

Table of Contents

State/Territory Name: Nebraska

State Plan Amendment (SPA) #: 23-0011

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

October 20, 2023

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

Re: Nebraska State Plan Amendment (SPA) 23-0011


Dear Mr. Bagley:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) NE-23-0011. This amendment proposes to waive the requirement to implement a Recover Audit Contractor (RAC) for two years.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations 42 CFR 455.12. This letter is to inform you that Nebraska Medicaid SPA 23-0011 was approved on October 20, 2023, with effective dates of December 1, 2023 through November 30, 2025.

If you have any questions, please contact Tyson Christensen at 816-426-6440 or via email at tyson.christensen@cms.hhs.gov.

Sincerely,

 Digitally signed by
James G. Scott -S
Date: 2023.10.20
14:42:33 -05'00'

James G. Scott, Director
Division of Program Operations

cc: Dawn Kastens
Catherine Gekas-Steeby

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER 2 3 — 0 0 1 1	2. STATE N E
	3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="checkbox"/> XIX <input type="checkbox"/> XXI	
TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE December 1, 2023 to December 1, 2025	
5. FEDERAL STATUTE/REGULATION CITATION 42 CFR 455.12	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a FFY <u>2023</u> \$ 0 b FFY <u>2024</u> \$ 0	
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Section 4, Pages 36b and 36c	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Section 4, Pages 36b and 36c	
9. SUBJECT OF AMENDMENT Recovery Audit Contractor		

10. GOVERNOR'S REVIEW (Check One)	
<input type="radio"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="radio"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="radio"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	<input checked="" type="radio"/> OTHER, AS SPECIFIED: Governor has waived review
11. SIGNATURE OF STATE AGENCY OFFICIAL 	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
12. TYPED NAME Kevin Bagley	
13. TITLE Director, Division of Medicaid & Long-Term Care	
14. DATE SUBMITTED July 27, 2023	

FOR CMS USE ONLY	
16. DATE RECEIVED July 27, 2023	17. DATE APPROVED October 20, 2023

PLAN APPROVED - ONE COPY ATTACHED	
18. EFFECTIVE DATE OF APPROVED MATERIAL December 1, 2023	19. SIGNING OFFICIAL Digitally signed by James G. Scott -S Date: 2023.10.20 15:01:20 -05'00'
20. TYPED NAME OF APPROVING OFFICIAL James G. Scott	21. TITLE OF APPROVING OFFICIAL Director, Division of Program Operations

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:

Section 1902(a)(42)(B)(ii)(I)
of the Act

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. The next version of Heritage Health implments on January 1, 2024 with physical health, behavioral health, pharmacy, and dental care combined into a single managed care system. 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. Nebraska is requesting an extension to the previous exception for two years effective December 1, 2023 through November 30, 2025.

_____ 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:

Section 1902
(a)(42)(B)(ii)(II)(aa) of the Act

_____ 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.

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.

TN No. NE 23-0011
Supersedes
TN No. NE 21-0016

Approval Date: October 20, 2023

Effective Date: December 1, 2023

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 23-0011

Supersedes

TN No. NE 21-0016Approval Date: October 20, 2023Effective Date: December 1, 2023