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State/Territory Name: Montana

State Plan Amendment (SPA) #: 21-0008

This file contains the following documents in the order listed:

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 CMS 179 Form
 Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services 601 E. 12th St., Room 355 Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

April 28, 2021

Marie Matthews, Medicaid & CHIP Director Montana Department of Public Health & Human Services P.O. Box 4210 Helena, MT 59604

Dear Ms. Matthews:

We have completed our review of the enclosed State Plan Amendment (SPA) Transmittal Number MT-21-0008. This amendment implements a full two-year exception to the federal requirement for a Recovery Audit Contractor (RAC), which will expire on April 1, 2023.

Please be informed that this State Plan Amendment was approved on April 27, 2021 with an effective date of April 1, 2021. Enclosed is a copy of the CMS 179 summary page and the amended plan page(s).

If you have any questions or need further assistance, please contact Barbara Prehmus at (303) 844-7472 or barbara.prehmus@cms.hhs.gov.

Sincerely,

Digitally signed by James G. Scott -S Date: 2021.04.28 19:05:57 -05'00'

James G. Scott, Director Division of Program Operations

Enclosures

cc: Adam Meier, Department Director Mary Eve Kulawik

		FORM APPROVED OMB NO. 0938-0193	
TRANSMITTAL AND NOTICE OF APPROVAL	1. TRANSMITTAL NUMBER:	2. STATE	
OF STATE PLAN MATERIAL	21-0008	Montana	
FOR: HEALTH CARE FINANCING ADMINISTRATION	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)		
TO: REGIONAL ADMINISTRATOR	4. PROPOSED EFFECTIVE DATE		
HEALTH CARE FINANCING ADMINISTRATION	04/01/2021		
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
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:	7. FEDERAL BUDGET IMPACT:	inchantenty	
If applicable, provide CFR citation:			
42 CFR 455.502	a. FFY21 (6 months): \$0b. FFY22 (12 months): \$0		
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):		
Citation 4.5 Medicaid Recovery Audit Contractor Program, Pages 1-2 of 2.	Citation 4.5 Medicaid Recovery Audit Contractor Program, Pages 1-2 of 2.		
10. SUBJECT OF AMENDMENT:			
The purpose of this amendment is to request an extension of the exception to the requirement of having a recovery audit contractor (RAC). The update is necessary to be in compliance with 42 CFR 455.12. In 2017, Montana enacted MCA 53-6-1402, which restricts the auditing time frame for both contractors and the State's Surveillance and Utilization Unit to only allow requests of up to six months of records from Medicaid providers to review. The restriction led to Montana not receiving any proposals for the RAC Request for Proposals. CMS approved Montana's request to continue its exception to the RAC requirements through April 30, 2021. This SPA requests to continue its exception to the RAC requirements for an additional two years, through April 30, 2023.			
11. GOVERNOR'S REVIEW (Check One): ☐ GOVERNOR'S OFFICE REPORTED NO COMMENT	🛛 OTHER, AS SPECI	EIED.	
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED	Single Agency Dire		
□ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTA			
12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO:		
	Montana Department of Public Health and H	uman Services	
	Marie Matthews Attn: Mary Eve Kulawik	· · · · ·	
	PO Box 4210		
13. TYPED NAME: Marie Matthews	Helena MT 59620		
14. TITLE: State Medicaid Director			
15. DATE SUBMITTED: 3-27-2021			
FOR REGIONAL O	OFFICE USE ONLY		
17. DATE RECEIVED: March 27, 2021	18. DATE APPROVED: April 27, 2021		
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: April 1, 2021		L: ned by James G. Scott -S 04.28 19:07:14 -05'00'	
21. TYPED NAME:	22. TITLE: Director Division of Progr	om Onorstien	
James G. Scott 23. REMARKS:	Director, Division of Progr	am Operations	

State/Territory: Montana

Citation 4.5

Medicaid Recovery Audit Contractor Program

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.
	<u>X</u> The State is seeking an exception to establishing such program for the following reasons:
	X Montana is seeking an exception extension from the Medicaid recovery audit contract requirement. The State attempted a formal procurement for recovery audit services that would be in line with Section 1902 (a) (42) of SSA. However, the State did not receive any bids when solicited. Additionally, MCA 53-6-1402, which went into effect July 1, 2017, places constraints on the Recovery Audit Contractor's (RAC) ability to perform large scale audits, therefore limiting the amount of potential income for their services. CMS granted the State a two-year exception. The State is requesting an additional two-year exception from the RAC requirement.
Section 1902(a) (42)(B)(ii)(I) of the Act	The State/Medicaid agency will have contracts of the type(s) listed in section 1902(a)(42)(B)(ii)(I) of the Act in place. 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	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/Territory: Montana

Citation 4.5

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Medicaid Recovery Audit Contractor Program

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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):
	Percentage of the contingency fee will be the payment methodology used to determine State payments to Medicaid RACs for identification and recovery of overpayments.
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.
Section1902(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.