

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: New Mexico

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<u>Citation</u> Section 1902(a)(42)(B)(i) of the Social Security Act	<u>X</u> 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. <u>X</u> The State is seeking an exception to establishing such program for the following reasons: New Mexico is seeking a two-year exception from the Medicaid RAC program for the following reason: 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.
Section 1902(a)(42)(B)(ii)(I) of the Social Security Act	<u>X</u> 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 is seeking an exception to 42 CFR § 455.508(b), the requirement that the RAC must hire a minimum of 1.0 FTE Contractor Medical Director. The State shall require the RAC to maintain and utilize a panel of physicians with a variety of specialties, including a physician with a New Mexico license. The panel consists of approximately 400 physicians representing over 100 specialties. Place a check mark to provide assurance of the following: <u> </u> The State will make payments to the RAC(s) only from amounts recovered. The State is seeking an exception to Section 1902(a)(42)(B)(ii)(I) of the Act and making payments to the RAC(s) for amounts recovered and avoided on a pre-pay basis for fee-for-service claims. <u>X</u> The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.

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Section 1902(a)(42)(B)(ii)(II)(aa) of the Social Security 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): Specifically, the New Mexico agency will pay a contingency fee for overpayments. _____ 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. _____ 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. <u>X</u> _____ 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. Considering the State's small size and relatively low capacity to absorb costs, the State is asking CMS to pay FFP for the full amount of the contingency fee including that above the highest paid Medicare rate.
Section 1902(a)(42)(B)(ii)(II)(bb) of the Social Security Act	<u>X</u> _____ 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): Percentage of the contingency fee The State will pay a percentage of the contingency fee.
Section 1902(a)(42)(B)(ii)(III) of the Social Security Act	<u>X</u> _____ 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 Social Security Act	<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.

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Section 1902(a)(42)(B)(ii)(IV)(bb) of the Social Security Act	<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.
Section 1902(a)(42)(B)(ii)(IV)(cc) of the Social Security Act	<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.