Revision: HCFA-PM-88-10 (BERC) OMB No.: 0938-0193
SEPTEMBER 1988

State/Territory: Nevada

Citation		
42 CFR 455.12 AT-78-90 48 FR 3742 52 FR 48817	4.5	Medicaid Agency Fraud Detection and Investigation Program The Medicaid agency has established and will maintain methods, criteria, and procedures that meet all requirements of 42 CFR 455.13 through 455.21 and 455.23 for prevention and control of program fraud and abuse.

SECTION 4 - GENERAL PROGRAM ADMINISTRATION

4.5 Medicaid Recovery Audit Contractor Program

Citation	
Section 1902(a)(42)(B)(i) of the Social Security Act	__X__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 an0.y waiver of the State plan. __X_ The State is seeking an exception to establishing such program for the following reasons: The State is seeking an exception to the requirement of a 1.0 FTE CMD. Please refer to Page 36b.1 for additional information.
Section 1902(a)(42)(B)(ii)(I) of the Act	__X__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. ***The State attests that when the RAC contract is implemented that it will meet the required statutes.*** Place a check mark to provide assurance of the following: __X__The State will make payments to the RAC(s) only from amounts recovered.
Section 1902 (a)(42)(B)(ii)(II)(aa) of the Act	__X__The State will make payments to the RAC(s) on a contingent Basis for collecting overpayments. 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): **The exact contingency fee percentage has not yet been determined for this contract.** __X__ 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. _____ 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.

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. __X__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): **A market based rate will be determined via the request for proposal (RFP) process.**
Section 1902 (a)(42)(B)(ii)(III) of the Act	__X__ 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)(aa) of the Act	__X__ 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(bb) of the Act	__X___ The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.
Section 1902 (a)(42)(B)(ii)(IV)(cc) Of the Act	__X__ 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.

BRIAN SANDOVAL
Governor

MICHAEL J. WILLDEN
Director

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIRECTOR'S OFFICE
4126 Technology Way, Suite 100
Carson City, Nevada 89706
Telephone (775) 684-4000 • Fax (775) 684-4010
http://dhhs.nv.gov

February 8, 2013

Gloria Nagle
Associate Regional Administrator
Division of Medicaid and Children's Health Operations, CMS
90 7th Street, Suite 5-300 (5W)
San Francisco CA 94103

Dear Ms. Nagle:

Enclosed please find Nevada's State Plan Amendment (SPA) #12-009. This SPA amends Nevada's State Plan effective July 1, 2012.

On behalf of the State of Nevada Division of Health Care Financing and Policy, I would like to request an exception to 42 CFR 455.508(b) which requires States to have a minimum 1.0 FTE Contractor Medical Director for Nevada's Medicaid RAC. The Nevada Medicaid RAC contract was awarded to HMS Holdings Corp and continues through December 31, 2016. Due to the nature and level of clinical review work projected to be performed, it is reasonable to consider that a full time Contracted Medical Director is not warranted for this individual state RAC contract. The State proposes to hire a 0.5 FTE CMD and utilize our contractor's contracted physician review panel for specialty peer reviews as required. In addition to this approach, our contractor has a full time (FTE) National Medical Director who is licensed in another state that brings national knowledge and experience to our RAC program, while the NV licensed CMD, and NV licensed contract physician review panel brings local state perspective and understanding of state health policy and coverage issues. We believe this approach will work well for the State and minimize cost prohibitive concerns resulting from the requirement of hiring a FTE CMD under this contingency fee based contract. The DHCFP and HMS believe that the spirit and intent of the Medicaid rule for a full time Contract Medical Director is to follow the Medicare RAC guidelines. We are empathetic to the concerns posed by providers regarding the availability of a licensed physician Contracted Medical Director and we intend to ensure that a Contracted Medical Director is available. However, CMS requires *Medicare* RACs to employ *one full time Contract Medical Director to oversee each awarded 7 to 20-state Medicare region, not each state*. Because of this, the DHCFP would like to be granted the ability to determine the appropriate staffing level for our Contracted Medical Director.

Our RAC administrator, HMS, employs Contracted Medical Directors (CMDs) who are currently licensed, have extensive knowledge of state coverage and payment rules, and have appropriate clinical experience. The CMD selected for the RAC will work closely with HMS's

Corporate Medical Officer (CMO), Dr. David Sand. Dr. Sand has extensive RAC experience, including serving as a CMD in the Medicare RAC pilot program, and as a member of HMS's physician panel to oversee clinical activities and determinations. The CMD for the Nevada RAC will oversee the medical review process, assist review staff upon request or as required, oversee quality assurance procedures, and maintain relationships with provider associations.

All of the physicians used by HMS are subjected to rigorous credentialing, including primary verification of licensure and certification by an American Board of Medical Specialties or American Osteopathic Association recognized board, as well as queries of the National Practitioners' Data Bank and the Department of Health and Human Services Office of the Inspector General's List of Excluded Individuals and Entities. No physician with a significant entry or exclusion is permitted to serve on their panel.

As detailed above, we believe that the approach used by HMS exceeds CMS' Final Rule statement that the RAC must employ an FTE CMD. Under the RAC contract, HMS will provide:

1. A Nevada-licensed CMD, whose staffing hours would be correlated with the volume of the RAC contract clinical reviews;

2. A panel of Nevada-licensed physician reviewers as needed; and

3. A resource of 800 physician peer reviewers nationwide.

As demonstrated by HMS's current Program Integrity contracts, due to the deep and ongoing involvement of their Chief Medical Officer, Contracted Medical Directors, and physician panel, we are confident that HMS can achieve the highest levels of quality, accuracy, and objectivity required of the Nevada RAC without employing a separate full time Nevada CMD. This approach ensures that the CMD has adequate knowledge and experience working on RAC programs, rather than having to place individuals in this role that may not have experience serving as a RAC CMD. For these reasons, the State of Nevada DHCFP does not believe employing a FTE CMD is appropriate for our state RAC and would request that we be given the ability to determine the appropriate staffing levels for our CMD.

Thank you for your consideration and should you have any questions regarding this request, please contact Marta Stagliano, Chief, Compliance at (775) 684-3623 or Marta.Stagliano@dhcfp.nv.gov.

Sincerely,

Michael J. Willden, Director
Department of Health and Human Services

Enclosures

Cc: Elizabeth Aiello, Deputy Administrator, DHCFP
Leah Lamborn, ASO IV, DHCFP
Marta Stagliano, Chief, Compliance, DHCFP