



COMMONWEALTH of VIRGINIA
Office of the Governor

Janet Vestal Kelly
Secretary of Health and Human Resources

October 21, 2024

James G. Scott, Director
Division of Program Operations
Medicaid & CHIP Operations Group
Centers for Medicare and Medicaid Services
601 E. 12th St., Room 355
Kansas City, MO 64106

Dear Mr. Scott:

Attached for your review and approval is amendment 24-0025, 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 blue ink that reads "Janet V. Kelly".

Janet V. Kelly

Attachment

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

Transmittal Summary

SPA 24-025

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 2022, 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, 2024, 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.



Outlook

Tribal Notice – Recovery Audit Contractor (RAC) – Exemption Request

From Lee, Meredith (DMAS) <Meredith.Lee@dmas.virginia.gov>**Date** Tue 10/8/2024 11:32 AM**To** TribalOffice@MonacanNation.com <TribalOffice@MonacanNation.com>; Ann Richardson <chiefannerich@aol.com>; pamelathompson4@yahoo.com (pamelathompson4@yahoo.com) <pamelathompson4@yahoo.com>; rappahannocktrib@aol.com (rappahannocktrib@aol.com) <rappahannocktrib@aol.com>; regstew007@gmail.com (regstew007@gmail.com) <regstew007@gmail.com>; Gray, Robert <robert.gray@pamunkey.org>; Adrian Compton <tribaladmin@monacannation.com>; chiefstephenadkins@gmail.com (chiefstephenadkins@gmail.com) <chiefstephenadkins@gmail.com>; bradbybrown@gmail.com (bradbybrown@gmail.com) <bradbybrown@gmail.com>; tabitha.garrett@ihs.gov (tabitha.garrett@ihs.gov) <tabitha.garrett@ihs.gov>; kara.kearns@ihs.gov (kara.kearns@ihs.gov) <kara.kearns@ihs.gov>; ReBecca.Robinson@ihs.gov <ReBecca.Robinson@ihs.gov>; davehennaman@gmail.com <davehennaman@gmail.com>; administrator@nansemond.gov <administrator@nansemond.gov>; info@afwellness.com <info@afwellness.com>; info@fishingpointhc.com <info@fishingpointhc.com>; contact@Nansemond.gov <contact@Nansemond.gov>; brandon.custalow@mattaponination.com <brandon.custalow@mattaponination.com>; admin@umitribe.org <admin@umitribe.org>; Reels-Pearson, Lorraine (IHS/NAS/AO) <Lorraine.Reels-Pearson@ihs.gov>

1 attachments (174 KB)

10-08-24 Tribal Notice Letter, signed by CR.pdf;

Dear Tribal Leaders and Indian Health Programs:

Attached is a Tribal Notice letter from Virginia Medicaid Director Cheryl Roberts indicating that the Department of Medical Assistance Services (DMAS) plans to submit a State Plan Amendment (SPA) to the federal Centers for Medicare and Medicaid Services. This SPA will allow DMAS to request a continuation of the agency's current exemption from federal 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! -- Meredith Lee

Meredith Lee
Policy, Regulations, and Manuals Supervisor
Policy Division
Department of Medical Assistance Services
meredith.lee@dmas.virginia.gov, (804) 371-0552
Hours: 7:00 am - 3:30 pm (Monday-Friday)
www.dmas.virginia.gov





COMMONWEALTH of VIRGINIA

CHERYL J. ROBERTS
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

October 8, 2024

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 2022, DMAS requested and received a temporary exemption from the RAC program, while research was conducted to procure a new RAC vendor. That exemption expired, 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.

We realize that the changes in this SPA may impact Medicaid members and providers, including tribal members and providers. Therefore, we encourage you to let us know if you have any comments or questions. The tribal comment period for this SPA is open through November 7, 2024. You may submit your comments directly to Meredith Lee, DMAS Policy Division, by phone (804) 371-0552, or via email: Meredith.Lee@dmas.virginia.gov. Finally, if you prefer regular mail you may send your comments or questions to:

Virginia Department of Medical Assistance Services
Attn: Meredith Lee
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, JD
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>_____ 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>§ 1902(a)(42)(B)(ii)(I) of the Act</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 <u>VA-22-0019</u> in May, 2020 <u>August 2022</u> and was granted an exception, with an expiration date of July 1, 2022 <u>July 1, 2024</u>. 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>§ 1902(a)(42)(B)(ii)(II)(aa) of the Act</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</p>

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

1. TRANSMITTAL NUMBER

2. STATE

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

5. FEDERAL STATUTE/REGULATION CITATION

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY _____ \$ _____
b. FFY _____ \$ _____

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

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

9. SUBJECT OF AMENDMENT

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



15. RETURN TO

12. TYPED NAME

13. TITLE

14. DATE SUBMITTED

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

