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State/Territory Name: Washington

State Plan Amendment (SPA) #: 16-0029

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Seattle Regional Office
701 Fifth Avenue, Suite 1600, MS/RX-200
Seattle, WA 98104



Division of Medicaid & Children's Health Operations

April 17, 2017

Dorothy Frost Teeter, Director
MaryAnne Lindeblad, Medicaid Director
Health Care Authority
PO Box 45502
Olympia, WA 98504-5010

RE: Washington State Plan Amendment (SPA) Transmittal Number 16-0029.

Dear Ms. Teeter and Ms. Lindeblad:

The Centers for Medicare & Medicaid Services (CMS) has completed its review of State Plan Amendment (SPA) Transmittal Number WA 16-0029. This SPA was submitted in order to request a two year exception period to the federal requirement for a Recovery Audit Contractor (RAC). This is to allow the agency time to re-evaluate the services to include in the RAC contract, which is expected to be entered into before 7/16/18.

This SPA is approved with an effective date of 7/16/16.

If there are additional questions please contact me, or your staff may contact James Moreth at James.Moreth@cms.hhs.gov or (360) 943-0469.

Sincerely,

A black rectangular box redacting the signature of David L. Meacham.

David L. Meacham
Associate Regional Administrator

Date: 2017.04.20 07:47:14 -07'00'

cc:
Ann Myers, SPA Coordinator

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. TRANSMITTAL NUMBER:
16-0029

2. STATE
Washington

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID)

4. PROPOSED EFFECTIVE DATE
~~July 21, 2016~~ July 1, 2017 (P&I)
July 16, 2016 (P&I)

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN

☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN

☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:
Sections 1902(a)(42)(V) and 1902(2)(42)(B) of the Social Security Act

7. FEDERAL BUDGET IMPACT:
a. FFY 2016 \$0
b. FFY 2017 \$0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

~~Numbered page 36b-~~ (P&I)
Numbered page 36b, 36c (P&I) and 36d (new) (P&I) 36e (new) (P&I)

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable)

~~Numbered page 36b-~~ (P&I)
Numbered page 36b and 36c (P&I)

10. SUBJECT OF AMENDMENT

Recovery Audit Contractors – Exemption from Requirement

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 SPECIFIED: Exempt

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME:
MARYANNE LINDEBLAD

14. TITLE:
MEDICAID DIRECTOR

15. DATE SUBMITTED:

8-30-16

16. RETURN TO:

Ann Myers
Office of Rules and Publications
Division of Legal Services
Health Care Authority
626 8th Ave SE MS: 42716
Olympia, WA 98504-2716

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

8/30/16

18. DATE APPROVED:

4/17/17

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

7/16/16

21. TYPED NAME:

David L. Meacham

20. SIGNATURE:

22. TITLE:

Associate Regional Administrator

23. REMARKS:

8/30/16 - State authorized P&I change to box 8 and 9
3/9/17 - State authorized P&I change to box 8
3/14/17 - State authorized P&I change to box 4
3/20/17 - State authorized P&I change to box 8
3/24/17 - State authorized P&I change to box 4

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State WASHINGTON

4.5b Medicaid Recovery Audit Contractor Program

Citation

Section 1902(a)(42)(V)(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 a time-limited exception to establishing such program for the following reasons:

The State is re-evaluating and needs additional time for procurement of a RAC. Washington State is requesting a time-limited exception to have a RAC in place with an effective date of July 16, 2016. The state released a Request for Information on February 24, 2017, with a due date of March 24, 2017. Information received will be used in developing the Request for Proposal which will be issued no later than April 30, 2017.

The State submitted SPA 14-0029 and was granted a 12-month extension to allow the State time for re-procurement of a RAC to replace the contractor that was terminated in June 2014. This SPA expired July 2015.

In February and May 2015, the State attempted a RAC procurement with the issuance of an RFP, followed by a revised RFP. The State did not receive any bids from vendors.

The State submitted SPA 15-0033 and was granted a 12-month extension to allow the State to re-evaluate the services to include in the RAC contract and give additional time for re-procurement. This SPA expired July 2016.

In October 2015, the State began realignment of the Program Integrity program to increase focus on managed care (which is approximately 85-90% of the Medicaid and CHIP population). The State began building a comprehensive Program Integrity oversight program of managed care and fee-for-service, along with a plan to initially perform a re-procurement of the Fraud and Abuse Detection System (FADS) (in place since 2010) to increase efforts in detecting and preventing fraud, waste and abuse. It was later decided to extend the FADS contract with the current vendor for one year (9/30/2017). The State also uses the Medicaid Integrity Contractor (MIC) to assist with fee-for-service

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State WASHINGTON

4.5b Medicaid Recovery Audit Contractor Program

provider audits and is exploring potential managed care audits with the MIC.

The State re-evaluated its RFP in January 2016 and contacted several vendors regarding the lack of submitted bids on the State's RFP. The State also conducted extensive research into what other states were doing and obtained examples of other state RAC RFPs. The State received several RAC RFPs from other states as well as feedback regarding the difficulty of maintaining a viable RAC contract. Many states shared frustration with the process and shared that they were requesting or had requested exceptions from CMS.

In April 2016, the State contacted CMS for advice on exceptions the State may qualify for. The CMS contact did not respond; the State later discovered the contact person had been reassigned. The State successfully contacted a CMS liaison on June 3, 2016, and issued a Tribal notification letter for SPA 16-0029 on June 27, 2016.

On August 30, 2016, the State submitted SPA16-0029 to request full exception from 42 CFR 455.516 - Exceptions from Medicaid RAC programs. Details substantiating this request were included.

CMS sent informal requests for information to the State on September 21, September 30, October 14, and October 26, 2016. The State responded to all requests.

CMS sent a formal Request for Information (RAI) to the State on November 16, 2017. The State responded on January 30, 2017.

CMS notified the State on March 2, 2017, that a full exemption would not be approved and requested additional revisions to the SPA. The State submitted those revisions on March 9, 2017.

CMS requested additional revisions on March 13, 14, 15, and 16, 2017. The State responded to all requests.

Section 1902(2)(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.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State WASHINGTON

4.5b Medicaid Recovery Audit Contractor Program

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.

☐ 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.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State WASHINGTON

4.5b Medicaid Recovery Audit Contractor Program (cont)

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):

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.