September 12, 2014

**RE: Mi Via HCBS Waiver Renewal Tribal Consultation Letter 14-11**

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) intends to submit a renewal application to the Centers for Medicare and Medicaid Services (CMS) on the topic of the Mi Via program, a Medicaid 1915 (c) Home and Community-Based Services (HCBS) waiver.

The primary purpose of this renewal is to allow HSD to continue administering the Mi Via program from October 1, 2014 through September 30, 2019. The current waiver will expire on September 30, 2014. HSD requested a 90-day extension of the current Mi Via waiver through January 1, 2015 as a result of additional time needed to address CMS HCBS Final Rule 2249-F/2296-F requirements. HSD intends to submit its renewal application by November 10, 2014 for a retroactive effective date of October 1, 2014.

**BACKGROUND**
The Mi Via program provides home and community-based services to individuals who meet both financial eligibility and an Intermediate Care Facility for Individuals with Intellectual Disabilities level of care criteria. The goal of the program is to support individuals who wish to self-direct or manage their own services, supports and goods within an approved plan and budget in their communities as an alternative to institutionalization. As of June 2014, there were 45 Native Americans accessing Mi Via services. This waiver renewal has no negative impact to Native Americans in the Mi Via program.

Services provided through Mi Via include: consultant and support guides; customized community group supports; employment supports; homemaker/direct support; respite; home health aide; skilled therapy for adults; personal plan facilitation; behavior support consultation; community direct support; in-home living supports; emergency response; environmental modifications; nutritional counseling; private duty nursing for adults; related goods; specialized therapies; and, transportation. The Department of Health (DOH) through its Developmental Disabilities and Supports Division (DDSD) operates the Mi Via program with oversight by HSD.

**PROPOSED MI VIA WAIVER RENEWAL**
The key components of proposed changes under this waiver renewal are as follows:
1. The roles and responsibilities of Mi Via consultants and support guides will be enhanced and include more detail. Consultants are key to the success of the Mi Via program as they assist participants in arranging for, implementing and managing Mi Via services. The new detail provided in this waiver renewal clarifies and coordinates their work on behalf of participants. The frequency of face-to-face visits will increase to quarterly from semi-annually and a monthly check-ins will be required.

**Tribal Impact:** HSD does not anticipate a service or financial impact to individuals, tribes or their healthcare providers with the proposed waiver renewal.

2. Customized Community Supports is renamed to Customized Community Group Supports (CCGS). A CCGS agency is still required to have a business license but is no longer required to be a licensed adult day health provider. In addition, per the final rule, the service definition for CCGS is expanded to include information specific to services being provided in an integrated setting and supporting access to the greater community.

**Tribal Impact:** HSD does not anticipate a service or financial impact to individuals, tribes or their healthcare providers with the proposed waiver renewal.

3. Assisted Living has been removed as a service due to non-utilization by the developmental disabilities and medically fragile populations during the past three waiver years. This change will also bring the waiver into closer alignment with the final rule to maximize opportunities for individuals to have access to the benefits of community living and to receive services in the most integrated setting.

**Tribal Impact:** HSD does not anticipate a service or financial impact to individuals, tribes or their healthcare providers with the proposed waiver renewal.

4. Customized In-Home Living Supports is renamed to In-Home Living Supports.

**Tribal Impact:** HSD does not anticipate a service or financial impact to individuals, tribes or their healthcare providers with the proposed waiver renewal.

5. Environmental Modification (EMOD) services include the purchase and/or installation of necessary equipment or other physical adaptations to a Mi Via participant's residence. The five-year renewable spending limit from the first date of EMOD services has been changed from $7,000 to $5,000. This spending limit brings equity to EMOD spending among the Mi Via Waiver, the Developmental Disabilities Waiver, and the Medicaid Centennial Care Self-Directed Community Benefit. Over the last two years, there were three Native American participants out of a total number of 74 Native American Mi Via participants that utilized EMOD services. The average expenditure for the three Native American participants was $3,550.

**Tribal Impact:** HSD anticipates minimal or no service or financial impact to individuals, tribes and their healthcare providers.
6. Quality Improvement performance measures are now administered primarily through the DOH Developmental Disabilities Services Quality Improvement (DDSQI) Steering Committee.

**Tribal Impact:** HSD does not anticipate a service or financial impact to individuals, tribes or their healthcare providers with the proposed waiver renewal.

7. Quality measures and reporting through performance indicators have been updated to comply with the modifications required by CMS effective June 1, 2014. These CMS modifications include: health and welfare monitoring and outcomes are emphasized; remediations are reported to CMS in substantiated instances of abuse, neglect or exploitation; and, quality improvement projects/remediation are required when the threshold of compliance with a measure is at or below 85%.

**Tribal Impact:** HSD does not anticipate a service or financial impact to individuals, tribes or their healthcare providers with the proposed waiver renewal.

8. Details related to the CMS final rule are included in Attachment #2 and Appendix C-5 of the waiver application.

**Tribal Impact:** HSD does not anticipate a service or financial impact to individuals, tribes or their healthcare providers with the proposed waiver renewal.

**TRIBAL CONSULTATION COMMENTS**

The draft Mi Via Waiver Renewal Application is available on the HSD 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) titled *Written Tribal Consultation Letter 14-11.*

The current approved waiver (NM 0448.R01.00), effective October 1, 2009 through September 30, 2014, can 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).

The Mi Via HCBS Transition Plan is available on the HSD 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) titled *Written Tribal Consultation Letter 14-10.*

We welcome your comments and questions on this renewal. Comments will be received through October 14, 2014, to allow time for submissions by interested parties. All comments will be reviewed and recorded. HSD will incorporate recommended changes to the Mi Via Waiver Renewal Application request whenever feasible. All of your comments and responses will be compiled and made available to CMS.

**IMPORTANT DATES**
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**IMPORTANT DATES**

Written comments must be submitted by 5:00 p.m. Mountain Daylight Time (MDT) on October 14, 2014 by mail to Theresa Belanger or Jenn Chavez, Medical Assistance Division, P.O. Box 2348, Santa Fe, New Mexico 87504 or by email to Theresa.Belanger@state.nm.us or Jennifer.L.Chavez1@state.nm.us. Recorded comments may be delivered to Theresa Belanger at (505) 827-3122 or Jenn Chavez at (505) 827-3118. HSD will incorporate recommended changes to the Mi Via Waiver Renewal Application request whenever feasible. All comments and responses will be compiled and made available to CMS.

- All comments and responses will be compiled and available after October 17, 2014.

- A public hearing on the Mi Via HCBS Waiver Renewal request is scheduled be held in the Rio Grande Conference Room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM on October 14, 2014 at 1:30 p.m. MDT.

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

Sincerely,

[Signature]

June B. Weinberg, Director
Medical Assistance Division

Cc: Nancy Smith-Leslie, Deputy Director, HSD/MAD
    Angela Medrano, Bureau Chief, HSD/MAD/Exempt Services & Programs
    Theresa Belanger, Native American Liaison, HSD/MAD
    Cathy Stevenson, Director, DOH/Developmental Disabilities and Supports Division (DDSD)
    Roberta Duran, Bureau Chief, DOH/DDSD
    Melanie Buenviaje, Staff Manager, HSD/MAD/ESPB
    Christine Wester, Mi Via Program Manager, DOH/DDSD
    MAD Program Policy and Integrity Bureau