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STATE/TERRIORITY NAME: NEBRASKA

STATE PLAN AMENDMENT (SPA)#: 21-0016

This file contains the following documents in the order listed:

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- 2) CMS 179 Form**
- 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

February 16, 2022

Kevin Bagley, Director
Nebraska Department of Health and Human Services
Division of Medicaid and Long-Term Care
301 Centennial Mall South
Lincoln, NE 68509


Re: Nebraska State Plan Amendment (SPA) 21-0016

Dear Mr. Bagley:

We reviewed your proposed Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 21-0016. This amendment requests a waiver extension to the Federal requirements for implementing a Recovery Audit Contractor (RAC) program.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act. This letter is to inform you that Nebraska Medicaid SPA 21-0016 was approved on February 15, 2022 with an effective date of December 1, 2021. This waiver extension is granted for a two-year period expiring on December 1, 2023.

If you have any questions, please contact Sandra Porter at 312-353-8310 or via email at Sandra.Porter@cms.hhs.gov.

 Digitally signed by James G. Scott -S
Date: 2022.02.16 15:56:00 -06'00'
James G. Scott, Director
Division of Program Operations

Enclosures

cc: Catherine Gekas Steeby
Dawn Kastens

<p>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES</p>	<p>1. TRANSMITTAL NUMBER <div style="display: flex; justify-content: space-around; border: 1px solid black; padding: 2px;"> 2 1 — 0 0 1 6 </div> </p> <p>2. STATE <div style="display: flex; justify-content: space-around; border: 1px solid black; padding: 2px;"> N E </div> </p> <p>3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="checkbox"/> XIX <input type="checkbox"/> XXI </p>
<p>TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES</p>	<p>4. PROPOSED EFFECTIVE DATE December 1, 2021 to December 1, 2023 <i>(CMS/S. Porter edited effective date. Authorized by NE State Medicaid Agency 01/28/2022)</i></p>
<p>5. FEDERAL STATUTE/REGULATION CITATION 42 CFR 455.12</p>	<p>6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>2022</u> \$ <u>0</u> b. FFY <u>2023</u> \$ <u>0</u></p>
<p>7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Section 4, Pages 36b and 36c</p>	<p>8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Section 4, Pages 36b and 36c (NE 19-0013)</p>

9. SUBJECT OF AMENDMENT
Recovery Audit Contractor

10. GOVERNOR'S REVIEW (Check One)

<p><input type="radio"/> GOVERNOR'S OFFICE REPORTED NO COMMENT</p> <p><input type="radio"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED</p> <p><input type="radio"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL</p>	<p><input checked="" type="radio"/> OTHER, AS SPECIFIED: Governor has waived review</p>
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<p>11. SIGNATURE OF STATE AGENCY OFFICIAL </p>	<p>15. RETURN TO Dawn Kastens Division of Medicaid & Long-Term Care Nebraska Department of Health and Human Services 301 Centennial Mall South Lincoln, NE 68509</p>
<p>11. TYPED NAME Kevin Bagley</p>	
<p>12. TITLE Director, Division of Medicaid & Long-Term Care</p>	
<p>13. DATE SUBMITTED December 22, 2021</p>	

FOR CMS USE ONLY	
16. DATE RECEIVED December 22, 2021	17. DATE APPROVED February 15, 2022

PLAN APPROVED - ONE COPY ATTACHED	
<p>18. EFFECTIVE DATE OF APPROVED MATERIAL December 1, 2021 through December 1, 2023</p>	<p>19. SIGNATURE OF APPROVING OFFICIAL Digitally signed by James G. Scott -S Date: 2022.02.16 15:57:02 -06'00'</p>
<p>20. TYPED NAME OF APPROVING OFFICIAL James G. Scott</p>	<p>21. TITLE OF APPROVING OFFICIAL Director, Division of Program Operations</p>

22. REMARKS

Revision: (Draft)
State/Territory: Nebraska

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.

X The State is seeking an exception to establishing such program for the following reasons:

Nebraska implemented Heritage Health effective January 1, 2017. Heritage Health combines physical health, behavioral health and pharmacy programs into a single managed care system. More than 99% of Nebraska Medicaid clients are enrolled in Managed Care. A dental benefits manager for dental services was effective October 1, 2017. Neb Rev Stat 68-974(3)(a) excludes Managed Care claims from the scope of the Recovery Audit Contractor. This leaves very few claims for review or recovery from the fee for service program.

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.

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.

Revisions: (Draft)

State/Territory: Nebraska

(4.5b Continued)

_____	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.
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): Flat fee to be negotiated
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.

TN No. NE 21-0016

Supersedes

TN No. NE 19-0013Approval Date 2/15/2022Effective Date Dec. 1, 2021 to Dec. 1, 2023