

Department of Health & Human Services
Centers for Medicare & Medicaid Services
26 Federal Plaza, Room 37-100 North
New York, NY 10278



491

February 9, 2011

Miguel Negrón Rivera
Office of Economic Assistance to the Medically Indigent
Department of Health
P.O. Box 70184
San Juan, Puerto Rico 00936-8184

Dear Mr. Negron:

We have completed our review of the Puerto Rico State Plan Amendment submittal 10-001, "Request for Exception from the Recovery Audit Contractor Program (Section 4-General Program Administration)" and find it acceptable for incorporation into the Medicaid State Plan with an effective date of December 22, 2010. Enclosed please find copies of the approved pages for State Plan Amendment 10-001 and a signed CMS-179 Form.



If you have any questions or which to discuss this further, please contact Dominique Mathurin at 212-616-2422.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Melendez". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael Melendez, LMSW
Acting Associate Regional Administrator
Division of Medicaid and Children's Health

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER <u>1 0 - 0 0 1</u>	2. STATE Puerto Rico
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) <u>Title XIX of Social Security Act-Medicaid</u>	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE December 22, 2010	
5. TYPE OF PLAN MATERIAL. (Check One)			
<input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION <u>Section 1902(a)(42)(B)(i) of the Social Sec. Act.</u>		7. FEDERAL BUDGET IMPACT a. FFY <u>n/a</u> \$ _____ b. FFY _____ \$ _____	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Proposed Section 4 / 4.5 Medicaid RAC Program ** SEE REMARKS		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)	
10. SUBJECT OF AMENDMENT Section 4 - 4.5 Medicaid RAC Prpgram			
11. GOVERNOR'S REVIEW (Check One)			
<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED Medicaid Program Director <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL 		16. RETURN TO Miguel Negrón Rivera Executive Director Medicaid Program - PR Department of Health P. O. Box 70184 San Juan, PR 00936-8184	
13. TYPED NAME Miguel Negrón-Rivera			
14. TITLE Executive Director			
15. DATE SUBMITTED December 22, 2010			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED		18. DATE APPROVED FEB 09 2010	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL DEC 22 2010		20. SIGNATURE OF REGIONAL OFFICIAL 	
21. TYPED NAME Michael Melendez		22. TITLE Acting Associate Regional Administrator Division of Medicaid and State Operations	
23. REMARKS			

Revision:

OFFICIAL

State PUERTO RICO

PROPOSED SECTION 4 - GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program

<p><u>Citation</u></p> <p>Section 1902(a)(42)(B)(i) of the Social Security Act</p> <p>Section 1902(a)(42)(B)(ii)(I) of the Act</p> <p>Section 1902 (a)(42)(B)(ii)(II)(aa) of the 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> XX </u> The State is seeking an exception to establishing such program for the following reasons: <u>The Medicaid Program in Puerto Rico is administered by private Managed Care Organizations (MCOs) through a managed care system. We understand that the RAC requirements should not apply to the Puerto Rico MEDICAID Program. See attached letter dated December 22, 2010.</u></p> <p><u> </u> 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><u> </u> The State will make payments to the RAC(s) only from amounts recovered.</p> <p><u> </u> 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><u> </u> 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><u> </u> 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>
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TN No. _____

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Section 1902 (a)(42)(B)(ii)(II)(bb)
of the Act

_____ 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)(III)
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):

Section 1902 (a)(42)(B)(ii)(IV)(aa)
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)(bb)
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)(cc)
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.

_____ 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.

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