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State/Territory Name: Pennsylvania

State Plan Amendment (SPA) #: 23-0007

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

April 13, 2023

Valerie A. Arkoosh, MD, MPH Acting Secretary Department of Human Services P.O. Box 2675 Harrisburg, PA 17105-2675

Re: Pennsylvania State Plan Amendment (SPA) 23-0007

Dear Acting Secretary Arkoosh:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 23-0007. 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 23-0007 was approved on April 11, 2023, with an effective date of June 1, 2023, for a two-year period that expires on May 31, 2025.

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

Sincerely,

Ruth A. Hughes, Acting Director Division of Program Operations

Enclosures

cc: Karen Fickes Eve Lickers Lacey Gates

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES 5. FEDERAL STATUTE/REGULATION CITATION 42 CFR § 455.516 7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Section 4.5, pages: 36a, 36b and 36c	1. TRANSMITTAL NUMBER 2 3 — 0 0 0 7 3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT VIX XXI 4. PROPOSED EFFECTIVE DATE June 1, 2023 6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a FFY 2022-2023 \$ 0 b. FFY 2023-2024 \$ 0 8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Section 4.5, pages: 36a, 36b and 36c	
9. SUBJECT OF AMENDMENT		
The State is seeking an exception to the Medicaid Recovery Audit Contractor (RAC) Program		
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:	
	15. RETURN TO Commonwealth of Pennsylvania Department of Human Services	
12. TYPED NAME Valerie A Arkoosh MD MPH	Office of Medical Assistance Programs	
13. TITLE Acting Secretary, Department of Human Services	Bureau of Policy, Analysis and Planning P.O. Box 2675 Harrisburg, Pennsylvania 17105-2675	
14. DATE SUBMITTED February 17, 2023		
FOR CMS US	SE ONLY	
16. DATE RECEIVED February 17, 2023	17. DATE APPROVED April 11, 2023	
PLAN APPROVED - ONE COPY ATTACHED		
18. EFFECTIVE DATE OF APPROVED MATERIAL June 1, 2023	19. SIGNATURE O	
20. TYPED NAME OF APPROVING OFFICIAL Ruth A. Hughes	21. TITLE OF APPROVING OFFICIAL Acting Director, Division of Program Operations	
22. REMARKS Boxes 6, 7, and 8: State authorized pen and ink change on 03/31/2023		

State: Pennsylvania

SECTION 4 - GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program

Citation

Section 1902(a)(42)(B)(i) of the Social Security Act

Section 1902(a)(42)(B)(ii)(I) of the 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 the RAC Program for the following reasons:

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

Pennsylvania's Department of Human Services (DHS) established a RAC Program effective May 2011 through a contingency fee-based contract with CGI Federal, Inc. (CGI). CGI elected to terminate their contract in 2015. At that time, DHS transferred the remaining life of the contract to Health Management Systems, Inc. (HMS) effective September 2015. Pennsylvania's RAC contract with HMS expired on May 31, 2019.

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

TN No. <u>23-0007</u> Supersedes TN <u>21-0010</u>

Approval Date: April 11, 2023 Effective Date: June 1, 2023

Section 1902 (a)(42)(B)(ii)(II)(aa) of the Act	Considering the foregoing, CMS approved the PA DHS SPA request (SPA PA 19-001) on June 27, 2019, effective June 1, 2019. CMS approved a subsequent PA DHS SPA request (SPA PA 21-0010) on June 1, 2021 with an effective date of June 1, 2021. PI activities continue in the FFS and MC delivery systems. DHS is requesting continued exception to having a Medicaid RAC, for two years effective June 1, 2023 through May 31, 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: 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.
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 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
Section 1902 (a)(42)(B)(ii)(III) of the Act	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.
Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act	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
Section 1902(a)(42)(B)(ii)(IV(bb) of the Act	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	

TN No. <u>23-0007</u>
Supersedes
TN <u>21-0010</u>

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_	The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).
-	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.
-	The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.
	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>23-0007</u> Supersedes TN <u>21-0010</u>