



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

March 30, 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) 21-0004 Medication Assisted Treatment (MAT).

Effective April 1, 2021, the Human Services Department is making a technical change to the New Mexico State Plan to clarify that New Mexico Medicaid provides the MAT benefit in compliance with section 1006(b) of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act. MAT services include all FDA-approved or licensed drugs and biologicals to treat opioid use disorder (OUD), counseling services and behavioral therapy.

HSD followed a process that included public notification, tribal notification and web posting. 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 or (505) 827-6213.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole Comeaux".

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

cc: Peter Banks, CMS
Lorelei Kellogg, HSD/MAD Deputy Director

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

1. TRANSMITTAL NUMBER

2 1 — 0 0 4

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

April 1, 2021

5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION

1905(a)(29)

7. FEDERAL BUDGET IMPACT

a. FFY 21 \$ 0

b. FFY 22 \$ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

State Supplement A to Attachment 3.1A, pages 21c3, 21c4, 21c5 (new), 21c6 (new), 21c7 (new)

State Supplement A to Attachment 3.1A, page 21d (intentionally left blank)
Attachment 4.19-B, page 3aa

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

State Supplement A to Attachment 3.1A, pages 21c3, 21c4 (TN 19-0002)

State Supplement A to Attachment 3.1A, page 21d (TN12-06(A))
Attachment 4.19-B, page 3aa (TN 19-0002)
Attachment 4.19-B, page 23e (TN 12-06(A)) deleted

10. SUBJECT OF AMENDMENT

Medication Assisted Treatment (MAT)

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED

12. SIGNATURE OF STATE AGENCY OFFICIAL



13. TYPED NAME

Nicole Comeaux

14. TITLE

Director, Medical Assistance Division

15. DATE SUBMITTED

3/30/2021

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

7. Intensive Outpatient for Mental Health Conditions: All conditions as IOP for SUD apply.
8. Partial hospitalization: 20 or more hours of service/week for multi-dimensional instability, not requiring 24-hour care.
 - A. Partial hospitalization updated coverage criteria:
 1. Extend coverage to youth as part of EPSDT in a psychiatric hospital;
 2. Include SUD in addition to mental health;
 3. Qualified agency types include acute care hospitals with psychiatric services and psychiatric hospitals as specialty hospitals.
9. Adult Accredited Residential Treatment Centers (AARTC) for SUD with three sub-levels:
 - A. Definition: Adult Accredited Residential Treatment Centers for Substance Use Disorder are facilities for adult recipients, who have been diagnosed as having a substance use disorder (SUD).
 - B. Sub-levels of care
 1. Level 3.1: Clinically managed low-intensity residential service: 24-hour structure with trained personnel; at least 5 hours of clinical service/week. This level is often a step down from a higher level of care and prepares the recipient for outpatient treatment and community life.
 2. Level 3.3, 3.5, and 3.2 withdrawal management are clustered together in a second level of service with specific programming for each sub type:
 - a. Level 3.3, clinically managed population specific high intensity residential services: 24-hour structure with trained counselors to stabilize multi-dimensional imminent danger; less intense programming and group treatment for those with cognitive or other impairments unable to use full therapeutic community; and preparation for outpatient treatment.
 - b. Level 3.5, clinically managed high intensity residential services: 24-hour care with trained counselors to stabilize multi-dimensional imminent danger; and preparation for outpatient treatment.
 - c. Level 3.2 withdrawal management, clinically managed residential withdrawal management: Moderate withdrawal, but needs 24-hour support to complete withdrawal management and increase likelihood of continuing treatment or recovery.

The recipient remains in a Level 3.2 withdrawal management program until:

- i. withdrawal signs and symptoms are sufficiently resolved that he or she can be safely managed at a less intensive level of care; or
- ii. the recipient’s signs and symptoms of withdrawal have failed to respond to treatment and have intensified such that transfer to a more intensive level of withdrawal management services is indicated.

3. Level 3.7 and 3.7 withdrawal management are clustered together in a third level of service with specific programming for each sub type.

Services are provided by an interdisciplinary staff of nurses, counselors, social workers, addiction specialists, peer support workers or other health and technical personnel under the direction of a licensed physician.

- a. Level 3.7: medically monitored intensive inpatient services: 24-hour nursing care with physician availability for significant problems; 16 hour/day counselor availability.
- b. Level 3.7 withdrawal management: medically monitored inpatient withdrawal management: Severe withdrawal, 24-hour nursing care and physician visits; unlikely to complete withdrawal management without medical monitoring.

The recipient remains in a level 3.7 withdrawal management program until:

- i. withdrawal signs and symptoms are sufficiently resolved that he or she can be safely managed at a less intensive level of care; or
- ii. the recipient’s signs and symptoms of withdrawal have failed to respond to treatment and have intensified such that transfer to a more intensive level of withdrawal management services is indicated.

10. Crisis Triage Centers (CTCs)

- A. Definition: Crisis Triage Centers are community-based alternatives to hospitalization or incarceration authorized by 2014 NM HB212 Crisis Triage Center legislation. The facilities are either outpatient only (providing crisis stabilization as indicated above), or mixed outpatient and residential, with no more than 16 beds. They serve youth and adults to provide voluntary stabilization of behavioral health crises including emergency mental health evaluation, withdrawal management, and care.

Services include physical and mental health assessment, de-escalation and stabilization; brief intervention and psychological counseling; clinical consultation and supervision for bio-medical, emotional, behavioral, and cognitive problems; psychological and psychiatric consultation; other services determined through the assessment process; and may include ambulatory withdrawal management; and, if residential, all level 3 withdrawal management services.

- B. The following individuals and practitioners must be contracted or employed by the provider agency as part of its crisis triage center service delivery:
 - 1. an administrator which can be the same person as the clinical director;
 - 2. a full-time clinical director;
 - 3. a charge nurse on duty 24 hours/day, seven days/week;
 - 4. an on-call physician 24 hours/day, seven days/week;
 - 5. a master’s level licensed mental health practitioner;
 - 6. two certified peer support workers;
 - 7. a part time psychiatric consultant, hours dependent on the size of the facility; and
 - 8. at least one staff trained in basic cardiac life support (BCLS), the use of the automated external defibrillator (AED) equipment, and first aid.

The ratio of direct care staff to individuals shall increase on the basis of the clinical care needs of the individuals in residence as well as the number of operational beds.

11. Medication Assisted Treatment (MAT)

MAT is covered under the Medicaid state plan for all Medicaid beneficiaries who meet the medical necessity criteria for receipt of the service for the period beginning October 1, 2020 and ending September 30, 2025.

The state assures coverage of Naltrexone, Buprenorphine, and Methadone and all of the forms of these drugs for MAT that are approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and all biological products licensed under section 351 of the Public Health Service Act (42 U.S.C. 262).

The state assures that Methadone for MAT is provided by Opioid Treatment Programs (OTP) that meet the requirements in 42 C.F.R. Part 8.

A. Medication Assisted Treatment (MAT) is the use of FDA-approved medications, in combination with counseling and behavioral therapies, to provide a "whole-patient" approach to the treatment of substance use disorders. There are FDA approved medications to treat alcohol use disorder, smoking and opioid use disorder. MAT treatments for opioid use disorder include, but are not limited to, methadone, buprenorphine and naltrexone, which are regulated under the Controlled Substances Act.

B. For non-OTP-based MAT for Opioid Use Disorder (OUD) (does not include methadone):

Eligible providers and practitioners:

1. Any clinic, office, or hospital staffed by required practitioners.
2. Practitioners for diagnosing, assessment, and prescribing include:
 - a. a physician or DO licensed in the state of New Mexico that has board certification in addiction medicine or addiction psychiatry or has completed special training and has the federal waiver to prescribe buprenorphine;
 - b. a certified nurse practitioner that has completed 24 hours of required training and has a DATA 2000 waiver; or
 - c. a physician assistant licensed in the state of New Mexico and has the federal DATA 2000 waiver to prescribe buprenorphine.
3. Practitioners for administration and education:
 - a. a registered nurse licensed in the state of New Mexico; or
 - b. a physician assistant licensed in the state of New Mexico.
4. Practitioners for counseling and education may include behavioral health practitioners licensed for counseling or therapy.
5. Practitioners for skills and education include certified peer support workers or certified family peer support workers to provide skill-building, recovery and resiliency support.

- C. MAT services provided through an Opioid Treatment Program include the provision, administration, and/or dispensing of methadone or other narcotic replacement or narcotic agonist drug items as part of a detoxification treatment or maintenance treatments as defined in 42 CFR part 8, *Medication Assisted Treatment for Opioid Use Disorders*. The Opioid Treatment Program must comply with the requirements and meet all accreditation and certification standards as specified in 42 CFR part 8, subparts B and C. MAD pays for coverage for MAT for opioid addiction to an eligible recipient through an opioid treatment center as defined in (42 CFR Part 8), certification of opioid treatment programs (OTP). Services include, but are not limited to, the administration of methadone (opioid replacement medication) to an individual for detoxification from opioids and maintenance treatment. The administration/supervision must be delivered in conjunction with the overall treatment based upon a treatment plan, which must include counseling/therapy, case review, drug testing, and medication monitoring.

Eligible providers and practitioners:

1. Provider requirements:
 - a. Accreditation with a substance abuse and mental health services administration (SAMHSA)/CSAT approved nationally recognized accreditation body, (e.g., commission on accreditation of rehabilitation facilities (CARF), joint commission (JC) or council on accreditation of services for families and children (COA).
 - b. Behavioral health services division (BHSD) approval. As a condition of approval to operate an OTP, the OTP must maintain above accreditation. In the event that such accreditation lapses, or approval of an application for accreditation becomes doubtful, or continued accreditation is subject to any formal or alleged finding of need for improvement, the OTP program will notify the BHSD within two business days of such event. The OTP program will furnish the BHSD with all information related to its accreditation status, or the status of its application for accreditation, upon request.
 - c. The BHSD shall grant approval or provisional approval to operate pending accreditation, provided that all other requirements of these regulations are met.
2. Staffing requirements:
 - a. Both clinical services and supervision by licensed practitioners must be in accord with their respective licensing board regulations. Provider staff members must be culturally competent.
 - b. Programs must be staffed by:
 - i. medical director (MD licensed to practice in the state of New Mexico or a DO licensed to practice in the State of New Mexico);
 - ii. clinical supervisor (must be one of the following: licensed psychologist, or licensed independent social worker; or certified nurse practitioner in psychiatric nursing; or licensed professional clinical mental health counselor; or licensed marriage and family therapist;
 - iii. licensed behavioral health practitioner; registered nurse; or licensed practical nurse; and (iv) full time or part time pharmacist.

D. Utilization Controls

The state has drug utilization controls in place. (Check each of the following that apply)

- Generic first policy
- Preferred drug lists
- Clinical criteria
- Quantity limits

The state does not have drug utilization controls in place.

E. Limitations

In New Mexico, the DUR board tracks MAT utilization and access, but has placed as few utilization requirements into place as possible because our focus is on extending rather than limiting access.

Managed Care Organizations (MCOs) are directed to adopt a generic first policy for buprenorphine/naloxone products. A MCO can require a recipient to use a generic version of a drug prescribed as a brand name unless the prescriber specifically states on the prescription “brand medically necessary.” When the “brand medically necessary” is written by hand on the prescription (not a rubber stamp), a pharmacy bills using a “dispense as written” indicator on the National Council for Prescription Drug Programs (NCPDP) transaction.

MCOs are also directed to require a prior authorization for buprenorphine-only oral products, due to higher abuse potential. No prior authorization is required for buprenorphine in any other formulation when used to treat opioid use disorders. Any formulation of buprenorphine used for the treatment of opioid use disorders is exempt from the generic-first coverage provisions 8.324.4.12 NMAC. Prescribers should specifically state on the prescription in writing “brand medically necessary”. The pharmacy then bills using the “dispense as written” indicator on the NCPDP. Best clinical practices when prescribing buprenorphine for the treatment of opioid use disorders (e.g. systematic checking of the prescription monitoring programs and periodic urine drug screening) should be addressed through a provider alert rather than a prior authorization process.

There are no limitations on counseling and behavioral therapies related to MAT, other than continuing medical necessity.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory: NEW MEXICO

Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy

State Supplement A to Attachment 3.1A
Page 21d

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TN No. 21-0004

Approval Date _____

Supersedes TN No. TN 12-06(A)

Effective Date _____

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State of NEW MEXICO
METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES
– OTHER TYPES OF CARE

Attachment 4.19 - B
Page 3aa

4. **Adult Accredited Residential Treatment Centers (AARTC) for Substance Use Disorders** – Reimbursement is made at a provider-specific daily rate established by the state agency contracted audit agent after analyzing the costs to provide services. Room and board costs are not included in the Medicaid rate and are not reimbursable; however, AARTCs are eligible for an additional flat fee paid by the state. Cost that are considered in the rate are: direct service costs, direct supervision costs, therapy costs including all salaries, wages, and benefits associated with health care personnel, admission discharge planning, clinical support costs, non-personnel operating costs including expenses incurred for program related supplies and general administration costs.

5. **Crisis Triage Centers (CTC)** – Reimbursement is made at service rates that are uniquely determined for each provider based on provider costs as determined by the state agency contracted audit agency. Costs are determined by considering: type of service (residential or mixed residential/non-residential), direct service costs, direct supervision costs, therapy costs including all salaries, wages and benefits associated with health care personnel, clinical support costs, non-personnel operating costs and general administration costs.

6. **Medication Assisted Treatment (MAT)** – Reimbursement is made for all drugs and biologicals approved or licensed by the FDA used for MAT to treat Opioid Use Disorder (OUD) including methadone, buprenorphine, and naltrexone. Reimbursement is also made for MAT drugs for other forms of substance use disorder (SUD), including medications for alcohol use disorder such as acamprosate and disulfiram. MAT related counseling services and behavioral therapy services are reimbursed on a fee schedule basis, or as a part of the bundled rates received by AARTCs, CTCs, health homes and other providers.

Except as otherwise noted in the state plan, state developed fee schedule rates are the same for both governmental and private providers. The agency's fee schedule rates were set as of April 1, 2021 and are effective for services provided on or after that date. All rates are published at <https://www.hsd.state.nm.us/providers/fee-schedules/>

TN No. 21-0004

Approval Date _____

Supersedes TN. No. 19-0002

Effective Date _____

NEWSPAPER PUBLIC NOTICE AND PROOF OF PUBLICATION

Newspaper Notice

The New Mexico Human Services Department, through the Medical Assistance Division (MAD), is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 21-0004. Effective April 1, 2021, this SPA makes a technical change to the New Mexico State Plan to clarify that New Mexico Medicaid provides the medication assisted treatment (MAT) benefit in compliance with section 1006(b) of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act. MAT services include all FDA-approved or licensed drugs and biologicals to treat opioid use disorder (OUD), counseling services and behavioral therapy.

There is no financial impact associated with this SPA. MAT services are already a covered benefit; this SPA clarifies the coverage and reimbursement.

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-notice-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. All comments must be received no later than 5:00 p.m. Mountain Time (MT) on **March 26, 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.



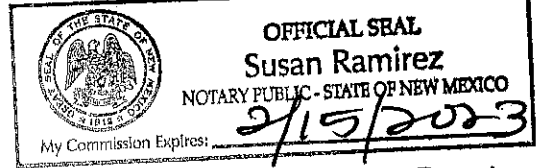
AFFIDAVIT OF PUBLICATION

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 or 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):

02/24/2021



Elise Rodriguez

SM

Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this 24 day of February of 2021

PRICE \$112.75

Statement to come at the end of month.

ACCOUNT NUMBER 1009565

The New Mexico Human Services Department, through the Medical Assistance Division (MAD), is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 21-0004. Effective April 1, 2021, this SPA makes a technical change to the New Mexico State Plan to clarify that New Mexico Medicaid provides the medication-assisted treatment (MAT) benefit in compliance with section 1006(b) of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act. MAT services include all FDA-approved or licensed drugs and biologicals to treat opioid use disorder (OUD), counseling services and behavioral therapy.

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Las Cruces Sun News.

PART OF THE USA TODAY NETWORK

Affidavit of Publication

Ad # 0004613495

This is not an invoice

HUMAN SVCS DEPT - ME D ASSIST DIV
PO BOX 2348

~~SANTA FE, NM 87504-2348~~

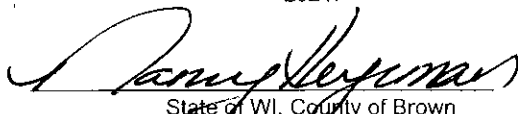
I, a legal clerk of the Las Cruces Sun News, a newspaper published daily at the county of Dona Ana, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that 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:

02/24/2021

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 24,
2021:


State of WI, County of Brown
NOTARY PUBLIC
5.15.23
My commission expires

Ad # 0004613495
PO #: 35662
of Affidavits 1

This is not an invoice

NANCY HEYRMAN
Notary Public
State of Wisconsin

The New Mexico Human Services Department, through the Medical Assistance Division (MAD), is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 21-0004. Effective April 1, 2021, this SPA makes a technical change to the New Mexico State Plan to clarify that New Mexico Medicaid provides the medication assisted treatment (MAT) benefit in compliance with section 1006(b) of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act. MAT services include all FDA-approved or licensed drugs and biologicals to treat opioid use disorder (OUD), counseling services and behavioral therapy.

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#40 13493, SUN-NEWS,
February 24, 2021

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 24, 2021

Interested Parties:

The New Mexico Human Services Department, through the Medical Assistance Division (MAD), is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 21-0004. Effective April 1, 2021, this SPA makes a technical change to the New Mexico State Plan to clarify that New Mexico Medicaid provides the medication assisted treatment (MAT) benefit in compliance with section 1006(b) of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act. MAT services include all FDA-approved or licensed drugs and biologicals to treat opioid use disorder (OUD), counseling services and behavioral therapy.

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WRITTEN TRIBAL NOTIFICATION



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

February 24, 2021

RE: Tribal Notification to Request Advice and Comments Letter 21-05: Medication Assisted Treatment

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 comments until **5:00 p.m. Mountain Time (MT) March 26, 2021**, regarding State Plan Amendment (SPA) 21-0004, Medication Assisted Treatment (MAT).

Effective April 1, 2021, this SPA makes a technical change to the New Mexico State Plan to clarify that New Mexico Medicaid provides the medication assisted treatment (MAT) benefit in compliance with section 1006(b) of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act. MAT services include all FDA-approved or licensed drugs and biologicals to treat opioid use disorder (OUD), counseling services and behavioral therapy.

Tribal Impact

The Department does not anticipate a financial or tribal impact with this SPA. Medication Assisted Treatment services are already a covered benefit; this SPA clarifies the coverage and reimbursement.

Tribal Advice and Comments

Tribes and their healthcare providers may view the proposed changes, on the HSD webpage at: <https://www.hsd.state.nm.us/providers/written-tribal-consultations/> **Tribal Notification 21-05.**

Important Dates

Written comments must be submitted by 5:00 p.m. Mountain Time (MT) March 26, 2021. Please send your comments to the MAD Native American Liaison, **Theresa Belanger**, at (505) 670-8067 or by email at: Theresa.Belanger@state.nm.us. All written comments received will be posted on the HSD

website at: <https://www.hsd.state.nm.us/providers/written-tribal-consultations/> along with this notification letter. The public posting will include the name and any contact information provided by the commenter.

Sincerely,



Nicole Comeaux, J.D., M.P.H.
State Medicaid Director

COMMENTS RECEIVED

Comments and Responses: SPA 21-0004 Medication Assisted Treatment (MAT)

Comment: One commenter requested “clinical nurse specialist” be added to the list of eligible providers and practitioners for non-Opioid Treatment Program (OTP)-based MAT for Opioid Use Disorder (OUD). The commenter also requested “clinical nurse specialist” be added to the section that specifies which provider types can be clinical supervisors at OTPs.

Department Response: A clinical nurse specialist who has completed required training and obtained a DATA waiver will be considered for addition to the list of eligible MAT providers in the next iteration of the NM Administrative Code and the NM Behavioral Health Policy and Billing Manual.

Clinical nurse specialists are not eligible for supervisory certification in NM at this time, and so cannot be clinical supervisors at an OTP. However, clinical nurse specialist will be considered for addition to the more general providers eligible to staff an OTP in the next iteration of the NM Administrative Code and the NM Behavioral Health Policy and Billing Manual.

STANDARD FUNDING QUESTIONS

Standard Funding Questions – SPA 21-0004 Medication Assisted Treatment (MAT)

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 through 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 from funds received by broad-based taxes levied by the state.

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: A supplemental payment is made to the state teaching hospital, the University of New Mexico Hospital, for practitioner services as described in the state plan on Attachment 4.19-B Page 1.

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.