



Michelle Lujan Grisham, Governor  
David R. Scrase, M.D., Secretary  
Nicole Comeaux, J.D., M.P.H., Director

March 22, 2021

Mr. Bill Brooks, Medicaid Associate Regional Administrator  
Division of Medicaid and Children's Health  
Centers for Medicare and Medicaid Services  
1301 Young Street  
Dallas, Texas 75202

Dear Mr. Brooks:

Enclosed please find documents related to New Mexico State Plan Amendment (SPA) 21-0002 Rescission of SPA 20-0014 Pharmacy Curbside Payment.

Effective October 1, 2020, New Mexico rescinds the election at D.8. of section 7.4 approved on November 5, 2020 in SPA Number 20-0014 of the state plan which provides a rate increase of \$1 to curbside medication pick-up for all Medicaid pharmacy providers.

HSD followed a process that included public notification, tribal notification, web posting, and consulting with providers and provider associations. Documentation of these activities is attached.

Please refer to the attachments for the transmittal form and notices.

We appreciate your consideration of this state plan amendment. Should you have any questions on this amendment, please contact Jennifer Vigil at: [JenniferR.Vigil@state.nm.us](mailto:JenniferR.Vigil@state.nm.us) or (505) 827-3106.

Sincerely,

Nicole Comeaux, J.D., M.P.H., Director  
Medical Assistance Division

cc: Peter Banks, CMS  
Lorelei Kellogg, HSD/MAD Deputy Director  
Devi Gajapathi, Bureau Chief, Benefits and Reimbursement Bureau

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 1 — 0 0 2

2. STATE

New Mexico

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL  
SECURITY ACT (MEDICAID)TO: REGIONAL ADMINISTRATOR  
CENTERS FOR MEDICARE & MEDICAID SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

October 1, 2020

5. TYPE OF PLAN MATERIAL (*Check One*)☐ NEW STATE PLAN☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN☒ AMENDMENTCOMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION

42 CFR 447 Subpart F, Title 19 of the SSA, Section 1135 of the SSA

7. FEDERAL BUDGET IMPACT

a. FFY 21 \$ 0

b. FFY 22 \$ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

None (rescinding SPA 20-0014)

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (*If Applicable*)Section 7 – General Provisions, 7.4. Medicaid Disaster Relief  
for the COVID-19 National Emergency, Pages 149-157

10. SUBJECT OF AMENDMENT

Rescission of SPA 20-0014 Pharmacy Curbside Payment

11. GOVERNOR'S REVIEW (*Check One*)☐ GOVERNOR'S OFFICE REPORTED NO COMMENT☒ OTHER, AS SPECIFIED☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL



13. TYPED NAME

Nicole Comeaux

14. TITLE

Director, Medical Assistance Division

15. DATE SUBMITTED

March 22, 2021

16. RETURN TO

Nicole Comeaux, J.D., M.P.H., Director  
Medical Assistance Division  
P.O. Box 2348  
Santa Fe, NM 87504-2348**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED

18. DATE APPROVED

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME

22. TITLE

23. REMARKS

State/Territory: New Mexico

#### **7.4.A. Rescissions to the State's Disaster Relief Policies for the COVID-19 National Emergency**

Effective October 1, 2020, New Mexico rescinds the election at D.8. of section 7.4 approved on November 5, 2020 in SPA Number 20-0014 of the state plan which provides a rate increase of \$1 to curbside medication pick-up for all Medicaid pharmacy providers.

TN: 21-0002

Approval Date: \_\_\_\_\_

Supersedes TN: 20-0014

Effective Date: 10/1/2020

## NEWSPAPER PUBLIC NOTICE AND PROOF OF PUBLICATION

## **Newspaper Notice for SPA 21-0002 Rescission of SPA 20-0014 Pharmacy Curbside Payment**

The New Mexico Human Services Department (HSD) Medical Assistance Division is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 21-0002. Effective October 1, 2020, proposed SPA 21-0002 rescinds SPA 20-0014 of the state plan which provides a rate increase of \$1 to curbside medication pick-up for all Medicaid pharmacy providers.

### **OPPORTUNITY TO VIEW DOCUMENTS AND MAKE COMMENTS**

Medicaid providers, Medicaid recipients, and other interested parties may submit written comments directly to: Human Services Department, ATTN: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: [madrules@state.nm.us](mailto:madrules@state.nm.us). All comments must be received no later than **5:00 pm Mountain Time, March 21, 2021**.

If you are a person with a disability and you require this information in an alternative format, please contact MAD at (505) 827-1337. The Department requests at least 10 working days advance notice to provide alternative formats and special accommodations.

**Affidavit of Publication**

Ad # 0004604882

**This is not an invoice**

**HUMAN SVCS DEPT - ME D ASSIST DIV**  
PO BOX 2348

**SANTA FE, NM 87504-2348**

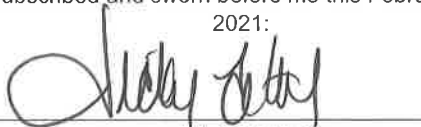
I, a legal clerk of the **Las Cruces Sun News**, a newspaper published daily at the county of Dona Ana, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof on the date as follows, to wit:

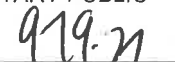
**02/19/2021**

Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

  
Legal Clerk

Subscribed and sworn before me this February 19, 2021:

  
State of WI, County of Brown  
NOTARY PUBLIC

  
My commission expires

**Newspaper Notice for  
SPA 21-0002 Rescission of  
SPA 20-0014 Pharmacy  
Curbside Payment**

The New Mexico Human Services Department (HSD) Medical Assistance Division is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 21-0002. Effective October 1, 2020, proposed SPA 21-0002 rescinds SPA 20-0014 of the state plan which provides a rate increase of \$1 to curbside medication pick-up for all Medicaid pharmacy providers.

**OPPORTUNITY TO VIEW  
DOCUMENTS AND MAKE  
COMMENTS**

Medicaid providers, Medicaid recipients, and other interested parties may submit written comments directly to: Human Services Department, ATTN: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: [madrules@state.nm.us](mailto:madrules@state.nm.us). All comments must be received no later than **5:00 pm Mountain Time, March 21, 2021.**

If you are a person with a disability and you require this information in an alternative format, please contact MAD at (505) 827-1337. The Department requests at least 10 working days advance notice to provide alternative formats and special accommodations. #4604882, Sun-News, February 19, 2021

**VICKY FELTY**  
Notary Public  
State of Wisconsin

Ad # 0004604882  
PO #: SPA 21-0002  
# of Affidavits 1

**This is not an invoice**

**Newspaper Notice for SPA  
21-0002 Rescission of SPA  
20-0014 Pharmacy Curbside  
Payment**

The New Mexico Human Services Department (HSD) Medical Assistance Division is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 21-0002. Effective October 1, 2020, proposed SPA 21-0002 rescinds SPA 20-0014 of the state plan which provides a rate increase of \$1 to curbside medication pick-up for all Medicaid pharmacy providers.

**OPPORTUNITY TO VIEW  
DOCUMENTS AND MAKE  
COMMENTS**

Medicaid providers, Medicaid recipients, and other interested parties may submit written comments directly to: Human Services Department, ATTN: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: madrules@state.nm.us. All comments must be received no later than 5:00 pm Mountain Time, March 21, 2021.

If you are a person with a disability and you require this information in an alternative format, please contact MAD at (505) 827-1337. The Department requests at least 10 working days advance notice to provide alternative formats and special accommodations.

Journal: February 19, 2021

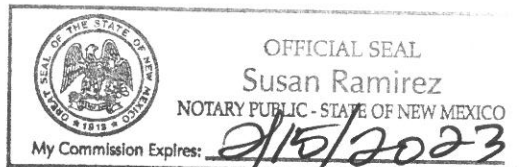
# AFFIDAVIT OF PUBLICATION

## STATE OF NEW MEXICO

County of Bernalillo SS

Elise Rodriguez, the undersigned, on oath states that she is an authorized Representative of The Albuquerque Journal, and that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Session Laws of 1937, and that payment therefore has been made of assessed as court cost; that the notice, copy of which hereto attached, was published in said paper in the regular daily edition, for 1 time(s) on the following date(s):

02/19/2021



*Elise Rodriguez*

Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this  
19 day of February of 2021

PRICE \$68.74

Statement to come at the end of month.

ACCOUNT NUMBER 1009565

PROVIDER, INTERESTED PARTIES, STAKEHOLDERS ASSOCIATIONS NOTICE





Michelle Lujan Grisham, Governor  
David R. Scrase, M.D., Secretary  
Nicole Comeaux, J.D., M.P.H., Director

February 19, 2021

The New Mexico Human Services Department (HSD) Medical Assistance Division is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 21-0002 Rescission of SPA 20-00014 Pharmacy Curbside Payment. Effective October 1, 2020, proposed SPA 21-0002 rescinds SPA 20-0014 of the state plan which provides a rate increase of \$1 to curbside medication pick-up for all Medicaid pharmacy providers.

### **OPPORTUNITY TO VIEW DOCUMENTS AND MAKE COMMENTS**

Medicaid providers, Medicaid recipients, and other interested parties are invited to make comments on this proposed SPA. The complete draft amendment may be found on the Department's website at:

<https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/>

A written copy of these proposed documents may be requested by contacting the HSD Medical Assistance Division (HSD/MAD) in Santa Fe at (505) 827-1337.

Recorded comments may be left by calling (505) 827-1337. Electronic comments may be submitted to [madrules@state.nm.us](mailto:madrules@state.nm.us). **All comments must be received no later than 5:00 p.m. MT on March 21, 2021.** Written or e-mailed comments are preferred because they become part of the record associated with these changes.

Interested persons may address written comments to:

Human Services Department  
Office of the Secretary  
ATTN: Medical Assistance Division Public Comments  
P.O. Box 2348  
Santa Fe, New Mexico 87504-2348

Copies of all comments will be made available by HSD/MAD upon request by providing copies directly to a requestor or by making them available on the HSD/MAD website or at a location within the county of the requestor.

If you are a person with a disability and you require this information in an alternative format, please contact MAD at (505) 827-1337. The Department requests at least 10 working days advance notice to provide alternative formats and special accommodations.

## WRITTEN TRIBAL NOTIFICATION



Michelle Lujan Grisham, Governor  
David R. Scruse, M.D., Secretary  
Nicole Comeaux, J.D., M.P.H., Director

February 19, 2021

**RE: Tribal Notification to Request Advice and Comments Letter 21-06: Rescission of SPA 20-0014 Pharmacy Curbside Payment**

Dear Tribal Leadership, Indian Health Service, Tribal Health Providers, and Other Interested Parties:

Seeking advice and comments from 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 Notification to Request Advice and Comments process, this letter is to inform you that HSD, through the Medical Assistance Division (MAD), is accepting written comments until **5:00pm Mountain Time (MT) on March 21, 2021**, regarding proposed State Plan Amendment (SPA) 21-0002.

Effective October 1, 2020, SPA 21-0002 rescinds SPA 20-0014 of the state plan which provides a rate increase of \$1 to curbside medication pick-up for all Medicaid pharmacy providers.

**Tribal Impact**

There is no financial impact related to this State Plan Amendment.

**Tribal Advice and Comments**

Tribes and tribal health care providers may view the proposed changes on the HSD website at: <https://www.hsd.state.nm.us/providers/written-tribal-consultations/> Tribal Notification **21-06**.

**Important Dates**

**Written comments must be submitted by 5:00pm Mountain Time (MT) on March 21, 2021.** Please send your comments to the MAD Native American Liaison, Theresa Belanger, at (505) 670-8067 or by email to [Theresa.Belanger@state.nm.us](mailto:Theresa.Belanger@state.nm.us). All written comments received will be posted as they are received on the HSD website at: <https://www.hsd.state.nm.us/providers/written-tribal-consultations/> along with the applicable notification letter. The public posting will include the name and any contact information provided by the commenter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole Comeaux", is positioned above the printed name.

Nicole Comeaux, J.D., M.P.H., Director  
Medical Assistance Division

cc: Lorelei Kellogg, HSD/MAD Deputy Director  
Theresa Belanger, Native American Liaison, HSD/MAD

NO COMMENTS RECEIVED

## STANDARD FUNDING QUESTIONS

Standard Funding Questions – SPA 21-0002 Rescission of SPA 20-0014 Pharmacy Curbside Payment

The following questions are being asked and should be answered in relation to all payments made to all providers reimbursed pursuant to a methodology described in Attachment 4.19-B of this SPA. For SPAs that provide for changes to payments for clinic or outpatient hospital services or for enhanced or supplemental payments to physician or other practitioners, the questions must be answered for all payments made under the state plan for such service.

1. Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers receive and retain the total Medicaid expenditures claimed by the State (includes normal per diem, supplemental, enhanced payments, other) or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process. Include in your response a full description of the methodology for the return of any of the payments, a complete listing of providers that return a portion of their payments, the amount or percentage of payments that are returned and the disposition and use of the funds once they are returned to the State (i.e., general fund, medical services account, etc.)

**STATE RESPONSE: Providers are not required to return any portion of payments for these services.**

2. Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local governmental entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:
  - (i) a complete list of the names of entities transferring or certifying funds;

- (ii) the operational nature of the entity (state, county, city, other);
- (iii) the total amounts transferred or certified by each entity;
- (iv) clarify whether the certifying or transferring entity has general taxing authority: and,
- (v) whether the certifying or transferring entity received appropriations (identify level of appropriations).

**STATE RESPONSE: These services are paid using appropriations from the state legislature.**

3. Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to States for expenditures for services under an approved State plan. If supplemental or enhanced payments are made, please provide the total amount for each type of supplemental or enhanced payment made to each provider type.

**STATE RESPONSE: NM is not making payments supplemental or enhanced payments to pharmacies.**

4. For clinic or outpatient hospital services please provide a detailed description of the methodology used by the state to estimate the upper payment limit (UPL) for each class of providers (State owned or operated, non-state government owned or operated, and privately owned or operated). Please provide a current (i.e., applicable to the current rate year) UPL demonstration.

**STATE RESPONSE: These fee schedule changes do not apply to any provider subject to the UPL calculations.**

5. Does any governmental provider receive payments that in the aggregate (normal per diem, supplemental, enhanced, other) exceed their reasonable costs of providing services? If payments exceed the cost of services, do you recoup the excess and return the Federal share of the excess to CMS on the quarterly expenditure report?

**STATE RESPONSE: If governmental providers were to receive payments that exceed their reasonable cost of providing services, the excess payment would be recovered and the federal share of the excess would be reported and returned to CMS.**