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State/Territory Name: **PUERTO RICO**

State Plan Amendment (SPA) #: **07-012**

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

CMS

CENTERS for MEDICARE & MEDICAID SERVICES

**Region II
Federal Building
26 Federal Plaza
New York, NY 10278**

April 16, 2010

Miguel Negrón Rivera, Executive Director
Medicaid Program
Commonwealth of Puerto Rico
Department of Health
P.O. Box 70184
San Juan, Puerto Rico 00936-8184

Dear Mr. Rivera:

We have completed our review of Puerto Rico's State Plan amendment (SPA) submittal 07-012, Employee Education about False Claims Act, and find it acceptable for incorporation into Puerto Rico's Medicaid Plan, effective on January 1, 2007. This SPA makes changes to the State Plan mandated by the Deficit Reduction Act.

The revised pages submitted to CMS via email on April 9, 2010 have replaced the pages originally submitted by Puerto Rico.

Thank you for your cooperation during the approval process for this SPA. Enclosed are copies of SPA 07-012 and the signed copy of form CMS-179. If you have any questions, please contact Doretha Howard at (212) 616-2425.

Sincerely,

Michael Melendez
Acting Associate Regional Administrator
Division of Medicaid & Children's Health

Enclosures

cc: Domingo Nevarez
Claudia Simonson

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER <u>07-012</u>	2. STATE Puerto Rico
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) 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 October 1, 2007	

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 1902 (a) of the Act. P.L. 109-171 - Section 6032	7. FEDERAL BUDGET IMPACT a. FFY <u>N/A</u> \$ _____ b. FFY _____ \$ _____
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT SUPPLEMENT 3 TO ATTACHMENT 2.6A OMB NO. 00983 ** SEE REMARKS	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) N/A

10. SUBJECT OF AMENDMENT

4.42 Employee Education About False Claims Recoveries

11. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE OFFICIAL	16. RETURN TO
13. TYPED NAME Miguel Negrón-Rivera	Mr. Miguel Negrón-Rivera Executive Director Medicaid Program PR. Department of Health PO BOX 70184 San Juan, P.R. 00936
14. TITLE Executive Director	
15. DATE SUBMITTED December 27, 2007	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED	18. DATE APPROVED APR 16 2010
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL JAN 01 2007	20. SIGNATURE OF REGIONAL OFFICIAL
21. TYPED NAME Michael Melendez	22. TITLE Acting Associate Regional Administrator Division of Medicaid and State Operations

23. REMARKS
Originally submitted pages have been replaced with newly submitted pages via State e-mail of April 09, 2010

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Commonwealth of Puerto Rico

OFFICIAL

<p>Citation 1902(a)(68) of the Act, P.L. 109-171 (section 6032)</p>	<p>4.42 <u>Employee Education About False Claims Recoveries.</u></p> <p>(a) The Medicaid agency meets the requirements regarding establishment of policies and procedures for the education of employees of entities covered by section 1902(a)(68) of the Social Security Act (the Act) regarding false claims recoveries and methodologies for oversight of entities' compliance with these requirements.</p> <p>(1) Definitions.</p> <p>(A) An "entity" includes a governmental agency, organization, unit, corporation, partnership, or other business arrangement (including any Medicaid managed care organization, irrespective of the form of business structure or arrangement by which it exists), whether for-profit or not-for-profit, which receives or makes payments, under a State Plan approved under title XIX or under any waiver of such plan, totaling at least \$5,000,000 annually.</p> <p>If an entity furnishes items or services at more than a single location or under more than one contractual or other payment arrangement, the provisions of section 1902(a)(68) apply if the aggregate payments to that entity meet the \$5,000,000 annual threshold. This applies whether the entity submits claims for payments using one or more provider identification or tax identification numbers.</p> <p>A governmental component providing Medicaid health care items or services for which Medicaid payments are made would qualify as an "entity" (e.g., a state mental</p>
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TN No. 07-18
Supersedes
TN No. _____

APR 16 2010
Approval Date: _____ Effective Date: JAN 01 2007

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Commonwealth of Puerto Rico

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	<p>health facility or school district providing school-based health services). A government agency which merely administers the Medicaid program, in whole or part (e.g., managing the claims processing system or determining beneficiary eligibility), is not, for these purposes, considered to be an entity. An entity will have met the \$5,000,000 annual threshold as of January 1, 2007, if it received or made payments in that amount in Federal fiscal year 2006. Future determinations regarding an entity's responsibility stemming from the requirements of section 1902(a)(68) will be made by January 1 of each subsequent year, based upon the amount of payments an entity either received or made under the State Plan during the preceding Federal fiscal year.</p> <p>(B) An "employee" includes any officer or employee of the entity.</p> <p>(C) A "contractor" or "agent" includes any contractor, subcontractor, agent, or other person which or who, on behalf of the entity, furnishes, or otherwise authorizes the furnishing of, Medicaid health care items or services, performs billing or coding functions, or is involved in the monitoring of health care provided by the entity.</p> <p>(2) The entity must establish and disseminate written policies which must also be adopted by its contractors or agents. Written policies may be on paper or in electronic form, but must be readily available to all employees, contractors, or agents. The entity need not create an employee handbook if none already exists.</p>
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TN No. 07-12
Supersedes
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Approval Date: APR 16 2010 Effective Date: JAN 01 2007

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Commonwealth of Puerto Rico

OFFICIAL

	<p>(3) An entity shall establish written policies for all employees (including management), and of any contractor or agent of the entity, that include detailed information about the False Claims Act and the other provisions named in section 1902(a)(68)(A). The entity shall include in those written policies detailed information about the entity's policies and procedures for detecting and preventing waste, fraud, and abuse. The entity shall also include in any employee handbook a specific discussion of the laws described in the written policies, the rights of employees to be protected as whistleblowers and a specific discussion of the entity's policies and procedures for detecting and preventing fraud, waste, and abuse.</p> <p>(4) The requirements of this law should be incorporated into each State's provider enrollment agreements.</p> <p>(5) The State will implement this State Plan amendment on <u>January 1, 2007</u>.</p> <p>(b) ATTACHMENT 4.42-A describes, in accordance with section 1902(a)(68) of the Act, the methodology of compliance oversight and the frequency with which the State will re-assess compliance on an ongoing basis.</p>
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TN No. 07-12
Supersedes
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Approval Date: APR 16 2010 Effective Date: JAN 01 2007

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Commonwealth of Puerto Rico

METHOLODOLGY FOR THE IMPLEMENTATION OF THE
EMPLOYEE EDUCATION ABOUT FALSE CLAIMS ACT

OFFICIAL

The Department of Health, as the Single State Agency, instructs its sub-grantee, the Puerto Rico Health Insurance Administration (ASES), to require all contracted entities, no later than June 15, 2010; to provide evidence of compliance with Section 1902(a)(68) of the Social Security Act. For calendar years 2007, 2008 and 2009, all entities who in federal fiscal years (FFY) 2006, 2007 and 2008 met the \$5,000,000 dollar annual threshold, attest certifying to the fact that they were in compliance with Section 1902(a)(68) of the Social Security Act.

For subsequent years beginning with calendar year 2010, the Puerto Rico Health Insurance Administration, on behalf of the Single State Agency, will require that all contracted entities who meet the \$5,000,000 dollar threshold as of September 30th, provide the items listed below no later than December 30, of each year as evidence of compliance with Section 1902(a)(68) of the Social Security Act. Contracted entities who fail to comply with these requirements will be fined by the ASES.

- a) Acknowledgment of Compliance with Section 1902(a)(68) of the Social Security Act.
- b) Copy of Policies and Procedure developed to comply with Section 1902(a)(68) of the Social Security Act. A copy of the employee handbook should also be provided if the contracted entity has an employee handbook.

The ASES will provide the Single State Agency a copy of each document listed above from each contracted entity who meets the requirements.

TN No. 07-12
Supersedes _____
TN No. _____

Approval Date APR 16 2010 Effective Date JAN 01 2007