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State/Territory Name: **Kentucky**

State Plan Amendment (SPA)#: **24-0011**

This file contains the following documents in the order listed

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 East 12th Street, Suite 0300
Kansas City, Missouri 64106-2898



Medicaid and CHIP Operations Group

August 29, 2024

Ms. Lisa Lee
Commissioner, Department for Medicaid Services
Commonwealth of Kentucky
Cabinet for Health and Human Services
275 East Main Street, 6 West A
Frankfort, KY 40601

RE: State Plan Amendment (SPA) Transmittal Number 24-0011

Dear Commissioner Lee:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 24-0011. This amendment proposes to request an extension of the state's approved exception to establishing a recovery audit contractor.

We conducted our review of your submittal according to statutory requirements in Section 1902(a)(42)(B)(i) of the Social Security Act. This letter is to inform you that KY Medicaid SPA 24-0011 was approved on September 29, 2024, with an effective date from July 1, 2024 through June 30, 2026.

Enclosed are copies of Form CMS-179 and approved SPA pages to be incorporated into the Kentucky State Plan.

If you have any questions regarding this State Plan Amendment, please have a member of your staff contact Keri Toback at 312 353 1754 or by email at keri.toback@cms.hhs.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "James G. Scott", is positioned below the word "Sincerely,".

Digitally signed by James
G. Scott -S
Date: 2024.08.29 18:16:14
-05'00'

James G. Scott, Director
Division of Program Operations

Enclosures

cc: Erin Bickers, KY DMS

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

1. TRANSMITTAL NUMBER

2 4 — 0 0 1 1

2. STATE

KY3. 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

July 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION

Section 1902(a)(42)(B)(i) of the Social Security Act

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2024\$ (9)b. FFY 2025\$ (9)

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Page 36.a

Page 36.a1

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION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

Page 36.a

Page 36.a1

9. SUBJECT OF AMENDMENT

The purpose of this SPA is to request an extension of our approved exception to establishing a recovery audit contractor. In 2022 CMS approved KY SPA 22-001, which approved an extension through 3/31/24.

10. GOVERNOR'S REVIEW (Check One)



GOVERNOR'S OFFICE REPORTED NO COMMENT



COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

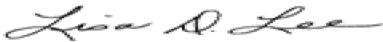


NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL



OTHER, AS SPECIFIED:

11. SIGNATURE OF STATE AGENCY OFFICIAL



12. TYPED NAME

Lisa D. Lee

13. TITLE

Commissioner

14. DATE SUBMITTED

7/22/2024

15. RETURN TO

Lisa Lee

275 E. Main St. 6 W-A

Frankfort, KY 40601

FOR CMS USE ONLY

16. DATE RECEIVED

07/22/2024

17. DATE APPROVED

08/29/2024

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

07/01/2024

19. SIGNATURE OF APPROVING OFFICIAL



Digitally signed by James G. Scott -S

Date: 2024.08.29 18:16:46 -05'00'

20. TYPED NAME OF APPROVING OFFICIAL

James G. Scott

21. TITLE OF APPROVING OFFICIAL

Director, Division of Program Operations

22. REMARKS

SECTION 4 – GENERAL PROGRAM ADMINISTRATION

4.5.1 Medicaid Recovery Audit Contractor Program

Citation Section 1902(a)(42)(B)(i) Of the Social Security Act	<input 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.
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☒ The State is seeking an exception to establishing such program for the following reasons:

On 8/16/19, the Commonwealth of Kentucky was informed by our current RAC, Optum that they will not be interested in contracting with the Commonwealth after the contract ends in 3/31/20. Optum has been our sole respondent to our last two (2) RFP postings RFP 758 1700000001 (current contractual agreement effective 4/4/17)) and RFP 758 1000000342 (prior contractual agreement effective 10/4/10).

After consulting with CMS and observing the trends in other states (and our experience with lack of responses in the bidding process), the Commonwealth did not believe it was practical to put out a proposal at that time. The Commonwealth also believed that by utilizing alternative resources that provider recovery will be more successful than utilizing a Recovery Audit Contractor that in our experience struggled with the implementation of MCO recovery. We believed our alternative resources would align with federal guidelines and program initiatives to detect and protect the State Medicaid Program from fraud and abuse by providers and recipients as applicable.

SECTION 4 – GENERAL PROGRAM ADMINISTRATION

4.5.1 Medicaid Recovery Audit Contractor Program (EXCEPTIONS)

Our Alternative Resources are as follows:

The Commonwealth intends to continue the utilization of the Joint Operating Agreement with the CMS Unified Program Integrity Contractor (UPIC), CoventBridge Group, to include audits of the providers that the Kentucky RAC previously conducted. We have expanded our Managed Care Organizations (MCO) audits with CoventBridge Group to include data driven analytics (algorithms) to identify overpayments (and underpayments as applicable). We had begun this process, but implementation was slowed due to COVID-19. The Commonwealth is also researching the possibility of contracting with a state university to identify possible overpayments (and underpayments if applicable) on both MCO encounters (and the actual claims if necessary) and Fee for Service (FFS) claims. The Commonwealth would first like to explore the effectiveness of our UPIC before implementing next steps and contracting with another entity. Additionally, we also have added resources to our Audits and Compliance Branch in the Division of Program Integrity that may lead to additional identification of overpayments and possible referrals to the UPIC on providers that require an intensive medical record review.