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State/Territory Name: **Virginia**

State Plan Amendment (SPA) #: **22-0019**

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

August 31, 2022

Cheryl J. Roberts, Acting Director
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, VA 23219

Re: Virginia State Plan Amendment 22-0019

Dear Ms. Roberts:

The Centers for Medicare & Medicaid Services (CMS) has reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 22-0019. This amendment requests an extension of the current exception from the Recovery Audit Contractor Program.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act 1902(a)(42)(B) and Code of the Federal Regulations 42 CFR §455.51. This letter is to inform you that Virginia Medicaid SPA 22-0019 was approved on August 29, 2022, with an effective date of July 1, 2022. This exception will expire on July 1, 2024.

If you have any questions, please contact Margaret Kosherzenko at 215-861-4288 or via email at Margaret.Kosherzenko@cms.hhs.gov.

Sincerely,

James G. Scott, Director
Division of Program Operations

cc: Emily McClellan

**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

07/01/2022

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)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

8/8/2022

17. DATE APPROVED

08/29/2022

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

7/1/2022

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

James G. Scott

21. TITLE OF APPROVING OFFICIAL

Director, Division of Program Operations

22. REMARKS

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: Virginia submitted a request for an exception with SPA VA-20-0003 in May, 2020 and was granted an exception, with an expiration date of July 1, 2022. The state is seeking an extension to its current exception, as VA still maintains a large managed care population in the state. DMAS transitioned to a 95% managed care program environment in 2021, 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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