

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Jim Pillen, Governor

July 27, 2023

James G. Scott, Director
Centers for Medicare & Medicaid Services
Kansas City Regional Operations Group
Division of Medicaid Field Operations-North
601 East 12th Street, Suite 355
Kansas City, Missouri 64106-2898

RE: Nebraska State Plan Amendment NE 23-0011

Dear Mr. Scott:

Enclosed please find the above referenced amendment to the Nebraska State Plan regarding the waiver of the requirement to implement a Recovery Audit Contractor.

The Division of Medicaid and Long-Term Care sent notice on June 23, 2023 (attached) to the federally recognized Native American Tribes and Indian Health Programs within the State of Nebraska to discuss the impact the proposed state plan amendment might have, if any, on the Tribes. No comments were received.

If you have content questions, please feel free to contact Jeremy Brunssen at jeremy.brunssen@nebraska.gov or 402-540-0380. For submittal questions, please contact Dawn Kastens at dawn.kastens@nebraska.gov or 402-471-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Bagley".

Kevin Bagley, Director
Division of Medicaid and Long-Term Care
Department of Health and Human Services

KB/dk

cc: Tyson Christensen

Enclosures

**TRANSMITTAL AND NOTICE OF
APPROVAL OF STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID
SERVICES**

| | |
|-----------------------|----------|
| 1. TRANSMITTAL NUMBER | 2. STATE |
| 2 3 — 0 0 1 1 | N E |

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT XIX 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 2023 \$ 0
b FFY 2024 \$ 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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)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)

- GOVERNOR'S OFFICE REPORTED NO COMMENT
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:
Governor has waived review

11. SIGNATURE OF STATE AGENCY OFFICIAL

Kevin Bagley

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

17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

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:

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.

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

_____ 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)(aa) 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 Medicare RACs, as published in the Federal Register.

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

Approval Date _____ Effective Date _____

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 21-0016

Approval Date _____ Effective Date _____