



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

September 27, 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) 21-0010 Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID).

The ICF/IID changes are being made to align with 42 CFR 456.360 Subpart F. The Human Services Department (HSD) is amending language for the initial admission and for continued stays to conform to federal requirements.

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 Valerie Tapia at: Valerie.Tapia@state.nm.us or (505) 257-8420.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole Comeaux", is written over a light blue circular stamp.

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 1 0

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, 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

42 CFR § 456.360

7. FEDERAL BUDGET IMPACT

a. FFY 22 \$ 0

b. FFY 23 \$ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 3.1-C pages 2k, 2l

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

Attachment 3.1-C pages 2k, 2l (TN 82-7)

10. SUBJECT OF AMENDMENT

Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) Admission Review

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

September 27, 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

procedures, plans for continuing care, and plans for discharge.

The above required information will be condensed onto the abstract and forwarded to the NMPSRO for review. The NMPSRO will make a level of care determination and assign an initial continued stay review date. The initial continued stay review date will in most instances be 90 days. The Review Coordinator may assign a length of stay shorter than 90 days based on the recipient's needs and stability of condition. Under no circumstances will the initial period exceed 90 days.

3. Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) Admission

A physician, physician's assistant or nurse practitioner (as defined in 42 CFR 491.2) must certify need of care at the time of admission or before Medicaid authorizes payment. An interdisciplinary team of health professionals must make a comprehensive medical, social, and psychological evaluation of the recipient's need for admission to the ICF/IID. This evaluation will include diagnoses; summary of present medical, social and family history; mental and physical functional capacity; prognoses; types of services needed; evaluation of resources available in the home, family and community; and a recommendation concerning the need for admission to the ICF/IID.

C. Continued Stay Review

Continued stay review will be accomplished through the submission of an abstract to the NMPSRO for review and/or through on-site review.

Using the level of care criteria described in this plan, the reviewer will review the abstract and make a determination as to the continued need for level of care and assign a recertification date for review.

1. SNF

In most instances the reviewer will assign a continued stay review date of 90 days. The reviewer has the option of assigning a period of less than 90 days, based on the recipient's medical needs and stability of condition. Under no circumstances will the continued stay review exceed 90 days.

2. ICF

In most instances the reviewer will assign a continued stay review date of 6 months. The reviewer has the option of assigning a period less than 6 months, based on the recipient's medical needs and stability of condition. Under no circumstances will the continued stay review date exceed 6 months.

3. ICF/IID

In most instances the reviewer will assign a continued stay review date of 12 months. The reviewer has the option of assigning a period of less than 12 months, based on the recipient's medical needs and stability of condition. Under no circumstances will the continued stay review date exceed 12 months. A physician, physician's assistant or nurse practitioner (as defined in 42 CFR 491.2) must recertify that ICF/IID services are needed at least every 12 months.

4. Change in Level of Care

When it has become apparent that a recipient's condition and needs have changed sufficiently to warrant a different level of care, it is the responsibility of the physician, physician's assistant or nurse practitioner (as defined in 42 CFR 491.2) and the facility to submit an abstract reflecting these changes so that a new level of care determination can be made.

D. Abstract & Forms

Attached is a copy of the abstract and other forms to be used in carrying out long term care review. Instructions for completion of the abstract can be found in the accompanying manual.

E. Appeals

Should the NMPSRO, through carrying out this plan, render an adverse decision regarding admission, level of care, or length of stay, the following appeal procedure is available.

Any resident, admitting/attending physician or provider of services who is dissatisfied with an adverse review determination of the NMPSRO may request a reconsideration of such determination by the NMPSRO LTC Subcommittee. After the procedures for the reconsideration (contained in the manual) are carried out, should the appealing party still be dissatisfied with the NMPSRO reconsideration determination, the appealing party may then avail themselves of the State Fair Hearing Process.

NEWSPAPER PUBLIC NOTICE AND PROOF OF PUBLICATION

Newspaper Notice for ICF/IID SPA 21-0010

The New Mexico Human Services Department (HSD) Medical Assistance Division is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 21-0010 Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID).

The ICF/IID changes are being made to align with 42 CFR 456.360 Subpart F. HSD is amending language for the initial admission and for continued stays to conform to federal requirements.

Admission criteria is amended to clarify who is a qualified provider to certify need for care. Language is included to clarify the documentation required for the provider to be reimbursed by Medicaid.

Continued stay review is amended to change the required review date from 6 months to at least every 12 months.

There is no anticipated financial impact associated with these amendments.

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 September 25, 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.

Las Cruces Sun News.

PART OF THE USA TODAY NETWORK

Affidavit of Publication

Ad # 0004878947

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:

08/25/2021

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

Denise Roberts

Legal Clerk

Subscribed and sworn before me this August 25, 2021:

Kathleen Allen

State of WI, County of Brown
NOTARY PUBLIC

1-7-25

My commission expires

KATHLEEN ALLEN
Notary Public
State of Wisconsin

Ad # 0004878947

PO #:

of Affidavits 1

This is not an invoice

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#4878947, Sun-News, August 25, 2021

AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO

County of Bernalillo SS

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

08/25/2021

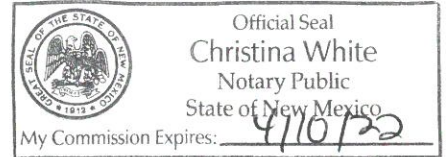


Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this
25 day of August of 2021

PRICE \$117.89

Statement to come at the end of month.

ACCOUNT NUMBER 1009565



Christina White

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PROVIDER, INTERESTED PARTIES, STAKEHOLDERS ASSOCIATIONS NOTICE



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

August 25, 2021

Interested Parties:

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Interested persons may address written comments to:

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P.O. Box 2348
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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

August 25, 2021

RE: Tribal Notification to Request Advice and Comments Letter 21-17: Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)

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 **5:00 p.m. Mountain Time (MT) September 25, 2021**, regarding proposed State Plan Amendment 21-0010 Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID).

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Tribal Impact

There is no anticipated impact associated with these amendments.

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 **21-17**.

Important Dates

Written comments must be submitted by 5:00 p.m. Mountain Time (MT) on September 25, 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. 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