



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

October 20, 2021

**RE: Tribal Notification to Request Advice and Comments Letter 21-19: Third Party Liability**

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) November 19, 2021**, regarding third party liability (TPL) in Medicaid.

Effective December 31, 2021, New Mexico Medicaid is implementing changes to third party liability in Medicaid to modify TPL rules related to special treatment of certain types of care and payment.

The Human Services Department is making the following changes:

1. Applying cost avoidance procedures to claims for prenatal services, including labor, delivery, and postpartum care services;
2. Making payments without regard to potential TPL for pediatric preventive services, unless a determination has been made related to cost-effectiveness and access to care that warrants cost avoidance for 90 days; and
3. Making payments without regard to potential TPL for up to 100 days for claims related to child support enforcement beneficiaries.

The changes are being made to comply with requirements of the Bipartisan Budget Act (BBA) of 2018 and the Medicaid Services Investment and Accountability Act (MSIAA) of 2019.

**Tribal Impact**

There is no impact anticipated for Indian Nations, Tribes, Pueblos and their health care providers.

**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 21-19.**

**Important Dates**

**Written comments must be submitted by 5:00 p.m. Mountain Time (MT) November 19, 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](mailto: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.

**Tribal Leadership may request a government-to-government consultation by November 19, 2021.** This request may be made to: [Theresa.Belanger@state.nm.us](mailto:Theresa.Belanger@state.nm.us) or by calling (505) 670-8067.

Sincerely,



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