



April 25, 2013

Stephen Fitton, Medicaid Director  
Medical Services Administration  
Federal Liaison Unit  
Michigan Department of Community Health  
400 South Pine  
Lansing, Michigan 48933

ATTN: Loni Hackney

Dear Mr. Fitton:

Enclosed for your records is an approved copy of the following State Plan Amendment:

- Transmittal: #13-006 Recovery Auditor Contractor
- Effective: January 1, 2013

If you have any questions, please contact Leslie Campbell at (312) 353-1557 or [Leslie.Campbell@cms.hhs.gov](mailto:Leslie.Campbell@cms.hhs.gov).

Sincerely,

A handwritten signature in black ink that reads "Verlon Johnson". The signature is written in a cursive, flowing style.

Verlon Johnson  
Associate Regional Administrator  
Division of Medicaid & Children's Health Operations

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**  
FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER: 13 - 06	2. STATE: Michigan
3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
4. PROPOSED EFFECTIVE DATE January 1, 2013	

TO: REGIONAL ADMINISTRATOR  
HEALTH FINANCING ADMINISTRATION  
DEPARTMENT OF HUMAN SERVICES

5. TYPE OF PLAN MATERIAL (Check One):

NEW STATE PLAN       AMENDMENT TO BE CONSIDERED AS NEW PLAN       AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:  
Section 1902(a)(1) of SSA

7. FEDERAL BUDGET IMPACT:  
a. FFY 2012 \_\_\_\_\_ \$ 0 \_\_\_\_\_  
b. FFY 2013 \_\_\_\_\_ \$ 0 \_\_\_\_\_

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  
General Program Administration, Page 36a of Section 4.5(a)(1)

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  
General Program Administration, Page 36a of Section 4.5(a)(1)

10. SUBJECT OF AMENDMENT:  
This SPA requests flexibility in meeting 42 CFR 455.516, the regulation requiring a state's Recovery Audit Contractors (RACs) to hire or contract with a minimum of 1.0 Full Time Equivalent (FTE) Medical Director who is licensed to practice in that state.

11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT       OTHER, AS SPECIFIED:  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED      Stephen Fitton, Director  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL      Medical Services Administration

12. SIGNATURE OF STATE AGENCY OFFICIAL:  


16. RETURN TO:  
Medical Services Administration  
Actuarial Division  
Capitol Commons Center - 7th Floor  
400 South Pine Street  
Lansing, Michigan 48933  
Attn: Loni Hackney

13. TYPED NAME:  
Stephen Fitton

14. TITLE:  
Director, Medical Services Administration

15. DATE SUBMITTED:  
March 27, 2013

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:	18. DATE APPROVED:
--------------------	--------------------

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPE NAME:	22. TITLE:

23. REMARKS:

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

SEPTEMBER 1988

State: MICHIGANCitation4.5(a)(1) Medicaid Recovery Audit Contractor ProgramSection  
1902(a)(42)(B)(i)  
of the Social  
Security Act

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.

The State is seeking an exception to establishing such program for the following reasons:  
CMS' September 16, 2011, publication of the Medicaid RAC final rule does not provide sufficient time for the state to complete its procurement process and implement the program by January 1, 2012. The state proposes an implementation date of March 31, 2012.

The State is seeking an exception to 42 CFR 455.508(b), requiring the RAC to have one FTE contractor medical director licensed to practice in Michigan because this requirement would create an undue burden on the State, increase the cost of the RAC program and reduce service quality.

Section  
1902(a)(42)(B)(ii)(I)  
of the Act

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.

Place a check mark to provide assurance of the following:

- The State will make payments to the RAC(s) only from amounts recovered.
- The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.

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

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 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.
- 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.

TN NO.: 13-06

Supersedes

TN No.: 11-13Approval Date: 4/25/13Effective Date: 01/01/2013



STATE OF MICHIGAN  
DEPARTMENT OF COMMUNITY HEALTH  
LANSING

RICK SNYDER  
GOVERNOR

JAMES K. HAVEMAN  
DIRECTOR

March 27, 2013

Ms. Verlon Johnson  
Associate Regional Administrator  
Division of Medicaid and Children's Health Operations  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
233 North Michigan Avenue, Suite 600  
Chicago, Illinois 60601

Dear Ms. Johnson:

Please find enclosed Michigan's State Plan Amendment #13-06 for review and approval. The purpose of the amendment is to request an exemption pursuant to 42 CFR 455.516, the regulation requiring the state's Recovery Audit Contractors (RACs) to hire or contract with a minimum of 1.0 Full Time Equivalent (FTE) Medical Director who is licensed to practice in that state. We believe this would present an undue burden on the state, increase the cost of the RAC program and reduce the likelihood that we would receive the quality of services intended.

Section 455.508(b) states, "The entity must hire a minimum of 1.0 FTE Contractor Medical Director who is a Doctor of Medicine or Doctor of Osteopathy in good standing with the relevant State licensing authorities and has relevant work and educational experience. A State may seek an exception, in accordance with 455.516, from requiring its RAC to hire a minimum of 1.0 FTE Contractor Medical Director by submitting to CMS a written request for CMS review and approval."

We are requesting flexibility in meeting this requirement for the reasons detailed below.

The requirement to hire or contract with a minimum of 1.0 full time equivalent Medical Director licensed to practice medicine in the state it holds the RAC contract would most likely not yield the quality of services intended. This is due to the fact that if the Medical Director is full time, then they would most likely not be currently practicing medicine. In our experience, we tend to get more favorable audit outcomes and find it more beneficial during appeals to have a Medical Physician that is currently practicing medicine and specializes in the services that were audited.

Michigan's RAC, Health Management System (HMS) has a full-time Chief Medical Officer (CMO) at its corporate level who is a physician licensed in another state but not in Michigan. The CMO oversees the medical record review process for all of the RAC contracts for HMS. Our RAC will also contract with a panel of medical doctors in various fields of medicine who are available as needed for our RAC contract. Additionally, our RAC will also employ or contract with a part-time Michigan licensed Medical Director that will manage the panel of medical doctors, assists nurses, therapists, and certified coders upon request; manage quality assurance procedures; and maintain relationships with provider associations. Although the panel of doctors will contain Michigan licensed doctors and the part-time medical director will be a Michigan licensed doctor, each would not be the one full time equivalent employee or contractor Medical Director of the company. We believe the in-depth involvement of our RAC's CMO, combined with leveraging our RACs physician panel and part-time dedicated Michigan licensed Medical Director will accomplish the high level of quality, accuracy and objectivity required for our RAC program. The corporate Medical Director brings national knowledge and experience while the part-time Michigan licensed Medical Director as well as use of the panel of physicians will provide the local perspective, an understanding of State health issues and practices and doctors specializing in the field of the services that are audited. We believe this provides a more balanced approach to our recovery audits.

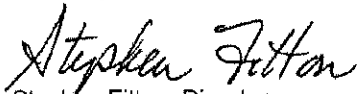
Ms. Verlon Johnson  
March 27, 2013

Page 2

Requiring a RAC to employ a FTE Medical Director specifically for Michigan may be cost prohibitive. The RAC recovery fee rate for our state is 9.4%. Adding one FTE Medical Director would increase costs above the 12.5% limit requiring our state to request an exemption from CMS to go above the 12.5% fee limit. Because RACs are paid a contingency fee out of the recoveries they generate, we believe the approach outlined above would be a more efficient and economical use of resources.

We thank CMS and all involved staff for their assistance. We appreciate your help and look forward to the approval of this SPA. If you have any questions or need additional information, please contact Loni Hackney, of my staff, at (517) 335-5303 or via e-mail at HackneyL@michigan.gov.

Sincerely,



Stephen Fitton, Director  
Medical Services Administration

cc: Leslie Campbell  
Mary Anne McGuire  
Mara Siler-Price  
Carolyn Brown  
Loni Hackney  
Pamela Callum-Bragg