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State/Territory Name: Pennsylvania

State Plan Amendment (SPA) #: 21-0010

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
June 1, 2021

Teresa D. Miller, Secretary
Department of Human Services
P.O. Box 2675
Harrisburg, PA 17105-2675

Re: Pennsylvania State Plan Amendment (SPA) 21-0010

Dear Secretary Miller:

We reviewed your proposed Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 21-0010. This amendment is a request for an exception from 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 for CMS to review and approve through the SPA process. This letter is to inform you that Pennsylvania’s Medicaid SPA TN 21-0010 is approved effective June 1, 2021 for a two-year period that expires on May 31, 2023.

If you have any questions, please contact Dan Belnap at 215-861-4273 or via email at Dan.Belnap@cms.hhs.gov.

Sincerely,

[Signature]
James G. Scott, Director
Division of Program Operations

cc: Sally Kozak
    Eve Lickers
    Lacey Gates
    Karen Fickes
TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER
   21-0010

2. STATE
   Pennsylvania

3. PROGRAM IDENTIFICATION:
   TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
   CENTERS FOR MEDICARE & MEDICAID SERVICES
   DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
   June 1, 2021

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
   42 CFR § 455.516

7. FEDERAL BUDGET IMPACT
   a. FFY 2019–2020 $0
   b. FFY 2020-2021 $0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
   Section 4.5, pages 36a, 36b and 36c

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
   OR ATTACHMENT (If Applicable)
   Section 4.5, pages 36a, 36b and 36c

10. SUBJECT OF AMENDMENT
    The State is seeking an exception to continuing the Medicaid Recovery Audit Contractor (RAC) Program

11. GOVERNOR’S REVIEW (Check One)
    ☒ OTHER, AS SPECIFIED
    Review and approval authority has been delegated to the Department of Human Services

12. SIGNATURE OF STATE AGENCY OFFICIAL

13. TYPED NAME
    Teresa D. Miller

14. TITLE
    Secretary of Human Services

15. DATE SUBMITTED
    March 31, 2021

16. RETURN TO
    Commonwealth of Pennsylvania
    Office of Medical Assistance Programs
    P.O. Box 2675
    Harrisburg, Pennsylvania 17105-2675

17. DATE RECEIVED
    April 6, 2021

18. DATE APPROVED
    May 27, 2021

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL
    June 1, 2021

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME
    James G. Scott

22. TITLE
    Director, Division of Program Operations

23. REMARKS
    Pen and ink changes made with state’s permission to boxes 7, 8, 9, and 15 (db)
### SECTION 4 - GENERAL PROGRAM ADMINISTRATION

#### 4.5 Medicaid Recovery Audit Contractor Program

<table>
<thead>
<tr>
<th>Citation</th>
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<tbody>
<tr>
<td>Section 1902(a)(42)(B)(i) of the Social Security Act</td>
</tr>
<tr>
<td>Section 1902(a)(42)(B)(ii)(I) of the Act</td>
</tr>
</tbody>
</table>

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 the RAC Program for the following reasons:

In accordance with 42 CFR Ch. IV § 455.516, a state may seek to be excepted from some or all Medicaid RAC contracting requirements.


DHS released a Request for Proposal (RFP) on November 1, 2018 to seek assistance in performing Retrospective Provider Reviews, including RAC requirements, for the Fee-for-Service and Managed Care (MC) delivery systems. No proposals were received.

HMS transferred remaining case files to DHS. DHS staff completed reviews of FFS short-stay inpatient hospital services, the scope of RAC reviews. The Department has continued these reviews with dates of service beyond those designated in the RAC review for FFS and MC delivery systems.

Pennsylvania’s program integrity activities are executed in both the FFS and MC environments with strong oversight, coordination, and follow-up by the Bureau of Program Integrity. Additionally, DHS has a well-defined oversight and monitoring process for the MCOs’ program integrity responsibilities.

Additionally, through a Joint Operating Agreement originating in February 2017, the CMS NE-Unified Program Integrity Contractor (UPIC) routinely conducts audits of Pennsylvania’s MA providers. Work includes various

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**TN No. 21-0010**

**Supersedes**

**TN 19-0011**

**Approval Date:** 5/27/21  
**Effective Date:** June 1, 2021
Section 1902 (a)(42)(B)(ii)(aa) of the Act  

scenarios for data analyses and development of methodology for review of various provider types and scenarios.

Considering the foregoing, CMS approved the PA DHS SPA request (SPA PA 19-001) on June 27, 2019, effective June 1, 2019. PI activities continue in the FFS and MC delivery systems. Therefore, DHS is requesting a second exception to having a Medicaid RAC, effective June 1, 2021 through May 31, 2023.

- 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.

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.

- 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)(IV)(cc) Of the Act

<table>
<thead>
<tr>
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<th>Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>1902 (a)(42)(B)(ii)(IV)(cc)</td>
<td>to appeal any adverse determination made by the Medicaid RAC(s).</td>
</tr>
<tr>
<td>1902 (a)(42)(B)(ii)(IV)(cc)</td>
<td>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.</td>
</tr>
<tr>
<td>1902 (a)(42)(B)(ii)(IV)(cc)</td>
<td>The State assures that the recovered amounts will be subject to a State’s quarterly expenditure estimates and funding of the State’s share.</td>
</tr>
<tr>
<td>1902 (a)(42)(B)(ii)(IV)(cc)</td>
<td>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.</td>
</tr>
</tbody>
</table>

TN No. __21-0010_________  
Supersedes  
TN __19-0011_________  
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