

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Dallas Regional Office
1301 Young Street, Suite 833
Dallas, Texas 75202



DIVISION OF MEDICAID & CHILDREN'S HEALTH - REGION VI

June 16, 2016

Ms. Nancy Smith-Leslie, Director
Medical Assistance Division
New Mexico Department of Human Services
P.O. Box 2348
Santa Fe, New Mexico 87504

Dear Ms. Smith-Leslie,

We have reviewed the State's proposed amendment to your Medicaid State Plan submitted under Transmittal Number (TN) 16-0003, dated April 13, 2016. This state plan amendment updates the State's Tribal Consultation Requirements.

Based on the information submitted, we have approved the amendment for incorporation into the official New Mexico State Plan with an effective date of April 15, 2016, as requested. A copy of the CMS-179 and the approved plan pages are included with this letter.



If you have any questions, please contact Ford Blunt of my staff at (214) 767-6381 or by email at ford.blunt@cms.hhs.gov.

Sincerely,

A handwritten signature in black ink that reads "Bill Brooks". The signature is written in a cursive, slightly slanted style.

Bill Brooks
Associate Regional Administrator

Cc: Jennifer Mondragon, NMHSD/MMAD

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		16-03	2. STATE New Mexico
FOR: HEALTH CARE FINANCING ADMINISTRATION		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE April 15, 2016	
5. TYPE OF PLAN MATERIAL (<i>Check One</i>): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (<i>Separate Transmittal for each amendment</i>)			
6. FEDERAL STATUTE/REGULATION CITATION: Section 1902(a)(73) of the Social Security Act		7. FEDERAL BUDGET IMPACT: for FFY 2016: no impact for FFY 2017: no impact	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Page 9, 9 (continuation 1), 9 (continuation 2)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): Page 9, 9 (continued 1), 9 (continued 2)	
10. SUBJECT OF AMENDMENT: Tribal Consultation Requirements			
11. GOVERNOR'S REVIEW (<i>Check One</i>): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		X OTHER, AS SPECIFIED: Authority Delegated to the Medicaid Director.	
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: Nancy Smith-Leslie, Director Medical Assistance Division P.O. Box 2348 Santa Fe, NM 87504 - 2348	
13. TYPED NAME: Nancy Smith-Leslie			
14. TITLE: Director, Medical Assistance Division			
15. DATE SUBMITTED: April 8, 2016			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: April 13, 2016		18. DATE APPROVED: June 16, 2016	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: April 15, 2016		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: Bill Brooks		22. TITLE: Associate Regional Administrator Division of Medicaid and Children's Health	
23. REMARKS:			

Revision: NM-AT-80-38 (BPP)

State: New Mexico

Citation **1.4 State Medical Care Advisory Committee**

42 CFR
431.12(b)
AT-78-90

There is an advisory committee to the Medicaid agency director on health and medical care services established in accordance with and meeting all the requirements of 42 CFR 431.12.

42 CFR
438.104

X The State enrolls recipients in MCO, PIHP, PAHP, and/or PCCM programs. The State assures that it complies with 42 CFR 438.104c to consult with the Medical Care Advisory Committee in the review of Marketing materials.

1.4a Tribal Consultation Requirements

Section 1902(a)(73) of the Social Security Act requires a State in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular, ongoing basis from designees of Indian health programs, whether operated by the Indian Health Service (IHS), Tribes or Tribal organizations under the Indian Self-Determination and Education Assistance Act (ISDEAA), or Urban Indian Organizations under the Indian Health Care Improvement Act (IHCA). Consultation is required concerning Medicaid matters having a direct impact on Indian health programs and Urban Indian organizations.

Please describe the process the State uses to seek advice on a regular, ongoing basis from federally-recognized tribes, Indian Health Programs and Urban Indian Organizations on matters related to Medicaid and CHIP programs and for consultation on State Plan Amendments, waiver proposals, waiver extensions, waiver amendments, waiver renewals and proposals for demonstration projects prior to submission to CMS. Please include information about the frequency, inclusiveness and process for seeking such advice.

Process for Tribal Notification Requesting Advice and Comments

Seeking advice and comments from Indian Nations, Tribes, Pueblos, Indian Health Service Facilities, and other Tribal Health Providers is based on a government-to-government relationship with each tribal or pueblo government and their healthcare providers.

An updated list is maintained by the state agency of the Governor or President of each Tribe or Pueblo or their designee, Indian Health Service facilities, and other Tribal Health Providers.

When a contemplated or proposed State Plan Amendment might result in removing or reducing any Medicaid benefit for a Native American beneficiary; might cause a Native American to lose Medicaid eligibility or be less likely to qualify for Medicaid in the future; or might result in lower Medicaid

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reimbursement rates to Indian Health Service Facilities or other Tribal Health Providers, the Human Services Department (HSD) will send a notification letter to Tribal Leaders, Indian Health Service Facilities, and other Tribal Health Providers. In addition to traditional mailing, HSD will email tribal notification letters to expedite receipt.

The notification letter will request advice and comments and include a 30-day comment period. HSD may require an additional 30 days after the comment period to review and address comments that are received; however, the Department may shorten this period of time if no comments are received or when all advice and comments have been considered and responses made.

The notification will describe the proposed changes including the estimated number of Native Americans who may be impacted, estimates of any financial impact, and include the website link where the full document with the proposed changes can be viewed or a copy otherwise obtained. The notice will also include a proposed effective date, the reason for the proposed change, and the date by which a summary of all comments received will be available.

HSD also offers Tribal Leaders, Indian Health Service Facilities, and other Tribal Health Providers the opportunity to discuss proposed changes by phone, email, and through conference calls, in addition to formally submitted written advice and comments to HSD. Tribal Leaders may request a face-to-face Tribal Consultation during the 30-day comment period on a proposed change.

A tribal notification letter will also be sent when there is a proposed State Plan Amendment that does not result in removing or reducing any Medicaid benefit for a Native American beneficiary; does not cause a Native American to lose Medicaid eligibility or be less likely to qualify for Medicaid in the future; and will not result in lower Medicaid reimbursement rates to Indian Health Service Facilities or other Tribal Health Providers. HSD will send a notification letter to Tribal Leaders, Indian Health Service Facilities, and other Tribal Health Providers about the proposed change; however, there may not be a 30 day comment period.

The state agency uses the same process for State Plan Amendments, waiver proposals, waiver extensions, waiver amendments, waiver renewals and proposals for demonstration projects to CMS, unless other notification or consultation requirements are specified by CMS.

When there is a comment period, the state agency may submit the proposed State Plan Amendment, waiver proposal, waiver extension, waiver amendment, waiver renewal or proposal for demonstration projects to CMS any time after the 30 day comment period if no comments or requests for further information or consultation have been made.

HSD/MAD has a tribal liaison to coordinate ongoing regularly scheduled meetings and discussions between Tribal Leaders, Indian Health Service Facilities, other Tribal Health Providers, agency administrators, program administrators, and managed care organizations. Participants provide input, advice and comments on issues regarding all aspects of the Medicaid program. Meetings are to be held at least quarterly, and at the request of the participants.

State: New Mexico
Date Received: 04/13/16
Date Approved: 06/16/16
Effective Date: 04/15/16
Transmittal Number: 16-0003

Revision: NM-AT-80-38 (BPP)
State: New Mexico

Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment, when it occurred and who was involved.

Initial notification of the proposed state plan amendment was provided to all tribes, pueblos, to IHS, and to all other tribal or pueblo health providers, by letter on October 29, 2010. The state agency allowed more than 30 days for comment. There was one question and one comment. The question was from a Tribal Facility wanting to confirm their understanding of the documents. Their understanding was correct. There was one comment that stated since the CMS pre-print page used the term "tribal consultation" that our notifications should use the term also. We explained that we were changing the term due to requests and comments from other tribal facilities and that resolved the issue.

The written notification of the proposed revisions to the state plan amendment was provided to all tribes, pueblos, to IHS, and to all other tribal or pueblo health providers, by letter on February 29, 2016. That notification contained the complete wording of the proposed state plan amendment. The state agency allowed more than 30 days for comment. No comments were received either in writing or verbally.

However, the content in the proposed revisions to the state plan reflects comments that had been expressed previously in meetings with IHS and tribal governments and in one written comment. The comment was the preference of the Native Americans for the state agency to use the term "notification requesting advice and comment." The state plan amendment reflects the wording preferred by Native Americans. The content of the written communications to tribal governments, IHS, and tribal health providers and the names of website links have been changed to reflect the preferred wording.