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State/Territory Name: North Dakota

State Plan Amendment (SPA) #: 21-0003

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 601 E. 12th Street, Suite 355 Kansas City, MO 64106



Medicaid & CHIP Operations Group

March 31, 2021

Caprice Knapp, Medicaid Director Division of Medical Services North Dakota Department of Human Services 600 East Boulevard Avenue, Dept. 325 Bismarck, ND 58505-0250

RE: North Dakota State Plan Amendment (SPA) 21-0003

Dear Ms. Knapp:

We have reviewed the State Plan Amendment (SPA) submitted under transmittal number 21-0003. This SPA amends the State Plan to request an extension to the exemption for a Recovery Audit Contractor.

Please be informed that this SPA was approved on March 30, 2021, with an effective date of April 1, 2021. The extension to the exemption for a Recovery Audit Contractor is approved for two years, and will expire on April 1, 2023. Enclosed is the CMS-179 and SPA pages.

Should you have any questions about this amendment, please contact Curtis Volesky at (303) 844-7033.

Sincerely,

Digitally signed by James Scott -S

te: 2021.03.31 11:54:05

James Scott, Director

Division of Program Operations

cc: Krista Fremming, krfremming@nd.gov
Stacey Koehly, skoehly@nd.gov
LeeAnn Thiel, lthiel@nd.gov

TED A NOW MEDICARE AND MEDICAID SERVICES	1 TO ANCHITTAL MILLANDED	OMB NO. 0938-0193
TRANSMITTAL AND NOTICE OF APPROVAL OF	1. TRANSMITTAL NUMBER:	2. STATE
STATE PLAN MATERIAL	21-0003	North Dakota
FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECU (MEDICAID)	URITY ACT
TO: REGIONAL ADMINISTRATOR	4. PROPOSED EFFECTIVE DATE	
CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	April 1, 2021	
5. TYPE OF PLAN MATERIAL (Check One):		
, ,		
	CONSIDERED AS NEW PLAN	AMENDMENT
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AME		amendment)
6. FEDERAL STATUTE/REGULATION CITATION:	7. FEDERAL BUDGET IMPACT:	
	a. FFY 2021 \$0	
42 CFR 455.516 and 1902(a)(42) of the Act	b. FFY <u>2022</u> <u>\$0</u>	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:	9. PAGE NUMBER OF THE SUPERS OR ATTACHMENT (If Applicable)	
Section 4.5b, pages 36b and 36c	Section 4.5b, pages 36b and 36c (TN	18-0017)
10. SUBJECT OF AMENDMENT: Amends the State Plan to request an extension to the exemptio	n for a Recovery Audit Contractor.	
	J	
11. GOVERNOR'S REVIEW (Check One):		
GOVERNOR'S OFFICE REPORTED NO COMMENT	◯ OTHER, AS SPEC	IEIED.
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED	Caprice Knapp, Di	
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	<u>Caprice Knapp, Di</u> Medical Service	
INO REPLI RECEIVED WITHIN 43 DATS OF SUBMITTAL	Wiedicai Service	<u>s Division</u>
12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO:	
12. SIGNATURE OF STATE AGENCT OFFICIAL.	10. KETOKIV 10.	
	Canrigo Knopp Director	
	Caprice Knapp, Director	
13. TYPED NAME:	Medical Services Division	
	ND Department of Human So	ervices
Caprice Knapp	600 East Boulevard Avenue I	Dept 325
14. TITLE:	Bismarck ND 58505-0250	•
Director, Medical Services Division	Dismarch 1(D cococ 02co	
15. DATE SUBMITTED:		
Original Submission: January 13, 2021		
Resubmission Date: January 22, 2021		
FOR REGIONAL OF	FICE USE ONLV	
17. DATE RECEIVED:	18. DATE APPROVED:	
January 13, 2021	March 30, 2021	
PLAN APPROVED – ON		
19. EFFECTIVE DATE OF APPROVED MATERIAL: April 1, 2021		FICIAL: ly signed by James G. Scott -S 2021 03 31 11:56:04 -05'00'
21. TYPED NAME:	22. TITLE:	
James G. Scott	Director, Division of Progr	ram Operations
23. REMARKS:	Director, Division of Flog.	оримонь
ZJ. KEMAKKS.		

Revision: HCFA-PM-88-10 (BERC)

December 2010

State: North Dakota

4.5b Medicaid Recovery Audit Contractor Program

Citation	
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.
	The State is seeking an exception to establishing such program for the following reasons: The State has an approved RAC waiver effective April 1, 2019 through April 1, 2021. The State is requesting an extension of the current RAC waiver due to the majority of the State Medicaid recipients being part of a Managed Care Organization. The state issued an RFP for a new RAC vendor; in 2017 however, no proposals were received. There is no evidence that issuing a new RFP would result in receipt of proposals/response from prospective vendors. The State has no changes to its Medicaid program that would benefit the state to put out an RFP to vendors. The North Dakota Medicaid Program Integrity Unit efforts have not diminished and the Unit is continually exploring additional audit areas and methods to improve auditing practices across the Medicaid expenditure universe. The PIU recently contracted with a vendor to explore auditing opportunities within long term care. North Dakota is requesting an extension of the exemption from establishing a Medicaid RAC program, effective April 1, 2021 through April 1, 2023.
Section 1902(a)(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.
	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.

TN No. <u>21-0003</u> Supersedes

TN No.: <u>18-0017</u>

Approval Date: 03/30/2021 Effective Date: 04-01-2021

Revision: HCFA-PM-88-10 (BERC)

December 2010

State: North Dakota

4.5b Medicaid Recovery Audit Contractor Program – (continued)

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.	
Citation		
Section 1902(a)(42)(b)(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.	

TN No. <u>21-0003</u> Supersedes

TN No.: <u>18-0017</u>

Approval Date: 03/30/2021 Effective Date: 04-01-2021

Revision: HCFA-PM-88-10 (BERC)

December 2010

State: North Dakota

4.5b Medicaid Recovery Audit Contractor Program – (continued)

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.

TN No. <u>21-0003</u>
Supersedes Approval Date: <u>03/30/2021</u> Effective Date: <u>04-01-2021</u>

TN No.: <u>18-0017</u>