June 9, 2014

RE: Mi Via Waiver renewal

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 is accepting written comments through July 17, 2014, regarding proposed modifications to the Mi Via program 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. 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.

Background¹
The CMS final rule 2249-F/2296-F addresses several sections of the Social Security Act and makes changes to the 1915(c) Home and Community-Based Services (HCBS) waiver program. The Mi Via program is a Medicaid 1915(c) HCBS self-directed waiver. The final CMS rule provides states the option to combine existing waiver targeting groups. The 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 a state proposes modifications to its HCBS waiver programs.

The final CMS rule requires that all HCBS settings meet certain qualifications², including:
- 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 Program
HSD/MAD along with the Department of Health (DOH) completed an assessment of Mi Via HCBS settings and found that two service areas will require modification. The following modifications will be included in HSD’s transition plan to the CMS.

1) Eliminate Assisted Living
An analysis of the Assisted Living service determined that it is not conducive to individuals with developmental disabilities. A review of the utilization data does not indicate that Medicaid recipients with developmental disabilities are accessing this service and further indicates that no Medicaid recipients with developmental disabilities have accessed this service in the last three waiver years.

Tribal Impact: As noted above, this service was not utilized within the previous three waiver years. HSD does not anticipate service reduction impact or financial impact to tribes and their healthcare providers with the elimination of this service.

2) Expand Service Definition of Customized Community Group Supports (CCGS)
HSD also found that CCGS, a non-residential service, is not in compliance with the CMS HCBS requirements in terms of clearly defining the required setting characteristics. HSD will expand the definition of CCGS to include information specific to services being provided in an integrated setting and supporting access to the greater community. Information will be sent through community centers and community-based day programs that are integrated into the community. Vendor packets for CCGS will include an attestation that the services and supports provided will be delivered in a community-based integrated setting. Consultant providers will also be trained on the revised CCGS standards and monitor implementation through service plan development. HSD does not anticipate a financial impact with the addition of increased training and monitoring requirements.

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

HSD will include this information in its transition plan in the 1915(c) HCBS self-directed waiver renewal application effective on October 1, 2014. The current approved waiver, NM Mi Via-ICF/MR (0448.R01.00), can be viewed on the CMS webpage at: http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/Waivers.html.

Tribal Consultation Comments
Tribes and their healthcare providers may view these modifications on the Human Services Department webpage at: http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx.

The federal CMS rule 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.
Important Dates and Information

- **Tribal Consultation** written comments must be submitted by 5:00 p.m. Mountain Daylight Time on **July 17, 2014** by mail or email to:
  
  MAD’s Native American Liaison -Theresa Belanger at (505) 827-3122 or by email at: Theresa.Belanger@state.nm.us
  
  or
  
  Cedric Chavez, Email: Cedric.Chavez@state.nm.us or mailing address of MAD, Program Policy and Integrity Bureau, P.O. Box 2348, Santa Fe, New Mexico 87504.

- **A public hearing will be held 1 p.m. July 17, 2014** at the Rio Grande Conference Room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM.

- HSD will incorporate recommended changes to its Mi Via waiver renewal application whenever feasible. All comments and responses will be compiled and available after **August 4, 2014**.

- The renewal of HSD/MAD’s Mi Via waiver has a projected effective date of **October 1, 2014**.

Sincerely,

Julie B. Weinberg, Director
Medical Assistance Division

cc: Cathy Stevenson, Director, DOH, Developmental Disabilities and Supports Division (DDSD)
Robert Durán, 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
Cedric Chavez, HSD/MAD/PPIB-Program Management/Communications Unit