

Revision: HCFA-PM-88-10 (BERC)  
SEPTEMBER 1988

OMB No.: 0938-0193

State/Territory: COLORADO

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.

TR No. 89-06  
Supersedes  
TR No. 83-18

Approval Date 3/1/89

Effective Date 10/1/88

HCFA ID: 1010P/0012P

New: HCFA-PM-99-3 (CMSO)  
JUNE 1999

State: Colorado

Citation  
Section 1902(a)(64) of  
the Social Security Act  
P.L. 105-33

4.5a Medicaid Agency Fraud Detection and Investigation  
Program

The Medicaid agency has established a mechanism to receive reports from beneficiaries and others and compile data concerning alleged instances of waste, fraud, and abuse relating to the operation of this title.

Revision:

State Colorado

## 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><input checked="" type="checkbox"/> 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><input type="checkbox"/> The State is seeking an exception to establishing such program for the following reasons:</p> <p><input checked="" type="checkbox"/> 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><input checked="" type="checkbox"/> The State will make payments to the RAC(s) only from amounts recovered.</p> <p>As approved under TN CO-15-0008, the State includes the following exceptions:</p> <ul style="list-style-type: none"><li>• an exception to the requirement that the RAC must hire a minimum of 1.0 FTE medical director in good standing with the State licensing authorities. The State shall require the RAC to hire a .10 FTE medical director who is a physician licensed in good standing in any state in the U.S.</li><li>• an exception to the current three year claims look back period. The State shall direct the RAC to examine claims for up to seven years from the paid date of the claim.</li><li>• an exception to the underpayment identification requirement. State law does not authorize a contingency payment for recovery of underpayments nor does it authorize a non-contingent payment methodology. The State shall allow the RAC to identify underpayments but will not pay the RAC for doing so. Providers will need to submit a claim for previously underpaid services directly to the Department within the applicable limits for timely submission of claims in order to recoup identified underpayments.</li></ul>
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No. 16-0003  
Supersedes No. 15-0008

Approval Date: 9/1/2016  
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Section 1902 (a)(42)(B)(ii)(II)(aa)  
of the Act

- an exception to the requirement that the contingency fee for overpayments may not exceed that of the highest Medicare RAC, as specified by CMS in the Federal Register. The State shall increase the maximum rate to 18 percent (18%), which is the current maximum percentage allowable under State law.

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 recovered overpayments (e.g., the percentage of the contingency fee):

The State shall pay the RAC a contingency fee of up to a maximum of 18 percent (18%) for overpayments to conform with the maximum allowable under State law, and as approved under TN CO 15-0008, which formed the basis for Colorado's competitive procurement process for the contract.

The State attests that if 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 following payment methodology shall be used to determine State payments to Medicaid RACs for underpayments:

The State shall allow the RAC to identify underpayments but will not pay the RAC for doing so. State law does not authorize a contingency payment for recovery of underpayments nor does it authorize a non-contingent payment methodology. Providers will need to submit a claim for previously underpaid services directly to the Department within the applicable limits for timely submission of claims in order to recoup identified underpayments.

The State will submit a justification seeking to pay the Medicaid RAC(s) a contingency fee higher than the highest contingency fee rate paid to Medicare RACs as published in the Federal Register.

Section 1902 (a)(42)(B)(ii)(III)  
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).

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<p>Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act</p>	<p><u>  X  </u> 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>
<p>Section 1902 (a)(42)(B)(ii)(IV)(bb) of the Act</p>	<p><u>  X  </u> 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>
<p>Section 1902 (a)(42)(B)(ii)(IV)(cc) of the Act</p>	<p><u>  X  </u> 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.</p>

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