

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
1301 Young Street, Room 833
Dallas, Texas 75202



Division of Medicaid & Children's Health, Region VI

March 9, 2011

Our Reference: SPA TX 10-091

Mr. Billy Millwee
Associate Commissioner for Medicaid & CHIP
Health and Human Services Commission
Post Office Box 13247
Mail Code: H100
Austin, Texas 78711

Dear Mr. Millwee:

We have reviewed the State's proposed amendment to the Texas State Plan submitted under Transmittal Number 10-091, dated December 29, 2010. This state plan amendment adds the Recovery Audit Contractors (RAC) to the Medicaid program.

Additionally, please note that when the State submits a State Plan Amendment (SPA) that may impact Indians or Indian health providers, CMS will look for evidence of the State's Tribal consultation process for that SPA. Pursuant to the new section 1902(a) (73) of the Act added by section 5006(e) of the American Recovery and Reinvestment Act (ARRA) of 2009, the State must submit evidence to CMS regarding the solicitation of advice prior to submission of the State Plan Amendment. Such consultation must include all federally-recognized tribes, Indian Health Service and Urban Indian Organizations within the State.

Based on the information submitted, we have approved the amendment for incorporation into the official Texas State Plan with an effective date change of December 31, 2010. A copy of the CMS-179 and the approved plan pages are enclosed with this letter.

If you have any questions, please contact Cheryl Rupley at (214) 767-6278.

Sincerely,

/s/

Bill Brooks
Associate Regional Administrator

Enclosures

cc: Emily Zalkovsky, Policy Development Support

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES		1. TRANSMITTAL NUMBER: 10-091	2. STATE: TEXAS
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE: December 31, 2010	
5. TYPE OF PLAN MATERIAL (Circle One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: Social Security Act 1902(a)(42)(B)(i)		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2011 \$0 b. FFY 2012 \$0 c. FFY 2013 \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: SEE ATTACHMENT TO BLOCKS 8 & 9		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): SEE ATTACHMENT TO BLOCKS 8 & 9	
10. SUBJECT OF AMENDMENT: The proposed amendment is being submitted to comply with the Centers for Medicare & Medicaid Services (CMS) directives to implement Section 6411 of the Affordable Care Act, Expansion of the Recovery Audit Contractor (RAC) Program.			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt. <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: Billy R. Millwee		16. RETURN TO: Billy R. Millwee State Medicaid Director Post Office Box 13247, MC: H-100 Austin, Texas 78711	
13. TYPED NAME: Billy R. Millwee			
14. TITLE: State Medicaid Director			
15. DATE SUBMITTED: December 28, 2010			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 29 December, 2010		18. DATE APPROVED: 9 March, 2011	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 31 December, 2010		20. SIGNATURE OF REGIONAL OFFICIAL: [Signature]	
21. TYPED NAME: Bill Brooks		22. TITLE: Associate Regional Administrator Division of Medicaid & Children's Health	
23. REMARKS:			

STATE	<u>Texas</u>
DATE RECD.	<u>12-29-10</u>
DATE APP'D	<u>3-9-11</u>
DATE EFF	<u>12-31-10</u>
HCFA 179	<u>10-91</u>

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4.5b - Medicaid Recovery Audit Contractor Program (continued)

Citation	
Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act	<p>_____ 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.</p>
Section 1902 (a)(42)(B)(ii)(IV)(bb) of the Act	<p>_____ The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.</p>
Section 1902 (a)(42)(B)(ii)(IV)(cc) of the Act	<p>_____ 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.</p>

TN: 10-91

Approval Date: 3-9-11

Effective Date: 12-31-10

Supersedes TN: SUPERSEDES: NONE - NEW PAGE

STATE	<u>Texas</u>
DATE REC'D	<u>12-29-10</u>
DATE APPV'D	<u>3-9-11</u>
DATE EFF	<u>12-31-10</u>
HCFA 179	<u>10-91</u>

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4.5b - Medicaid Recovery Audit Contractor Program (continued)

Citation	
Section 1902 (a)(42)(B)(ii)(II)(aa) of the Act	<p>The following payment methodology shall be used to determine State payments to Medicaid RAC(s) for recovered overpayments (e.g., the percentage of the contingency fee):</p> <p>_____ The State attests that if the contingency fee rate paid to the Medicaid RAC will exceed the highest rate paid to Medicare RAC(s), as published in the Federal Register, the State will only submit for FFP up to the amount equivalent to that published rate.</p>
Section 1902 (a)(42)(B)(ii)(II)(bb) of the Act	<p>_____ The following payment methodology will be used to determine State payments to Medicaid RAC(s) for underpayments:</p> <p>The specific payment methodology will be contingent on the grant of legislative authority.</p> <p>_____ The State will submit a justification seeking to pay the Medicaid RAC(s) a contingency fee higher than the highest contingency fee rate paid to Medicare RAC(s) as published in the Federal Register.</p>
Section 1902 (a)(42)(B)(ii)(III) of the Act	<p>_____ The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).</p>

TN: 10-91

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SUPERSEDES: NONE - NEW PAGE

Supersedes TN: _____

