



COMMONWEALTH of VIRGINIA
Office of the Governor

John E. Littel
Secretary of Health and Human Resources

July 8, 2022

Francis McCullough, Associate Regional Administrator
Centers for Medicare & Medicaid Services
801 Market Street, Suite 9400
Philadelphia, PA 19107-3134

Dear Mr. McCullough:

Attached for your review and approval is amendment 22-019, entitled "Recovery Audit Contractor (RAC) – Exemption Request", to the Plan for Medical Assistance for the Commonwealth. I request that your office approve this change as quickly as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Littel".

John E. Littel

Attachment

cc: Cheryl J. Roberts, Acting Director, Department of Medical Assistance Services

Transmittal Summary

SPA 22-019

I. IDENTIFICATION INFORMATION

Title of Amendment: Recovery Audit Contractor (RAC) – Exemption Request

II. SYNOPSIS

Basis and Authority: The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements.

Purpose: DMAS is requesting an exemption from CMS mandated RAC requirements, as acquiring a new RAC vendor presents is not feasible.

Substance and Analysis: The section of the State Plan that is affected by this amendment is entitled Standards Established and Methods Used to Assure High Quality of Care.

Section 1902(a)(42)(8) of the Social Security Act requires DMAS to have a Medicaid RAC program. However, 42 CFR §455.51 allows DMAS to file a request for an exemption to the RAC requirements, by submitting a written justification to CMS through the SPA process. In 2020, DMAS requested and received a temporary exemption from the RAC program, while research was conducted to procure a new RAC vendor. The current CMS RAC exemption expired on July 1, 2022, and DMAS needs to file a request for another exemption.

DMAS has transitioned to a 95% managed care program environment, such that the claims-eligible RAC review was rendered largely obsolete. A search to secure a vendor to operate an efficient RAC program, in this new environment, proved unviable. A new vendor would entail additional state funding, in conjunction with the RAC contingency fee, and represents an impractical scenario for Virginia Medicaid.

Impact: None

Prior Public Notice: Not applicable.

Public Comments and Agency Analysis: Not applicable.

Tribal Notification - Message (HTML)

File Message Tell me what you want to do...

Ignore Delete Reply Reply Forward Meeting Create New Move OneNote Mark Categorize Follow Translate Find Zoom
Unread Tags Up Select Editing

Williams, Jimeequa <jimееquа.williams@dmas.virginia.gov> Dean Branham; G. Anne Richardson; jerry.stewart@cit-ed.org; Pam Thompson; Rappahannock Tribe; Reginald Stewart; Robert Gray; Rufus Elliott; Samuel Bass; Stephen Adkins; + 5 - 6/30/2022

Tribal Notification

Tribal Notice Letter 6.29.22 (signed).docx 60 KB

Good afternoon.

Dear Tribal Leaders and Indian Health Programs:

Attached is a Tribal Notice letter from Virginia Medicaid's Acting Director Cheryl J. Roberts indicating that the Dept. of Medical Assistance Services (DMAS) plans to submit a State Plan Amendment (SPA) to the federal Centers for Medicare and Medicaid Services regarding Recovery Audit Contractor (RAC) requirements.

If you would like a copy of the SPA documents or proposed text changes, or if you have any questions, please let us know.

Thank you.
-J. Williams

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Jimееquа H. Williams, Regulatory Coordinator
Policy, Regulation, and Member Engagement (PRME) Division
Virginia Department of Medical Assistance Services
600 East Broad Street
Richmond, VA 23219
jimееquа.williams@dmas.virginia.gov
(804) 225-3508
www.dmas.virginia.gov

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5:02 PM 8/3/2022



COMMONWEALTH of VIRGINIA

CHERYL J. ROBERTS
ACTING DIRECTOR

Department of Medical Assistance Services

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219
804/786-7933
800/343-0634 (TDD)
www.dmas.virginia.gov

June 29, 2022

SUBJECT: Notice of Opportunity for Tribal Comment – State Plan Amendment related to Recovery Audit Contractor (RAC) requirements.

Dear Tribal Leader and Indian Health Programs:

This letter is to notify you that the Department of Medical Assistance Services (DMAS) is planning to amend the Virginia State Plan for Medical Assistance with the Centers for Medicare and Medicaid Services (CMS). Specifically, DMAS is providing you notice about a State Plan Amendment (SPA) that the Agency will file with CMS in order to request another extension from the CMS mandated RAC requirements.

Section 1902(a)(42)(8) of the Social Security Act requires DMAS to have a Medicaid RAC program. However, 42 CFR §455.51 allows DMAS to file a request for an exemption to the RAC requirements, by submitting a written justification to CMS through the SPA process. In 2020, DMAS requested and received a temporary exemption from the RAC program, while research was conducted to procure a new RAC vendor. That exemption expires on July 1, 2022 so DMAS needs to file a request for another exemption.

DMAS has transitioned to a 95% managed care program environment, such that the claims-eligible RAC review was rendered largely obsolete. A search to secure a vendor to operate an efficient RAC program, in this new environment, proved unviable. A new vendor would entail additional state funding, in conjunction with the RAC contingency fee, and represents an impractical scenario for Virginia Medicaid.

The tribal comment period for this SPA is open through July 30, 2022. You may submit your comments directly to Jimiequa Williams, DMAS Policy, Regulation, and Member Engagement Division, by phone (804) 225-3508, or via email: Jimiequa.Williams@dmas.virginia.gov. Finally, if you prefer regular mail, you may send your comments or questions to:

Virginia Department of Medical Assistance Services

Attn: Jimiequa Williams
600 East Broad Street
Richmond, VA 23219

Please forward this information to any interested party.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl J. Roberts".

Cheryl J. Roberts
Acting Director

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
 State of VIRGINIA

4.5b Medicaid Recovery Audit Contractor Program

<p><u>Citation</u> § 1902(a)(42)(B)(i) of the Social Security Act</p> <p>§ 1902(a)(42)(B)(ii)(I) of the Act</p> <p>§ 1902(a)(42)(B)(ii)(II)(aa) of the Act</p>	<p>_____ 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.</p> <p><u>X</u>_____ The State is seeking an exception to establishing such program for the following reasons: DMAS has transitioned to a 95% 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.</p> <p>_____ 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.</p> <p>Place a check mark to provide assurance of the following:</p> <p>_____ The State will make payments to the RAC(s) only from amounts recovered.</p> <p>_____ The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.</p> <p>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):</p> <p>_____ 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 <i>Federal Register</i>.</p> <p>_____ 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 <i>Federal Register</i>. The State will only submit for FFP up to the amount equivalent to that published rate.</p>
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**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER

2 2 — 0 0 1 9

2. STATE

V A

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

10/1/2022

5. FEDERAL STATUTE/REGULATION CITATION

42 CFR Part 455

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2022 \$ 0

b. FFY 2023 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Pre-Print Page, Page 36b

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Same as box #8

9. SUBJECT OF AMENDMENT

Recovery Audit Contractor (RAC) - Exemption Request

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:
Secretary of Health and Human Resources

11. SIGNATURE OF STATE AGENCY OFFICIAL

Cheryl J. Roberts

12. TYPED NAME
Cheryl J. Roberts

13. TITLE
Acting Director

14. DATE SUBMITTED
06-27-2022

15. RETURN TO

Department of Medical Assistance Services
600 East Broad Street, #1300
Richmond VA 23219

Attn: Policy, Regulations, and Manuals Supervisor

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