

January 10, 2014

RE: State Plan Amendments for the Alternative Benefit Plan, Federal Medical Assistance Percentage Claiming, Single State Agency Designation, Cost Sharing, Payment of Prescribed Drugs and NMAC Rule for Indian Health Service and Tribal 638 Facilities.

Dear Honorable Tribal Leader (I/T/U):

Consultation with New Mexico's Indian Nations, Tribes, Pueblos and their healthcare providers is an important component of the government-to-government relationship with the State of New Mexico. In accordance with the Tribal Consultation requirements, this letter is to inform you that the New Mexico Human Services Department intends to submit several State Plan Amendments (SPAs) to the Centers for Medicare and Medicaid Services (CMS) and is seeking Native American comments or questions on these SPAs.

The Department is also seeking comments on the proposed new rule, 8.310.12 NMAC, *Indian Health Services and Tribal 638 Facilities*. This rule will be promulgated for an effective date of March 15, 2014.

The first State Plan Amendments (ABP1 through ABP 11) are on the topic of the Alternative Benefit Plan (ABP) that will be available to newly Medicaid eligible adults (Medicaid category of eligibility [COE] 100) beginning January 1, 2014. The ABP will be available through both fee-for-service and managed care. Native Americans that are eligible for the ABP will not be required to enroll in managed care. The ABP coverage will include the essential health benefits defined in the Patient Protection and Affordable Care Act (ACA) and the current Medicaid adult dental benefit. The essential health benefits are: ambulatory patient services, emergency services, hospitalization, maternity care, behavioral health and substance abuse treatment, prescription drugs, rehabilitative and habilitative services and devices, lab and x-ray services,

preventive and wellness services and chronic disease management, and pediatric services (for individuals age 19-20). The proposed ABP will include the full array of Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program benefits for individuals under the age of 21. This SPA has eleven parts, which are outlined in more detail in the table below, including the projected impact on Native Americans.

The second State Plan Amendment (SPA 13-15) is Final Federal Medical Assistance Percentage (FMAP) Claiming for the New Adult Group. This SPA is required by 42 CFR 433.206(h), which requires a state that wishes to claim expenditures at the increased FMAP rates made available under the ACA for the New Adult Group (COE 100) to submit a SPA describing its methodology for determining which expenditures may be claimed at the higher FMAP rates.

The third State Plan Amendment (A1-A3) is the Single State Agency. This is a required submission that re-designates the Human Services Department (HSD) as the single state agency administering the Medicaid (Title XIX) program for receipt of federal funds. This SPA provides the statutory citations for this designation, describes the high-level organizational structure of HSD and the Medical Assistance Division, and indicates that HSD is the only entity that performs Medicaid eligibility determinations and fair hearings in New Mexico.

The fourth State Plan Amendment is for Cost-Sharing (Attachment 4.18A). This SPA will implement new copayment requirements for certain Medicaid recipients and for certain Medicaid services. It is not anticipated that this SPA will have an impact on Native Americans as Native Americans will always be exempt from copayments.

The final State Plan Amendment is for the Payment of Prescribed Drugs. This SPA will implement new payment methodologies for prescribed medications.

The new rule for Indian Health Service and Tribal 638 Facilities is to document how services are paid to IHS and tribal 638 facilities. There is no intent to reduce payment or decrease services. Instead, the rule attempts to document IHS and tribal 638 facility billing expectations as they currently exist. We are requesting comments and information to assure the new rule will serve its intended purpose.

The SPA documents and proposed rule are posted on the HSD website:

<http://www.hsd.state.nm.us/providers/written-tribal-consultation-letters.aspx> . If you have

difficulty accessing the files, please contact Emily Floyd, phone: 505-827-3152, for alternate formats. The State is seeking advice or comments from Native American communities on the SPAs and rule which are outlined on the following pages, including information on the impact on Native American communities.

SPA Section	Purpose	Projected Impact on Native American Medicaid Expansion (COE 100) Recipients
ABP1	Identifies and defines the population that will be included in the ABP	Native Americans who are eligible for Medicaid under category of eligibility (COE) 100 will receive the alternative benefit plan (ABP)
ABP2	Includes NM's assurances related to the ABP and how the State will notify individuals about the ABP and choices for an individual exemption if determined medically frail by the State or the state's designee.	As with any other COE 100 recipient, Native Americans will be notified of the ABP and may self identify as medically frail. If determined medically frail, the recipient will be eligible for the Medicaid State Plan benefit, and he/she may move to this benefit if he/she chooses.
ABP3	Describes how NM determined the proposed ABP based on its selected benchmark.	Native Americans who are eligible for Medicaid under category of eligibility (COE) 100 will receive the alternative benefit plan (ABP)
ABP4	Describes how NM will implement cost sharing for ABP recipients. Native Americans are exempt from cost sharing.	Native Americans are not affected, they are not subject to cost sharing.
ABP5	Describes all of the services that are included in the ABP and any limitations on services.	Native Americans who are eligible for Medicaid under category of eligibility (COE) 100 will receive the alternative benefit plan (ABP) that includes these services.

SPA Section	Purpose	Projected Impact on Native American Medicaid Expansion (COE 100) Recipients
ABP6	NM is not required to submit this section of the SPA	No impact
ABP7	Includes NM's assurances that its ABP will cover early and periodic screening, diagnosis and treatment (EPSDT) services for ABP recipients under 21 years of age.	Native Americans who are under the age of 21 and are eligible for Medicaid under category of eligibility (COE) 100 will be able to receive EPSDT services.
ABP8	Describes the service delivery systems for the ABP.	Native Americans who are eligible for Medicaid under category of eligibility (COE) 100 will receive the alternative benefit plan (ABP) through fee-for-service Medicaid unless they opt-in to managed care.
ABP9	NM does not provide the ABP though the payment of employer sponsored insurance, or otherwise provide for the payment of premiums.	Native Americans who are eligible for Medicaid under category of eligibility (COE) 100 will receive the alternative benefit plan (ABP).
ABP10	Other general assurances	Native Americans who are eligible for Medicaid under category of eligibility (COE) 100 will receive the alternative benefit plan (ABP)
ABP11	Managed care payment methodology	Native Americans who are eligible for Medicaid under category of eligibility (COE) 100 will receive the alternative benefit plan (ABP) through fee-for-service Medicaid unless they opt-in to managed care.
13-15	Describes the methodology for determining which expenditures may be claimed at increased FMAP	This is a technical change with no impact.

SPA Section	Purpose	Projected Impact on Native American Medicaid Expansion (COE 100) Recipients
	rates made available under the ACA.	
A1-A3	Single State Agency re-designates HSD as the single state agency administering the Medicaid (Title XIX) program for receipt of federal funds	This is a technical change with no impact.
Attachment 4.18A	Cost-Sharing	It is not anticipated that this SPA will have an impact on Native Americans as Native Americans will always be exempt from copayments.
Attachment 4.19B	Payment for Prescribed Drugs	It will not reduce any payment to an IHS facility and may increase some payments for which Federal upper limit pricing is out of date.
8.310.12 NMAC	The new rule for Indian Health Service and Tribal 638 Facilities is to document how services are paid to IHS and tribal 638 facilities.	This is a technical change to standardize how IHS and Tribal facilities bill Medicaid.

You can also find this letter and copies the SPA documents and rules on our website at <http://www.hsd.state.nm.us/providers/written-tribal-consultation-letters.aspx> .

We welcome your comments and questions. Comments will be received through February 15, 2014, to allow time for interested parties to submit their comments. All comments will be reviewed and recorded. HSD will update as necessary based on comments and responses received. For State Plan Amendments, all of your comments and responses will be compiled and provided to CMS. The anticipated submissions date to CMS is March 15, 2014.

You may send your comments/questions to our Native American Liaison for Medicaid, Theresa Belanger at (505) 827-3122 or by email at Theresa.Belanger@state.nm.us.

Thank you in advance for your input and for your continued support of the Department's Native American initiatives.

Sincerely,

Marcy Smith-Little for Julie B. Weinberg

**Julie B. Weinberg, Director
Medical Assistance Division**

**CC: Theresa Belanger
PPIB**