

**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

---

January 18, 2024

Ms. Lorelei Kellogg  
Acting Director  
Medical Assistance Division  
New Mexico Human Services Department  
2025 South Pacheco Drive  
P.O. Box 2348  
Santa Fe, New Mexico 87504-2348

Re: New Mexico State Plan Amendment (SPA) 23-0015

Dear Lorelei:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 23-0015. This amendment proposes to discontinue the Recovery Audit Contractor (RAC) program. These changes are being made due to the State having a high managed care population at 83% compared to 17% Fee for Services; therefore, the state does not project any large recoveries in the future for the RAC program.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations 42 CFR 455.12. This letter is to inform you that New Mexico Medicaid SPA 23-0015 was approved on January 18, 2024 with an effective date of October 1, 2023.

If you have any questions, please contact Dana Brown at 410-786-0421 or via email at [Dana.Brown@cms.hhs.gov](mailto:Dana.Brown@cms.hhs.gov).

Sincerely,

James G. Scott, Director  
Division of Program Operations

cc: Valerie Tapia  
Donna Lopez  
Julie Lovato

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

1. TRANSMITTAL NUMBER

2 3 — 0 0 1 5

2. STATE

NM

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

October 1, 2023

5. FEDERAL STATUTE/REGULATION CITATION

42 CFR 455.12

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2024 \$ 0  
b. FFY 2025 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Proposed Section 4-General Program Administration  
4.5 Medicaid Recovery Audit Contractor Program,  
Page 36a

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

HCFA 179 (TN # 10-11)

9. SUBJECT OF AMENDMENT

To discontinue the Recovery Audit Contractor (RAC) program. These changes are being made due to the State having a high managed care population at 83% compared to 17% Fee for Services; therefore, the state does not project any large recoveries in the future for the RAC program. Thus, state will discontinue the RAC program.

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:

11. SIGNATURE OF STATE AGENCY OFFICIAL



12. TYPED NAME  
Lorelei Kellogg

13. TITLE  
Acting Director, Medical Assistance Division

14. DATE SUBMITTED  
12/08/2023

15. RETURN TO

Lorelei Kellogg, Active Director  
Medical Assistance Division  
P.O. Box 2348  
Santa Fe, NM 87504-2348

**FOR CMS USE ONLY**

16. DATE RECEIVED  
12/08/2023

17. DATE APPROVED  
January 18, 2028

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL  
October 1, 2023

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

The state authorized a pen & ink change for box 7 to reflect the revised SPA page 36a.

## 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>_____ 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>___X___ The State is seeking an exception to establishing such program for the following reasons:</p> <p>New Mexico is seeking a two-year exception from the Medicaid RAC program for the following reason:</p> <p>The State has a high Managed Care population at 83% compared to 17% Fee for Service. Therefore, the State does not project any large recoveries in the future for the RAC program.</p> <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> <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>Specifically, the New Mexico agency will pay a contingency fee for overpayments.</p> <p>_____ The State attests that the contingency fee rate paid to the Medicaid RAC will not exceed the highest rate paid to the Medicare RACs, as published in the Federal Register.</p>
---	---