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State/Territory Name Colorado

State Plan Amendment (SPA) #: 25-0008

This file contains the following documents in the order listed:

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

Medicaid and CHIP Operations Group

October 20, 2025

Adela Flores-Brennan
Medicaid Director
Colorado Department of Health Care Policy and Financing
303 E. 17th Avenue, Suite 1100
Denver, CO 80203-1818

Re: Colorado State Plan Amendment (SPA) 25-0008

Dear Director Flores-Brennan:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 25-0008. This amendment allows the contingency fee paid to the Medicaid Recovery Audit Contractor (RAC) program contractors to exceed that of the highest Medicare RAC and allows federal financial participation (FFP) for the full amount of the contingency fee paid to the RAC.

We conducted our review of your submittal according to statutory requirements in 42 CFR 455.516. This letter informs you that Colorado's Medicaid SPA TN 25-0008 was approved on October 20, 2025, with an effective date of August 6, 2025.

Enclosed are copies of Form CMS-179 and approved SPA pages to be incorporated into the Colorado State Plan.

If you have any questions, please contact Ronna Bach at Ronna.Bach1@cms.hhs.gov.

Sincerely,

Nicole McKnight
On Behalf of Courtney Miller, MCOG Director

Enclosures

cc: Russ Zigler

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB No. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER: 25-0008

2. STATE: CO

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

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
August 6, 2025

5. FEDERAL STATUTE/REGULATION CITATION
42 CFR 455.516

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 2026 $ 0
b. FFY 2027 $ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Section 4.5 -- Medicaid Recovery Audit Contractor Program – Pages 1-3 of 3

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*
Section 4.5 -- Medicaid Recovery Audit Contractor Program – Pages 1-3 of 3 (TN CO-16-0003)

9. SUBJECT OF AMENDMENT
Allows the contingency fee paid to the Medicaid Recovery Audit Contractor (RAC) program contractors to exceed that of the highest Medicare RAC, and allow federal financial participation (FFP) for the full amount of the contingency fee paid to the RAC, waiving requirements of 42 CFR §455.510(b)(4). SPA makes additional changes to the RAC program state plan pages.

10. 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: Governor's letter dated 5 April 2023

11. SIGNATURE OF STATE AGENCY OFFICIAL

12. TYPED NAME
Ralph Choate

13. TITLE
Chief Operating Officer

14. DATE SUBMITTED: August 7, 2025

15. RETURN TO
Colorado Department of Health Care Policy and Financing
303 E. 17th Avenue, Suite 1100
Denver, CO 80203

Attn: Jessica Farmen

FOR CMS USE ONLY

16. DATE RECEIVED
August 7, 2025

17. DATE APPROVED
October 20, 2025

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
August 6, 2025

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL
Nicole McKnight

21. TITLE OF APPROVING OFFICIAL
On Behalf of Courtney Miller, MCOG Director

22. REMARKS
Update 10/8/25: Updated budget impacts for FFY 2026 and FFY 2027 in box 6 as $0 (rather than left blank).; 10/17/25: Corrected page numbers in boxes 7 and 8 from "Pages 1-4 of 4" to Pages 1-3 of 3"

Instructions on Back

Revision:

State Colorado

PROPOSED SECTION 4 - GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program

Citation	
Section 1902(a)(42)(B)(i) of the Social Security Act	X 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. _____ The State is seeking an exception to establishing such program for the following reasons:
Section 1902(a)(42)(B)(ii)(I) of the Act	X 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: X The State will make payments to the RAC(s) only from amounts recovered. The State includes the following exceptions: • an exception to the requirement that the RAC must hire a minimum of 1.0FTE medical director in good standing with the State licensing authorities. The State shall require the RAC to hire a .10 FTE medical director who is a physician licensed in good standing in any state in the U.S. • an exception to the current three year claims look back period. The State shall direct the RAC to examine claims for up to three years, plus the Department's timely filing time, from the paid date of the claim. • an exception to the underpayment identification requirement. State law does not authorize a contingency payment for recovery of underpayments nor does it authorize a non-contingent payment methodology. The State shall allow the RAC to identity underpayments but will not pay the RAC for doing so. Providers will need to submit a claim for previously underpaid services directly to the Department within the applicable limits for timely submission of claims in order to recoup identified underpayments.

	The State may pay the RAC vendor for identifying underpayments if funding is appropriated by the Colorado General Assembly specifically for that purpose. • an exception to the requirement that the contingency fee for overpayments may not exceed that of the highest Medicare RAC, as specified by CMS in the Federal Register. The State shall increase the maximum rate to 16 percent (16%). • an exception to the requirement under 42 C.F.R. § 455.508(e)(4) that RACs must notify providers of overpayment findings within 60calendar days. State law is more prescriptive requiring findings to be provided within a reasonable period of time as determined by the State in collaboration with the provider advisory group.
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 recovered overpayments (e.g., the percentage of the contingency fee): The State shall pay the RAC a contingency fee of up to a maximum of 16 percent (16%) for overpayments to conform with the maximum allowable under State law, and as approved under TN CO 15-0008, which formed the basis for Colorado's competitive procurement process for the contract. ____ The State attests that if 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. __X_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 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	__X___ The following payment methodology shall be used to determine State payments to Medicaid RACs for underpayments: The State shall allow the RAC to identify underpayments but will not pay the RAC for doing so. State law does not authorize a contingency payment for recovery of underpayments nor does it authorize a non-contingent payment methodology. Providers will need to submit a claim for previously underpaid services directly to the Department within the applicable limits for timely submission of claims in order to recoup identified underpayments. The State may pay the RAC vendor

	for identifying underpayments if funding is appropriated by the Colorado General Assembly specifically for that purpose. _____ 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 RACs as published in the Federal Register.
Section 1902 (a)(42)(B)(ii)(III) of the Act	__X__ 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	__X__ 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	__X__ 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	__X__ 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.