

**STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**

**8/4/22 PUBLIC NOTICE OF PROPOSED AMENDMENT TO RHODE ISLAND
MEDICAID STATE PLAN**

In accordance Rhode Island General Laws 42-35, notice is hereby given that the Executive Office of Health and Human Services (EOHHS) proposes to make the following amendment to the Rhode Island State Plan under Title XIX of the Social Security Act:

Recovery Audit Contractors (RAC) Exemption

EOHHS is proposing to submit an amendment to the Medicaid State Plan. This amendment proposes to extend the current exemption to the Recovery Audit Contractors (RACs) requirement to have a vendor that identifies and corrects improper Medicaid payments through the collection of overpayments and reimbursement of underpayments.

The proposed effective date of this change is August 5, 2022. This is not expected to have any financial impact on annual expenditures.

This proposed amendment is accessible on the EOHHS website (www.eohhs.ri.gov) or available in hard copy upon request (401-462-2598 or RI Relay, dial 711). Interested persons should submit data, views, or written comments by **September 3, 2022** to Katy Thomas, Executive Office of Health and Human Services, 3 West Rd, Cranston, RI, 02920, or Kathryn.Thomas@ohhs.ri.gov.

In accordance with the Rhode Island General Laws 42-35-3, an oral hearing will be granted on the proposed State Plan Amendment if requested by twenty-five (25) persons, an agency, or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

The Executive Office of Health and Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief, or handicap in acceptance for or provision of services or employment in its programs or activities.

Original signed by Ana Novais, Acting Secretary, Rhode Island Executive Office of Health and Human Services
Signed this 3rd day of August, 2022

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Rhode Island

4.5b Medicaid Recovery Audit Contractor Program

Citation	
<p>Section 1902(a)(42)(B)(i) of the Social Security Act</p>	<p><u> </u> 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:</p> <ul style="list-style-type: none"> • The state maintains a low rate of errors in Medicaid payments, as evidenced by the most recent PERM review which found an overall a 3.81 error rate; • The last RAC contractor found few recoveries during two years of review. Based upon the small recovery, the contractor elected not to exercise the two option years under the contract • The State's estimate of errors to be recovered beyond the substantial controls are currently in place • Prior to the expiration of the exception, the State will analyze the most recent PERM results and the most timely audit results from other programs • According to recovery audit firms contacted by EOHHS, it is not cost-beneficial for auditing firms to submit bids due to the small number of enrollees and claims in our non-managed care programs; • EOHHS has strong and effective controls that minimize the risk of improper payments. These include a robust pre- and post - payment automated review mechanisms and numerous additional audit controls to prevent and detect improper payments, implemented in collaboration with the agency's fiscal agent. Additionally, EOHHS has contractual relationships with a Pharmacy Benefit Manager, to ensure that through robust claims processing controls, concurrent and retrospective review of claims, and referrals to Program Integrity as needed, our beneficiaries receive medically necessary medications in the most cost-effective manner. • EOHHS Program Integrity staff works closely with the Medicaid Fraud Control Unit (MFCU) on areas of focus that are aligned with the agency's strategic plan.

TN No: 22-00XX
 Supersedes
 TN No: 20-0010

Approval Date: _____

Effective Date: _____

	<ul style="list-style-type: none"> Several federal and state agencies conduct periodic reviews of the Medicaid eligibility systems, the claims processing function, and the Program Integrity unit
Section 1902(a)(42)(B)(ii)(I) of the Act	<p>___ 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.</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>
Section 1902 (a)(42)(B)(ii)(II)(aa) of the Act	<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 Federal Register.</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 Federal Register. The State will only submit for FFP up to the amount equivalent to that published rate.</p> <p>___ 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.</p>
Section 1902 (a)(42)(B)(ii)(II)(bb) of the Act	<p>___ 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): The state will pay a contingency fee rate at the same percentage as for overpayments</p>
Section 1902 (a)(42)(B)(ii)(III) of the Act	<p>___ The State has an adequate appeals process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).</p>
Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act	<p>___ 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.</p>
Section 1902 (a)(42)(B)(ii)(IV)(bb) of the Act	<p>___ The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.</p>

TN No: 22-00XX
 Supersedes
 TN No: 20-0010

Approval Date: _____

Effective Date: _____

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: 22-00XX
Supersedes
TN No: 20-0010

Approval Date: _____

Effective Date: _____