street, Suite 355  
Kansas City, Missouri 64106-2898



**Medicaid & CHIP Operations Group**

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December 26, 2019

Matthew A. Van Patton, DHA, Director  
Division of Medicaid and Long-Term Care  
Nebraska Department of Health & Human Services  
301 Centennial Mall South, 5th Floor  
P.O. Box 95026  
Lincoln, NE 68509-5026

Dear Dr. Van Patton:

The Centers for Medicare & Medicaid Services (CMS), Kansas City location, has completed its review of Nebraska State Plan Amendment (SPA) Transmittal Number #19-0013. This amendment, submitted November 7, 2019, seeking an exception to the Medicaid Recovery Audit Contractor (RAC) Program in accordance with 42 CFR 455.516.

CMS will continue Nebraska's exception from this requirement, originally effective December 1, 2017, from December 1, 2019 until December 1, 2021. At this time, it is not permissible to grant an exception to this policy beyond two (2) years.

Nebraska SPA #19-0013 was approved on December 23, 2019, with an effective date of December 1, 2019, as requested by the state. 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](mailto:Barbara.Cotterman@cms.hhs.gov) or (816) 426-5925.

Sincerely,

Megan K. Buck, Acting Director  
Division of Program Operations

cc:

Nancy Keller  
Yolanda Morris, CMS Baltimore  
DHHS Medicaid



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. More than 99% of Nebraska Medicaid clients are enrolled in Managed Care. 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.

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

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

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.

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.