



Susana Martinez, Governor  
Brent Earnest, Secretary Designate  
Nancy Smith-Leslie, Acting Director

March 9, 2015

Interested parties

RE: Tribal Consultation Letter 15-04: New Mexico State Plan Amendment (SPA) 15-03, Medicaid Eligibility Marriage Policy

Dear Tribal Leadership, IHS, Tribal Facility or other interested parties,

Consultation with New Mexico's Indian Nations, Tribes, Pueblos and their health care providers is an important component of the government-to-government relationship with the State of New Mexico. In accordance with the New Mexico Human Services Department's (HSD's) Tribal Consultation requirements, this letter is to inform you that HSD, through the Medical Assistance Division (MAD), is accepting written comments through March 26, 2015, regarding its proposed amendment to recognize same-sex couples as spouses, if they are legally married, for purposes of making Medicaid eligibility determinations.

The first purpose of SPA 15-03 is to allow HSD to complete a determination of income either based on Modified Adjusted Gross Income (MAGI) or, for MAGI-excepted groups, utilizing AFDC-related or SSI-related methodologies, recognizing same-sex couples as spouses if they are legally married under the laws of a state, territory or foreign jurisdiction in which the marriage was celebrated. This provision will also govern the MAD's definition of marriage for post-eligibility issues, including spousal impoverishment, asset transfers and estate recovery rules, to the degree permitted by New Mexico law.

The second purpose of SPA 15-03 is to clarify that for those individuals whose eligibility for Medicaid is based on eligibility for another benefit program, and for whom MAD does not complete a determination of income for Medicaid eligibility, HSD will not make any determination concerning marital status. Medicaid eligibility will continue to be based on the determination of eligibility for the applicable benefits.


**Tribal Impact:** HSD does not anticipate a negative service or financial impact on individuals, tribes or their health care providers upon implementation of the proposed amendment to this section of the Medicaid State Plan. There may be some individuals who would more clearly qualify as eligible for Medicaid because of these amendments.

**Tribal Consultation Comments:** Tribes and their health care providers may view the proposed SPA 15-03, on the HSD webpage at: <http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx>, **Letter 15-04.**

**Important Dates:**

- **Written comments must be submitted by 5:00 p.m. Mountain Daylight Time (MDT) on April 10, 2015.** Please send your comments and questions to the MAD Native American Liaison, **Theresa Belanger**, at (505) 827-3122 or by email at: [Theresa.Belanger@state.nm.us](mailto:Theresa.Belanger@state.nm.us).
- All comments and responses will be compiled and available after April 13, 2015.

Sincerely,



Nancy Smith-Leslie, Acting Director  
Medical Assistance Division

cc: Theresa Belanger, Native American Liaison, HSD/MAD  
Kari Armijo, Health Care Reform Manager, HSD/MAD  
HSD/MAD/PPB-Program Management/Communications Unit