September 8, 2014

RE: Mi Via HCBS Transition Plan Tribal Consultation Letter 14-10

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 New Mexico Human Services Department’s (HSD) Tribal Consultation requirements, this letter is to inform you that HSD through its Medical Assistance Division (MAD) is accepting written comments through October 8, 2014, regarding the Mi Via Home and Community-Based Services (HCBS) Waiver Settings Transition Plan (Mi Via HCBS Transition Plan) in order to bring the program into compliance with the Centers for Medicare and Medicaid Services (CMS) Final Rule 2249-F/2296-F.

CMS published the final rule on January 16, 2014 with an effective date of March 17, 2014. As of June 2014, there were 45 Native Americans accessing Mi Via services. You may send your comments and questions to our Native American Liaison for the Medical Assistance Division (MAD), Theresa Belanger at (505) 827-3122 or by email at: Theresa.Belanger@state.nm.us.

BACKGROUND


The CMS Final Rule 2249-F/2296-F addresses several sections of the Social Security Act and makes changes to the 1915(c) HCBS waiver programs. The Mi Via HCBS Waiver is a Medicaid 1915(c) HCBS self-directed waiver. The final rule provides states the option to combine existing waiver targeting groups. The final rule also established requirements for HCBS settings under the 1915(c), 1915(i) and 1915(k) Medicaid authorities, and person-centered planning requirements for Medicaid HCBS participants under 1915(c) and 1915(i). In addition, it clarifies the timing of amendments and public input requirements when states propose modifications to HCBS waiver programs.

The final rule requires that all HCBS settings meet certain qualifications, including that the setting:

- is integrated in and supports access to the greater community;
• is selected by the individual from among all settings options;
• ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
• optimizes autonomy and independence in making life choices, and
• facilitates choice regarding services and who provides them.

PROPOSED MODIFICATIONS TO THE MI VIA WAIVER

The Department of Health (DOH) along with the HSD/MAD completed assessments of Mi Via services, settings, and person-centered planning to determine compliance with the CMS Final Rule 2249-F/2296-F. The two departments determined that Customized Community Group Supports services (CCGS) will require modification.

CCGS services, which are non-residential/non-institutional services, are designed to offer Mi Via participants flexible supports in integrated community settings. These supports can include participation in community day programs and centers that offer functional meaningful activities that assist with acquisition, retention or improvement in self-help, socialization and adaptive skills. CCGS may include Adult Day Habilitation, Adult Day Health, and other adult day support models. As of August 2014, no Native American Mi Via waiver eligible recipients had CCGS on their service and support plans.

HSD will address the following three areas which will be included in its Mi Via HCBS Transition Plan:

1. HSD will expand the definition of CCGS in the Mi Via Service Standards to include information that CCGS services are provided in an integrated setting that supports opportunities for participants to access community resources and activities with others in their community.

   **Tribal Impact:** *HSD does not anticipate a service or financial impact to individuals, tribes or their healthcare providers with the additional requirements for CCGS services.*

2. HSD will revise provider packets for CCGS to include an attestation that services and supports provided will be delivered in a community-based integrated setting.

   **Tribal Impact:** *HSD does not anticipate a service or financial impact to individuals, tribes or their healthcare providers with the additional requirements for CCGS service.*

3. HSD will train consultant providers on the revised CCGS Service Standards and monitor implementation through service and support plan development and the participant quarterly review form. Consultant provider responsibilities include monitoring the implementation of Mi Via services through service plan development; therefore, the revised CCGS Standards will pose no additional financial impact to Mi Via participants or the program.
**Tribal Impact:** HSD does not anticipate a service or financial impact to individuals, tribes or their healthcare providers with the additional requirements for CCGS services.

HSD will include this information in its Mi Via HCBS Transition Plan and in the 1915 (c) HCBS Mi Via Waiver renewal application. The current approved Mi Via Waiver (NM 0448.R01.00), effective October 1, 2009 through September 30, 2014, may be viewed on the CMS webpage at: [http://www.medicaid.gov/Medicaid-CHIP-Program-Information/Medicaid-and-CHIP-Program-Information.html](http://www.medicaid.gov/Medicaid-CHIP-Program-Information/Medicaid-and-CHIP-Program-Information.html).

**TRIBAL CONSULTATION COMMENTS**

Tribes and their healthcare providers may view HSD’s Mi Via HCBS Transition Plan on its webpage at: [http://www.hsd.state.nm.us/providers/written-tribal-consultation-letters.aspx](http://www.hsd.state.nm.us/providers/written-tribal-consultation-letters.aspx) - Written Tribal Consultation Letter 14-10.

The federal regulation is available on the CMS webpage at: [http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html](http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html).

**IMPORTANT DATES**

- **Written comments must be submitted by 5:00 p.m. Mountain Daylight Time on October 8, 2014** by mail to Jenn Chavez, HSD/MAD Program Policy & Integrity Bureau, P.O. Box 2348, Santa Fe, New Mexico 87504 or by email to Jennifer1.Chavez1@state.nm.us. HSD will incorporate recommended changes to its Mi Via HCBS Transition Plan whenever feasible.

- All comments and responses will be compiled and available after **October 10, 2014**.

- **A public hearing** on the Mi Via HCBS Transition Plan is scheduled be held in the Rio Grande Conference Room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM on **October 14, 2014** at 10 a.m.
Sincerely.

[Signature]

Julie B. Weinberg, Director
Medical Assistance Division

cc:  Cathy Stevenson, Director, DOH, Developmental Disabilities and Supports Division (DDSD)
     Roberta Duran, Bureau Chief, DOH/DDSD
     Angela Medrano, Bureau Chief, HSD/MAD, Exempt Services and Program (ESPB)
     Melanie Buenviaje, Staff Manager, HSD/MAD/ESPB
     Christine Wester, Mi Via Program Manager, DOH/DDSD
     PPIB-Program Management and Communications