



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

May 17, 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) 21-0006 Targeted Access Payments (TAPs).

Effective July 1, 2021, the New Mexico Human Services Department proposes to implement targeted access payments for Safety-Net Care Pool (SNCP) hospitals. TAPs are made based on the upper payment limit (UPL) demonstration. SNCP hospitals will be eligible for payments up to their UPL room as defined in their UPL analysis. TAPs are restricted based on UPL analysis and will be made annually. Medicaid fee-for-service utilization is required to be eligible for TAPs.

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) 827-6213.

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 <u>2 1 — 0 0 6</u>	2. STATE New Mexico
3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
4. PROPOSED EFFECTIVE DATE July 1, 2021	

TO: REGIONAL ADMINISTRATOR  
CENTERS FOR MEDICARE & MEDICAID SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

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 §447.271, §447.272, §447.321	7. FEDERAL BUDGET IMPACT a. FFY <u>22</u> \$ <u>18,321,800</u> b. FFY <u>23</u> \$ <u>16,895,800</u>
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  Attachment 4.19-A pg. 18 Attachment 4.19-A pg. 19  Attachment 4.19-A pg. 20	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ) Attachment 4.19-A pg. 18 (HCFA 179 92-14) Attachment 4.19-A pg. 19 (HCFA 179 NM-01-04) Attachment 4.19-A pg. 19a, 19b, 19c (TN 12-01) deleted Attachment 4.19-A pg. 20 (TN 12-01) Attachment 4.19-A pg. 20a (HCFA 179 00-09) deleted

10. SUBJECT OF AMENDMENT

Targeted Access Payments (TAPs)

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 	16. RETURN TO  Nicole Comeaux, J.D., M.P.H., Director Medical Assistance Division P.O. Box 2348 Santa Fe, NM 87504-2348
13. TYPED NAME Nicole Comeaux	
14. TITLE Director, Medical Assistance Division	
15. DATE SUBMITTED May 17, 2021	

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED	18. DATE APPROVED
<b>PLAN APPROVED - ONE COPY ATTACHED</b>	
19. EFFECTIVE DATE OF APPROVED MATERIAL	20. SIGNATURE OF REGIONAL OFFICIAL
21. TYPED NAME	22. TITLE

23. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
State of NEW MEXICO  
METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES  
INPATIENT HOSPITAL SERVICES

**Attachment 4.19-A**

**Page 18**

4. Payment for Inappropriate Brief Admissions

Hospital stays of up to two days in length will be reviewed for medical necessity and appropriateness of care. (Discharges involving healthy mothers and health newborns are excluded from this review requirement). If it is determined that the inpatient stay was unnecessary or inappropriate, the prospective payment for the inpatient discharge will be denied. If the inpatient claim is denied, the hospital is permitted to resubmit an outpatient claim for the services rendered. Such review may be further focused to exempt certain cases at the sole discretion of the Department.

5. Payment for Non-Medically Warranted Days

- a. Reimbursement for hospital patients receiving services at an inappropriate level of care will be made at rates reflecting the level of care actually received. The number of days covered by the Medicaid program is determined based only upon medical necessity for an acute level of hospital care.
- b. When it is determined that an individual no longer requires acute-level care but does require a lower level of institutional care, and when placement in such care cannot be located, the hospital will be reimbursed for “awaiting placement” days. Reimbursement will be made at the weighted average rate paid by the Department in the preceding calendar year for the level of care needed. There is no limit on the number of covered “awaiting placement” days as long as those days are medically necessary. However, the hospital is encouraged to make every effort to secure appropriate placement for the individual as soon as possible. During “awaiting placement” days, no ancillary services will be paid, but medically necessary physician visits will be reimbursed.

TN No. 21-0006

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

Supersedes TN No. HCFA 179 92-14

Effective Date \_\_\_\_\_

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
State of NEW MEXICO  
METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES  
INPATIENT HOSPITAL SERVICES

**Attachment 4.19-A**  
**Page 19**

6. Targeted Access Payments

The amount of supplemental targeted access payments is based on New Mexico's most recent upper payment limit (UPL) demonstration for the State Fiscal Year (SFY). The payment amount will be based on the demonstrated UPL Room and paid to the hospitals if it falls within the UPL Gap of the respective hospital class as determined by the UPL demonstration. The targeted access payments are designed as a supplemental payment within existing and applicable limits in accordance with New Mexico's most recent UPL demonstration for the SFY. The Human Services Department (HSD) will verify that all qualifying hospitals receiving targeted access payments have Medicaid fee-for-service utilization. HSD will provide demonstration that inpatient/outpatient hospital payments are within the applicable fee-for-service UPL as defined in 42 CFR 447.272. Payments will not exceed the UPL. Eligibility for payments is limited to Safety-Net Care Pool hospitals. The targeted access payments will be made annually; for each SFY the HSD's payments applicable to the year shall be based on the amount allocated in HSD's budget.

TN No. 21-0006

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

Supersedes TN No. HCFA 179 NM-01-04

Effective Date \_\_\_\_\_

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
State of NEW MEXICO  
METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES  
INPATIENT HOSPITAL SERVICES

**Attachment 4.19-A**  
**Page 20**

7. State Operated Teaching Hospital Adjustment

Teaching hospitals (as defined in section 4.19-A.III.F.8.a) operated by the State of New Mexico or an agency thereof, shall qualify for an inpatient State Operated Teaching Hospital rate adjustment. The adjustment shall result in total payments to the hospitals that are equal to but not in excess of the individual facility's Medicare-related upper payment limit (specified at 42 CFR 447.272). The Department will calculate the Medicare upper payment limit for State Operated Teaching Hospitals annually. If the upper payment limit has not been exceeded, additional payments will be distributed by the Department to the State Operated Teaching Hospital. The adjustment shall be calculated as follows:

- a. Each federal fiscal year, the Department shall determine each State Operated Teaching Hospital's Medicare per discharge rate and Medicaid per discharge rate. The Medicare and/or Medicaid discharge rate will be adjusted to reflect any acuity differences that exist between the Medicare and Medicaid patients served. Acuity differences will be determined from the Medicare and Medicaid case-mix indices (CMI) for Medicaid discharges at the hospital (using data from the most recent state fiscal year for which complete data is available).
- b. The Medicaid per discharge rate shall be subtracted from the Medicare per discharge rate.
- c. The difference shall be multiplied by the number of Medicaid discharges at the hospital for the most recent state fiscal year. The result shall be the amount of the State Operated Teaching Hospital Adjustment for the current federal fiscal year.
- d. For federal fiscal year 2000, and subsequent federal fiscal years, payment shall be made on an annual basis before the end of the federal fiscal year.
- e. In the event that the State Operated Teaching Adjustment amount exceeds the Medicare-related upper payment limit for that year, the State Operated Teaching Hospital adjustment will be revised by the difference.

TN No. 21-0006

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

Supersedes TN No. 12-01

Effective Date \_\_\_\_\_

NEWSPAPER PUBLIC NOTICE AND PROOF OF PUBLICATION

## **Newspaper Notice for Targeted Access Payments (TAPs)**

The New Mexico Human Services Department (HSD) Medical Assistance Division is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 21-0006 Targeted Access Payments (TAPs).

Effective July 1, 2021, the New Mexico Human Services Department proposes to implement TAPs for Safety-Net Care Pool (SNCP) hospitals. TAPs are made based on the upper payment limit (UPL) demonstration. SNCP hospitals will be eligible for payments up to their UPL room as defined in their UPL analysis. TAPs are restricted based on UPL analysis and will be made annually. Medicaid fee-for-service utilization is required to be eligible for TAPs.

The anticipated annual fiscal impact to HSD for this change is estimated to be \$23 million in state and federal funds combined, with a state general fund impact of \$4.6 million.

### **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](mailto:madrules@state.nm.us). All comments must be received no later than 5:00 p.m. Mountain Time (MT) on May 14, 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.

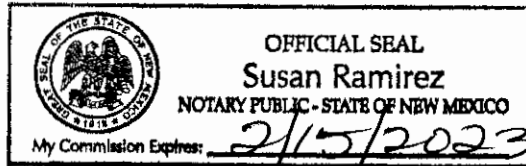
# AFFIDAVIT OF PUBLICATION

## 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 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):

04/14/2021



*Elise Rodriguez*  
Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this 14 day of April of 2021

PRICE \$116.42

Statement to come at the end of month.

ACCOUNT NUMBER 1009565

**HUMAN SERVICES DEPARTMENT**  
**Newspaper Notice for Targeted Access Payments (TAPs)**  
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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.  
Journal: April 14, 2021



**Affidavit of Publication**

Ad # 0004683886

**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:

**04/14/2021**

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 April 14, 2021:

  
\_\_\_\_\_

State of WI, County of Brown  
NOTARY PUBLIC

  
\_\_\_\_\_

My commission expires

Ad # 0004683886  
PO #: 63000-00000035662  
# of Affidavits 1

**This is not an invoice**

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then available on the  
HSD/MAD website or at a lo-  
cation within the county of  
the requestor.

#4683886, Sun-News, April  
14, 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

April 14, 2021

Interested Parties:

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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

April 14, 2021

**RE: Tribal Notification to Request Advice and Comments Letter 21-08: Targeted Access Payments (TAPs)**

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 May 14, 2021**, regarding proposed State Plan Amendment 21-0006 Targeted Access Payments (TAPs).

Effective July 1, 2021, the New Mexico Human Services Department proposes to implement targeted access payments for Safety-Net Care Pool (SNCP) hospitals. TAPs are made based on the upper payment limit (UPL) demonstration. SNCP hospitals will be eligible for payments up to their UPL room as defined in their UPL analysis. TAPs are restricted based on UPL analysis and will be made annually. Medicaid fee-for-service utilization is required to be eligible for TAPs.

**Tribal Impact**

This proposed change will not affect payment rates for services paid at encounter rates or OMB rates. This includes Indian Health Services (IHS) and tribal health facilities.

**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 **21-08**.

**Important Dates**

**Written comments must be submitted by 5:00pm Mountain Time (MT) on May 14, 2021, 2020.** 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,



Nicole Comeaux, 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 21-0006 Targeted Access Payments**

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: In the event that it appears a provider has received a payment that exceeds its UPL, the amount of such excess payment shall be recovered.**

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: The amount of supplemental targeted access payments is based on New Mexico's most recent UPL analysis.**

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: New Mexico uses a cost-based methodology to estimate the UPL for each class of providers. Medicaid covered charges are obtained from paid claims data that corresponded to their Medicare 2552 cost report ending in a base year. Cost-to-charge ratios (CCR) were obtained from Schedule C of the cost report. Covered charges were then mapped to the appropriate ancillary cost center and CCR to determine outpatient hospital costs. These costs are inflated to the midpoint of SFY of the UPL Demonstration period using the Hospital Market Basket w/o Capital inflation index.**

**Medicaid payments for the UPL analysis were determined using paid claims data for the period that matched the individual hospital's cost report period.**

**Hospitals were grouped according to their ownership class, and aggregate expected Medicaid payments were compared to the costs.**

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.**