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State Name: Virginia

**State Plan Amendment (SPA) #**: 20-003

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS-179 Form
- 3) Approved SPA Page

### **DEPARTMENT OF HEALTH & HUMAN SERVICES**

Centers for Medicare & Medicaid Services 601 E. 12<sup>th</sup> Street, Room 355 Kansas City, Missouri 64106



## Medicaid and CHIP Operations Group

June 11, 2020

Karen Kimsey, Director Department of Medical Assistance Services 600 East Broad Street, Suite 1300 Richmond, VA 23219

RE: Virginia State Plan Amendment 20-003

Dear Ms. Kimsey:

The Centers for Medicare & Medicaid Services (CMS) has reviewed Virginia's State Plan Amendment (SPA) 20-003, Recovery Audit Contractor - Exemption. Section 1902(a)(42)(B) of the Social Security Act requires the Department of Medical Assistance Services (DMAS) to have a Medicaid Recovery Audit Contractor (RAC) program. 42 CFR §455.51 allows DMAS to file requests for exceptions to the RAC requirements by submitting a written justification to CMS through the State Plan Amendment process.

The purpose of this State Plan Amendment is to request an exception from the RAC requirements. This SPA is acceptable. Therefore, we are approving SPA 20-003 with an effective date of July 1, 2020. This exception will expire on July 1, 2022. Enclosed is the approved SPA page and signed CMS-179 form.

If you have any questions concerning this information, please contact me at (816) 426-6417, or your staff may contact Margaret Kosherzenko at <a href="Margaret.Kosherzenko@cms.hhs.gov">Margaret.Kosherzenko@cms.hhs.gov</a> or (215) 861-4288.

Sincerely,

/S/

James G. Scott, Director Division of Program Operations

**Enclosures** 

cc:

Emily McClellan

FORM CMS-179 (07/92)

Save

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER 2 0 0 0 3 Virginia
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICARD SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE 07/1/2020
5. TYPE OF PLAN MATERIAL (Check Ome)	
□ NEW STATE PLAN □ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☑ AMENDMENT	
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENI	
6. FEDERAL STATUTE/REGULATION CITATION 42 CFR Part 455	7. FEDERAL BUDGET IMPACT a. FFY 2020 \$ -0- b. FFY 2021 \$ -0-
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
Pre-Print Page, Page 36b	OR ATTACHMENT (If Applicable)
Fre-Frint Fage, Fage 300	Same as Box 8
10. SUBJECT OF AMENDMENT	
Recovery Audit Contractor – Exemption	
11. GOVERNOR'S REVIEW (Check One)  GOVERNOR'S OFFICE REPORTED NO COMMENT <sup>2020</sup> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	OTHER, AS SPECIFIED  Secretary of Health and Human Resources
12. SIGNATURE OF STATE AGENCY OFFICIAL /S/	5. RETURN TO
13. TYPED NAME Karen Kimsey	Dept. of Medical Assistance Services
14. TITLE Division of the control of	600 East Broad Street, #1300
Director	Richmond VA 23219
15. DATE SUBMITTED 4/28/2020	Attn: Regulatory Coordinator
FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED May 28, 2020	DATE APPROVED
PLAN APPROVED - ONE	June 9, 2020
	SIGNATURE OF REGIONAL OFFICIAL
July 1, 2020	/S/
	. TITLE
James G. Scott	Director, Division of Program Operations
23. REMARKS	= 1.1.1., 2.1.2.1. of 1.1.0gram operations

Instructions on Back

# Page 36b STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT State of VIRGINIA

#### 4.5b Medicaid Recovery Audit Contractor Program

Citation § 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.
§ 1902(a)(42)(B)(ii)(I) of the Act	The State is seeking an exception to establishing such program for the following reasons: DMAS has transitioned to a 90% managed care program environment, such that the claims-eligible RAC review has been rendered largely obsolete. Additionally, a search to secure a vendor to operate an efficient RAC program, in this new environment, proved unviable and cost inefficient for Virginia Medicaid.
	The State/Medicaid agency has contracts of the type(s) listed in § 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:
§ 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.
	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.

TN No. 20-003 Sup ersedes TN No. 15-014

Approval Date 06/09/2020

Effective Date 7-1-2020