

Table of Contents

State/Territory Name: Montana

State Plan Amendment (SPA) #: 23-0002

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) 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

May 4, 2023

Michael Randol
Montana Medicaid and Health Services Executive Director/State Medicaid Director
Montana Department of Public Health & Human Services
P.O. Box 4210
Helena, MT 59604

Dear Mr. Randol:

We have completed our review of the enclosed State Plan Amendment (SPA) Transmittal Number MT-23-0002. This amendment was submitted on March 13, 2023 and seeks an exception to the Medicaid Recovery Audit Contractor (RAC) requirements.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations. Section 1902(a)(42)(B) of the Social Security Act requires state Medicaid agencies to have a RAC program, and 42 CFR 455.516 allows state Medicaid agencies to be excepted from the RAC requirements by submitting to CMS a written justification to review and approve through the SPA process.

Please be informed that MT SPA 23-0002 was approved on May 3, 2023, with an effective date of April 1, 2023 for a two-year period that expires on March 31, 2025. Enclosed is a copy of the CMS 179 summary page and the approved pages for incorporation into the Montana State Plan.

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

Sincerely,

A black rectangular redaction box covering the signature of James G. Scott.

Digitally signed by
James G. Scott -S
Date: 2023.05.04
14:20:21 -05'00'

James G. Scott, Director
Division of Program Operations

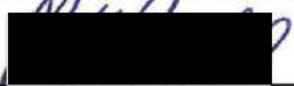
cc: Mary Eve Kulawik

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER 2_3_-0_0_0_2_	2. STATE Montana
	3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT (MEDICAID) ✓ XIX XXI	
TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE 04/01/2023	
5. FEDERAL STATUTE/REGULATION CITATION 42 CFR 455.502	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY23 (6months) \$ 0 b. FFY24 (12 months) \$ 0	
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Citation 4.5 Medicaid Recovery Audit Contractor Program, Pages 1-2 of 2	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Citation 4.5 Medicaid Recovery Audit Contractor Program, Pages 1-2 of 2	

9. 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 Utilization Review Section (SURS) unit to only allow requests of up to six (6) 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, 2023. This SPA requests to continue its exception to the RAC requirements for an additional two (2) years, through April 30, 2025.


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: Single Agency Review
--	---

11. SIGNATURE OF STATE AGENCY OFFICIAL 	15. RETURN TO Montana Department of Public Health and Human Services State Medicaid Director Attn: Mary Eve Kulawik PO Box 4210, Helena, MT 59601
12. TYPED NAME Mike Randol	
13. TITLE Medicaid & Health Services Executive Director/ State Medicaid Director	
14. DATE SUBMITTED 3-13-2023	

FOR CMS USE ONLY

16. DATE RECEIVED March 13, 2023	17. DATE APPROVED May 3, 2023
--	---

PLAN APPROVED - ONE COPY ATTACHED

8. EFFECTIVE DATE OF APPROVED MATERIAL April 1, 2023	19. SIGNATURE OF APPROVING OFFICIAL  Digitally signed by James G. Scott -S Date: 2023.05.04 14:21:10 -05'00'
20. TYPED NAME OF APPROVING OFFICIAL James G. Scott	21. TITLE OF APPROVING OFFICIAL Director, Division of Program Operations

22. REMARKS

State/Territory: Montana

Citation 4.5

Medicaid Recovery Audit Contractor Program

Section 1902(a) (42) (B) (i) of the Social Security Act	<p>_____ 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.</p> <p><u>X</u> The State is seeking an exception to establishing such program for the following reasons:</p> <p><u>X</u> 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.</p>
Section 1902(a) (42) (B) (ii) (I) of the Act	<p>_____ 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.</p> <p>Place a check mark to provide assurance of the following:</p> <p>_____ The State will make payments to the RAC(s) only from amounts recovered.</p> <p>_____ The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.</p>
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 RACs for identification and recovery of overpayments (e.g., the percentage of the contingency fee):</p> <p>_____ 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.</p> <p>_____ 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.</p> <p>_____ 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.</p>

State/Territory: Montana

Citation 4.5

Medicaid Recovery Audit Contractor Program

Section 1902 (a) (42) (B) (ii) (II) (bb) of the Act	<p>_____ 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):</p> <p>_____ Percentage of the contingency fee will be the payment methodology used to determine State payments to Medicaid RACs for identification and recovery of overpayments.</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>
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>