

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
New York Regional Office  
26 Federal Plaza, Room 37-100  
New York, NY 10278



DIVISION OF MEDICAID AND CHILDREN'S HEALTH OPERATIONS  
DMCHO: JM

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March 19, 2013

Jason Helgerson  
Medicaid Director, Deputy Commissioner  
Office of Health Insurance Programs  
New York State Department of Health  
Empire State Plaza  
Corning Tower (OCP – 1211)  
Albany, New York 12237

RE: NY SPA #12-36

Dear Commissioner Helgerson:

This is to notify you that New York State Plan Amendment (SPA) #12-36 has been approved for adoption into the State Medicaid Plan with an effective date of January 1, 2013. The SPA was submitted to request an exemption pursuant to 42 CFR 455.508(f) to the regulation requiring the State's Recovery Audit Contractors (RACS) not review claims older than three years.

Enclosed are copies of SPA #12-36 and the HCFA-179 form, as approved. If you have any questions or wish to discuss this SPA further, please contact Ricardo Holligan or John Montalto. Mr. Holligan may be reached at (212) 616-2424, and Mr. Montalto's telephone number is (212) 616-2326.

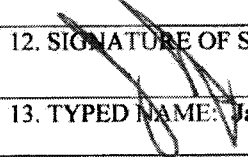
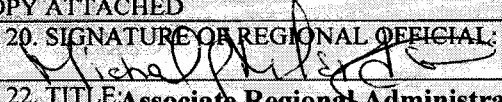
Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Melendez". The signature is fluid and cursive, with a large, looping initial "M".

Michael J. Melendez  
Associate Regional Administrator  
Division of Medicaid and Children's Health

Enclosures: CMS 179 Form  
State Plan Page

cc: RHolligan  
JGuhl  
JMontalto  
MLopez  
SJew

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: 12-36	2. STATE New York
<b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE January 1, 2013	
5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: Section 1902(a)(42) of the Social Security Act & Section 42 CFR 455.508(f)		7. FEDERAL BUDGET IMPACT: a. FFY 01/01/12-09/30/13 \$ 0 b. FFY 10/01/13-09/30/14 \$ 0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Page 36-4		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):	
10. SUBJECT OF AMENDMENT: Exception from Medicaid RAC Three-Year Look Back Period (FMAP = 50%)			
11. GOVERNOR'S REVIEW (Check One): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: New York State Department of Health Bureau of HCRA Oper & Financial Analysis 99 Washington Ave – One Commerce Plaza Suite 810 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: March 4, 2013			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED: March 19, 2013	
<b>PLAN APPROVED – ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: January 01, 2013		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: Michael Melendez		22. TITLE: Associate Regional Administrator Division of Medicaid and State Operations	
23. REMARKS:			

**OFFICIAL**

**SECTION 4 – GENERAL PROGRAM ADMINISTRATION**

**4.5 Medicaid Recovery Audit Contractor Program (Exceptions)**

<b><u>Citation</u></b>	<b><u>Exception from Medicaid RAC 3-year Look Back Period</u></b>
<u>42 CFR 455.508(f)</u>	<p><u>New York State requests an exception to the 3-year look back period for the Medicaid RAC program defined in section 455.508. Subparagraph (f) states, "The entity must not review claims that are older than 3 years from the date of the claim, unless it receives approval from the State."</u></p> <p><u>New York State regulations (18 NYCRR Section 504.3) require providers "to prepare and to maintain contemporaneous records demonstrating its right to receive payment under the medical assistance program and to keep for a period of six years from the date the care, services or supplies were furnished, all records necessary to disclose the nature and extent of services furnished and all information regarding claims for payment submitted by, or on behalf of, the provider and to furnish such records and information, upon request, to the department, the Secretary of the United States Department of Health and Human Services, the Deputy Attorney General for Medicaid Fraud Control and the New York State Department of Health".</u></p> <p><u>The State requests the ability to grant a look back period for the Medicaid RAC up to six years, upon State approval of the RAC scenario, for the following reasons:</u></p> <ul style="list-style-type: none"><li><u>• Claim specific detail may be present documenting an overpayment exists for periods beyond the three-years specified in Section 42 CFR 455.508(f);</u></li><li><u>• A look-back period longer than three years is more consistent with Medicaid provider record retention requirements required by New York State regulatory agencies; and</u></li><li><u>• A longer look-back period will allow for additional efficiencies for both the state and provider when a single effort can review and recover an identified overpayment rather than leveraging multiple entities to review and recover different time periods.</u></li></ul> <p><u>This exception will only apply to reviews based on actual claim specific detail. Audits that require sampling and extrapolation will continue to be limited to the 3-year look back period.</u></p>

TN #12-36

Supersedes TN NEW

**New**

Approval Date

MAR 19 2013

Effective Date

JAN 01 2013