

April 20, 2018

President Begaye  
Navajo Nation  
P.O. Box 9000  
Window Rock, AZ 86515

Dear President Begaye,

The New Mexico Human Services Department (HSD) values its relationship with the Navajo Nation and appreciates its response to the Request for Information (RFI) to establish a Native American Managed Care Organization, in accordance with federal requirements for an Indian Managed Care Entity (IMCE). HSD released the RFI in January 2018 to gauge interest of New Mexico Tribal organizations and inform policy considerations regarding the establishment of a Native American MCO, as an IMCE, in New Mexico. HSD received three responses to the RFI and has reviewed all responses. This letter serves as HSD's official assessment of the Navajo Nation's response to the RFI.

Before summarizing HSD's assessment of the Navajo Nation's response, HSD would like to affirm its commitment to the process of evaluating the capacity, capability and viability of entities interested in establishing an IMCE. It is a significant effort that requires due diligence by the State in its responsibility to ensure the safety and well-being of its Medicaid members and as the steward of federal and state funds. While the State supports having a Native American MCO, operating as an IMCE, as part of the Medicaid program and appreciates the Navajo Nation's passion and commitment to the initiative, it equally supports a well-established and rigorous evaluation process for all managed care organizations prior to entering into contractual agreements. The process is an essential one and cannot be expedited without potential risks for the State, the federal government, and ultimately, Medicaid members.

A committee comprised of HSD staff from the Office of the Secretary and the Medical Assistance Division thoroughly reviewed the Navajo's response to the RFI and determined that it is not able to proceed on the timeline as presented in the response with a January 1, 2019 Go Live date. The committee identified the following areas that require additional documentation and evaluation prior to advancing the initiative.

## Committee Assessment of the Navajo Nation's RFI Response

### Organizational Structure

1. It remains unclear whether tribal sovereign immunity would be waived by the Navajo Nation and the IMCE prior to entering into a contractual agreement with HSD. HSD requests that a resolution be passed to protect the state from significant financial risk.
2. Articles of incorporation for the Naat'aanii Corporation and agilon were submitted, including bylaws for agilon, but not for the IMCE. The response indicated that an operating agreement had not yet been completed for the IMCE. HSD requests that an operating agreement be established for review.
3. The response indicates that in addition to forming the IMCE, the Navajo Nation and agilon will form a second entity known as Navajo Health Services, LLC. This entity will be risk-bearing and assume full responsibility for all of the care for all members, including primary care, institutional care, behavioral health services and long-term care services. This second entity will receive a global capitation from the IMCE and bear risk. It further states that Navajo Health Services will enter into an exclusive management services agreement with agilon health for management and administrative services in support of operations of the IMCE and risk-bearing entity. It is unclear as to why the Navajo Nation and agilon need to form two separate and distinct risk-bearing entities.

HSD has significant concerns with the transfer of risk for all covered services to an entity other than the contracted MCO. This potentially exposes the state to unnecessary risk in the event the relationship between the contracted MCO and the second risk-bearing entity is severed. In New Mexico's current managed care program, the State only contracts directly with the risk-bearing entity that is responsible for the provision of all covered services to members. HSD prohibits an MCO from delegating the provision of all services within a program (physical health, behavioral health or long-term care services) to another managed, risk-bearing entity. For example, Section 7.14.1.1 of the Centennial Care managed care agreement specifically prohibits the MCO from subcontracting the provision of behavioral health to another managed, risk-bearing entity.

The managed care model proposed by the Navajo Nation in the RFI response, with multiple risk bearing entities, does not exist in New Mexico, and there are no administrative or regulatory provisions in place to oversee and monitor such arrangements. HSD believes it will be necessary for the Navajo Nation to realign its model to comply with the current requirements of HSD by contracting directly with an

IMCE that bears full risk for the provision of all covered services for members and does not transfer risk to another managed, risk-bearing entity.<sup>1</sup>

4. The response did not provide evidence that an application was in process with the Office of the Superintendent of Insurance (OSI), stating that it had not yet applied. HSD requests that an application be submitted to OSI.

### **Financial Requirements**

1. No audit specific to the IMCE LLC is available at this time since it was only recently established. HSD will require the IMCE LLC to demonstrate its ability to separately identify and track all finances associated with the IMCE's operations and produce audits and reports as required in the MCO contract, specifically in Sections 4.18.16.1 and 4.18.16.4.
2. As a Section 17 Tribal Organization, the Naat'aanii Development Corporation (NDC) is a separate legal entity from the Navajo Nation. Per the RFI response, NDC will hold majority ownership of the IMCE. There was an adverse opinion given in the 2016 audit on aggregate discretely presented component units —per the audit, “the financial statements do not include financial data for the Nation’s legally separate component units.” HSD will need more details about how the Navajo Nation intends to present any information regarding NDC financial activities within its audited financials.
3. HSD requests a copy of agilon’s most recent audited financial statements.
4. The response included audited financial statements for the Navajo Nation for the most recently available fiscal year (2016) and indicated an overall positive net position. HSD requests that 2017 audited financial statements for the Navajo Nation be made available to HSD when complete. Additionally, the direct correlation between the Navajo Nation’s overall net position and financing IMCE operations is unclear at this point.
5. The RFI included a databook of historical enrollment, expenditures and utilization for Native American populations. The RFI response did not appear to include any financial assessment or evaluation of the potential capitation rates with the proposed work plan and timeline. As part of the ongoing development of the IMCE, an analysis of the potential capitation rates should be incorporated into the work plan and conducted for the IMCE to assess the funding requirements and ongoing financial viability of the IMCE.

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<sup>1</sup> Alternatively, if the Navajo Nation wishes to proceed with this model, it will need to work with HSD on a realistic timeline that allows the Medicaid agency to establish the necessary resources and regulatory structure required to monitor such arrangements.

## **Staffing Requirements**

1. The organizational chart provided was very high level and lacked detail to meet the requirements of the question. It was difficult to assess the staffing and positions that would be established, i.e., number of medical directors, care coordinators financial staff, etc., and where they fit within the organization. HSD needs to be able to assess key staffing positions and their lines of reporting. The required positions in question #9 were not listed on the chart. The response indicated that it was pending further development based on HSD's response to the RFI.
2. Please provide the names, titles and job descriptions for the following positions, other than attorneys and consultants, working on the design and operation of the MCO for the Navajo Nation:
  - a. CEO of Centennial Care 2.0
  - b. CFO of Centennial Care 2.0
  - c. CIO of Centennial Care 2.0
  - d. Implementation Manager
  - e. Medical Directors
  - f. LTSS Manager
  - g. Contract Manager

## **Work Plan**

1. The work plan submitted included pertinent activities; however, the committee had concerns with the timeline (January 1, 2019 Go Live date) and associated activities, noting that the timeline is not realistic. For example, significant activities are listed as occurring during the last quarter of calendar year 2018, including critical functions such as system testing, establishing the call center, and conducting staff trainings. To meet a January 1, 2019 date, HSD requires the Centennial Care 2.0 MCOs to be certified as ready to accept new enrollment by the end of September 2018, prior to commencement of open enrollment. The last quarter of the timeline should be dedicated to remediation of areas of concern identified during the readiness period. Additionally, the plan did not include any member outreach activities. The response indicated that achievability of implementation was dependent on HSD's decision about the RFI.
2. A new work plan will need to be developed based on the feedback in this letter.

## **Subcontracting**

1. The response indicates that many functions will be performed through delegated/subcontracted functions but does not include a roster of subcontractors or providers to perform those functions other than the second risk-bearing entity to be formed. A detailed description of the services and functions to be subcontracted by the

MCO needs to be reviewed by HSD. The tables provided in the response were confusing. Certain functions were listed in both tables. Notes next to several items in Table 2 indicated that services cannot be delegated, yet the table was titled as "Services to be Delegated to Vendors," yet did not identify specific vendors.

2. Please submit a revised description of all functions being subcontracted and a listing of all vendors to perform the work. All subcontracts must be submitted for review and approval by HSD.

### **System/IT**

1. The response lacked sufficient detail to assess system capability and oftentimes used general answers such as "we will provide a system to..." without explanation of the process, flow, or analysis of data. There was insufficient detail related to how the system processed claims or submitted encounters. It did not provide flowcharts, timelines or descriptions of integration. The response indicated that agilon was implementing a new care management system but did not include a timeline for completion.
2. HSD will need to review operations manuals and detailed flowcharts to illustrate how the system will process claims and encounters prior to testing the system.

### **Care Coordination**

1. The response lacked a full description of the care coordination processes from beginning to end and did not include flowcharts to illustrate the internal processes. The software and systems to be utilized were described broadly. It was not clear how the care coordination system integrated with overall systems. There was insufficient description of the process to determine nursing facility level of care as part of the care coordination program and what processes may occur after the determination is made.
2. A detailed description of the care coordination process, from beginning to end, must be submitted that includes flowcharts of different processes, including how the nursing facility level of care process will be operationalized. The software and systems to be utilized also need to be described in detail, including integration with other internal systems.

### **Outreach/Enrollment**

1. The committee was concerned that a strategic marketing plan had not been developed and that marketing activities appeared to be the sole responsibility of agilon. Additionally, while HSD had released member data as part of the RFI process, it did not appear that data analysis was conducted. The response refers to a survey to be conducted but does not indicate with whom or for what purpose, and it references trainings for partners but does not indicate the frequency or topics. It generally references attending health fairs,

engaging mass media, and partnering with local organizations without any specific details of such efforts.

2. HSD would want to review the marketing plan for outreach and enrollment activities.

After thoroughly assessing the response, the committee recommends that the Navajo Nation continue to develop its plans to establish an IMCE as it has made noteworthy progress toward the effort. However, HSD does not believe that the Navajo Nation is able to meet the aggressive timeline as proposed in its response. HSD appreciates the substantial work and effort that the Navajo Nation has accomplished in pursuit of this initiative and would like to meet to discuss the feedback provided and answer any questions or concerns related to this letter. HSD believes that additional discussions will allow us to develop a shared approach for development and implementation of an IMCE in New Mexico.

Sincerely,



Brent Earnest  
Secretary

Cc: Mike Nelson, Deputy Secretary, HSD  
Chris Collins, Deputy Secretary, HSD  
Amber Carrillo, Native American Liaison, HSD  
Nancy Smith-Leslie, Director, Medical Assistance Division, HSD  
Dan Clavio, Medical Assistance Division, HSD