



July 20, 2023

**Responses to Bidder Inquiries on a
Request for Proposals for a Review of the Colorado Department of Health Care Policy &
Financing's Recovery Audit Contractor Program**

1. Could the OSA elaborate on what prompted the issuance of this RFP?

House Bill 23-1295 contains the requirement for the review. In introducing the bill, the prime sponsor stated that some providers had expressed concerns to members of the Colorado Legislature that the Medicaid Recovery Audit Contractor (RAC) audits are overly aggressive, cumbersome, and not entirely transparent. Testimony from some providers indicated they believe the burden of the RAC audits on provider resources is excessive and the audits may be too aggressive – looking for minor errors. Providers also testified that small, independent, providers may not have the resources to effectively challenge the RAC findings. An overarching concern was that the RAC program may be causing providers to leave the Medicaid program, thereby affecting access to care.

2. Does the OSA intend for the selected auditor to request documentation directly from the RAC or have direct communication with them?

The OSA expects the selected firm to have communication and information exchanges with the RAC. The OSA can help coordinate among the Department of Health Care Policy & Financing (HCPF), the RAC, and the selected firm, with respect to initiating a process for communications and exchange of information and documentation.

3. Has the Colorado Medicaid program conducted any analyses to investigate the overpayment rate found through its RAC audits with a national rate or the rates reported by other states?

In response to this question, HCPF stated it has informally tried to do some comparisons, but since each state has its own intricacies, it is very difficult to compare. For example, states have different provider rights, including procedural and appeals provisions; different claims systems and provider payment rates; different overpayment issues; different audit scopes and

procedures (some states audit only dental claims); and different RAC contractual requirements. States do not publish their contract terms, detailed rules, or audit procedures, such as how they select claims for audit. Although all states follow the same general RAC rules, programs are designed by the states to fit their individual needs.

Please note that the OSA expects the selected firm to look further into the rationale and effects of the payment percentage as part of the evaluation.

4. Is there any historical information that can be made available about Colorado's original decision to set the contingency payment percentage at 18% of recoveries?

In response to this question, HCPF stated that one factor underlying the 18 percent maximum contingency fee is that, between 2013 and 2016, HCPF was not receiving any bids for its RAC contract. Increasing the maximum fee was intended to help attract potential bidders and was approved by CMS in a waiver. However, the first contract did not reach that maximum. It had an 11 percent fee on recoveries from automated audits; a 13 percent fee on recoveries from medical records reviews (complex audits); and an additional percentage if the contractor met certain quality metrics.

HCPF also stated that the fee is intended to help ensure adequate compensation for all the RAC's contractual responsibilities. For example, the RAC is responsible for set up and start-up costs, but does not receive up-front compensation to cover those costs. In addition, Colorado does not pay for any work the RAC undertakes that leads to the identification of underpayments. Finally, HCPF stated that the contract combines other types of reviews required by CMS with the RAC audits.

Please note that the OSA expects the selected firm to look further into the rationale and effects of the payment percentage as part of the evaluation.

5. Is there any historical information that can be made available about Colorado's original decision to set the lookback period at seven years?

In response to this question, HCPF stated that a number of factors were considered in setting the lookback period. For example, Colorado has a 7-year medical record retention period and CMS recommends that states use a lookback period that matches their records retention timelines. Also, the Affordable Care Act (ACA) has a 6-year lookback period for false claims and a 5-year lookback for fraud, so 7 years is similar to these. Prior to the ACA, many states' only recourse to collect overpayments was to identify and refer cases for fraud. According to HCPF, by allowing a longer lookback period for RAC audits, overpayments can be recouped without having to pursue fraud cases, which are burdensome on both the state and providers.

Please note that the OSA expects the selected firm to look further into the rationale and effects of the lookback period as part of the evaluation.

- 6. Has Colorado Medicaid prioritized which provider associations and groups of providers should be included in the data collection processes (interviews, surveys, or focus groups)? Or should bidders make recommendations in our proposal?**

The OSA expects the selected firm to identify the providers and associations to include under Objective IIE. It would be acceptable for the proposal to (1) include specific recommendations about the provider groups/types to be contacted or (2) describe the selected firm's plan for identifying the provider groups/types to contact once fieldwork has started.

- 7. Please clarify the submission deadline for proposals.**

The deadline to submit proposals to the OSA is August 2, 2023. The RFP has been updated online to address the conflict in the dates shown on page 20 (Sections D and F) of the RFP.